BREXIT

And what it could mean for the UK

FINANCIAL SERVICES, PASSPORTING, AND THE EU INTERNAL MARKET

by the Office of Anne Main

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Foreword

What the months since the European Union referendum in June last year have demonstrated is that nothing is for certain and everything is possible.

Alongside immigration and sovereignty, the economy was one of the main issues surrounding the Brexit debate last year. The economy continues to dominate conversations surrounding the United Kingdom's decision to leave the EU.

One of the most important sectors to the UK, and most closely tied in with the EU, is financial services. The main question the UK needs to address now that we have triggered Article 50 is what type of arrangement will be in place for our services post-Brexit.

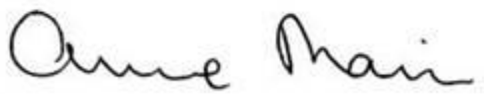
Around half of the economically-active population of St Albans works in London – many in the City of London. Currently, the EU passporting system for banks and financial services companies enables firms in the EU to trade freely in any other member state with minimal additional authorisation. These passports are the foundation of the EU's internal single market.

There are concerns about losing the passporting regime among industries where it is beneficial. In order to respect the referendum result, it is clear that we must leave the internal market. Therefore we need to consider alternative models to access the EU's internal market in the fullest possible manner whilst regaining control over our laws, borders, money and trade. This paper explores one such alternative model – that of 'equivalence', where companies trade freely under a recognition that both states' regulatory regimes are equivalent.

In the broader context of our future, financial services is extremely important for both the UK and EU. UK-based financial services account for 40 per cent of Europe's assets under management, and 60 per cent of its capital markets business. UK-based banks provide more than £1.1tn of loans to the rest of the EU. There are around 5,500 passports in the UK, and 8,000 in the EU which rely on Britain for their business.

The Prime Minister has made a compelling case for a truly outward-looking Britain. A Britain that has a global gaze and an open mind. Given that the gloomy post-referendum projected forecasts did not materialise, we need to ensure that leaving the EU is not sabotaged under the cloak of 'financial necessity', and that we grasp the golden opportunities which will present themselves under the freedom to manage our own international and trading affairs.

This report examines an alternative to the passporting system, and concludes that the City could not only survive after Brexit, but thrive after Brexit. It asserts that the UK should abandon the passporting regime and negotiate an equivalence-based relationship with the EU for financial services. Given the importance of the UK as a financial centre for the rest of Europe, we believe that it is in both our interests to negotiate a mutually beneficial deal.



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Executive summary

This report examines the economic impact of the EU referendum result thus far against previous economic predictions, explores the value of the financial services passport, and considers the best alternatives to the financial passporting regime.

Key conclusions

- **Following the EU referendum vote, the UK economy did not react as most economists had expected.**
  - **The UK is the second fastest growing economy in the developed world.**

- **Abandoning the passport would achieve three main economic aims:**
  1. **It would enable the UK to regulate more fairly and competitively;**
  2. **It would recover the UK's independence over trade policy;**
  3. **It would diversify the UK economy.**

- **An equivalence-based relationship between the UK and the EU is the best alternative to the current passporting regime as members of the EU. This is an achievable outcome, given that:**
  - **UK-based financial services account for 40 per cent of Europe's assets and 60 per cent of its capital markets business**
  - **UK-based banks provide more than £1.1tn of loans to other EU member states**
  - **There are 5,500 British firms using passports into Europe, and over 8,000 EU and EEA passports operating in the UK.**

Key recommendations

1. The Government must offer maximum certainty to all key industries, particularly financial services, as soon as possible.
2. The UK should seek to develop parallel EU and non-EU compliant frameworks to maximise the UK's flexibility as a financial centre.
3. The UK Government should pursue an equivalence-based relationship with the EU.
4. The UK Government should seek to diverge from the CRD IV passporting regime.

1.1 Before the EU referendum

Before the EU referendum, the majority of economists were in agreement that a Brexit vote would negatively impact the UK economy in the short- and medium-term.

On 13 June, European Council president Donald Tusk said, '[a]s a historian I fear Brexit could be the beginning of the destruction of not only the EU but also Western political civilisation in its entirety.

'Every family knows that a divorce is traumatic for everyone', he added, 'everyone in the EU, but especially the Brits themselves, would lose out economically'.[1]

The Governor of the Bank of England declared in May 2016 that Brexit would lead to a recession. The then-Chancellor, George Osborne, said that the UK now had a 'clear and unequivocal warning' from the Governor of the Bank of England about the risks of a Leave vote.[2]

Within days of this, the International Monetary Fund (IMF) chief, Christine Lagarde, said the aftermath of a Leave vote would be 'pretty bad to very, very bad'.[3]

In March 2016, a PricewaterhouseCoopers (PwC) report compiled for the Confederation of British Industry (CBI) said Brexit would be an economic disaster for the UK. BBC headlines read, 'CBI warns of UK exit "serious shock"',[4] whilst newspapers such as the *Guardian* and *Independent* ran with: 'CBI warns Brexit could blow £100bn hole in economy and cost 950,000 jobs'.[5] PwC state on their website that they are 'proud to be associated with the EU's key initiatives and programmes, having provided independent advice to the EU over the past decade'. The website also states that 'PwC provides services to assist the EU Institutions in fulfilling their mission of policy making, governance and organisational delivery'.[6] The IMF, PwC, and CBI received a total of €17,823,653 from the European Commission in the last nine years.[7]

Centre Piece, the magazine of the Centre for Economic Performance at the London School of Economics, said that, '[t]aking account of the long-run effects of higher trade costs on productivity, the cost of Brexit may rise to 6.3-9.5% of national income'.[8]

Last year, City forecasts estimated that GDP growth would more than halve to 0.3 per cent following the Brexit vote.[9]

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[1] 'Donald Tusk: Brexit could destroy Western political civilisation'. *BBC*, 13 June 2016. Web.
[2] Robertson, Jamie. 'Brexit vote may spark recession, Mark Carney warns'. *BBC*, 12 May 2016.
[3] Chan, Szu Ping. 'Christine Lagarde defends IMF's 'very, very bad' Brexit warnings'. *Telegraph*, 6 October 2016.
[4] 'EU Referendum: CBI Warns of UK Exit "serious shock"'. *BBC*, 21 March 2016. Web.
[5] Chu, Ben. 'EU Referendum: CBI Warns Brexit could blow £100bn hole in economy and cost 950,000 jobs'. *Indepdenent*, March 2016. Web.
[6] PwC. 'European Union Services'. Available at http://www.pwc.com/gx/en/services/european-union.html
[7] Guido Fawkes. *EU Paid €160 million to pro-Remain Groups*. *Order-order.com*, 13 May 2016. Web.
[8] 'Brexit: the impact on UK trade and living standards'. *Centre Piece* Vol 21.1 (Summer 2016): 2-5. Print.
[9] Rodionova, Zlata. 'UK GDP growth slows down to 0.5% following Brexit'. *Independent*, 27 October 2016. Web.

1.2 Following the EU referendum

As the result of the EU referendum vote was beginning to look conclusive, the value of sterling plummeted to a record low. At its 31-year low, the value of sterling was on course for its biggest one-day loss in history, and was down 10 per cent against the dollar.[10]

The fall ranked with Britain's exit in 1992 from the European exchange rate mechanism on Black Wednesday and enjoyed the same advantages. The difference between the fall in 1992 and the fall following the Brexit vote is that the domestic economy was in far stronger shape on 24 June 2016 than it was in 1992.

The Bank of England then decided to slash its growth forecasts to 0.8 per cent,[11] and KPMG lowered its UK 2017 GDP forecast to 0.5 per cent on 27 June.[12] However, the economy did not react as most economists predicted in the months after the Brexit vote.

In January 2017, Andy Haldane, the Bank of England chief economist, said that there is a 'disconnect' between political warnings about Brexit and the 'remarkably placid' state of the market.[13] The Bank of England revised its GDP growth forecast to 2 per cent in February this year.[14]

Similarly, the IMF has upgraded its growth forecast for Britain in 2017. It now expects the UK economy to grow by 1.5 per cent this year, up by 0.4 per cent on its October estimate, a difference of 1.1 per cent.[15]

Having predicted 'serious shock' in the economy, PwC now forecasts that GDP growth will outstrip the US, Canada, France, and Germany with an average annual rate of 1.9 per cent. The firm believes Britain will enjoy GDP growth faster than any other major advanced economy in the world over the next three decades.[16]

The UK economy grew by 0.7 per cent in the October-to-December period, the same rate as in the previous two quarters, according to the Office for National Statistics. January marked Britain's sixteenth straight quarter of economic growth. Strong consumer spending helped the UK's economy to grow faster than expected at the end of 2016.[17] Growth in the UK's industrial sector, which accounts for around 15 per cent of GDP, hit its fastest annual rate

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[10] Allen, Katie, Jill Treanor, and Simon Goodley. 'Pound slumps to 31-year low following Brexit vote'. *BBC*, 24 June 2016. Web.
[11] Khan, Mehreen. 'BoE slashes growth forecast, say inflation to overshoot'. *Financial Times*, 4 August 2016. Web.
[12] Selfin, Yael. 'Brexit: the economic consequences'. *KPMG*, 27 June 2016. Web.
[13] Swinford, Steven. 'Bank of England admits "Michael Fish" moment with dire Brexit predictions.' *Telegraph*, 6 January 2017. Web.
[14] Allen, Katie. 'Bank of England sharply raises UK growth forecast'. *The Guardian*, 2 February 2017. Web.
[15] Lomas-Farley, Charlotte. 'IMF upgrades UK after better-than-expected growth following Brexit vote.' *Sky News*, 16 January 2017. Web.
[16] Allen, Katie. '"UK could be fastest-growing G7 economy if it gets trade deals right"'. *The Guardian*, 7 February 2017. Web.
[17] 'UK economy grows by 0.6% in fourth quarter'. *BBC*, 26 January 2017. Web.

since January 2011 in February this year.[18] And, whilst UK GDP grew 2.4 per cent on annualised basis, the US grew at 2.2 per cent and Europe grew by 1.8 per cent.[19]

Unemployment fell to a record low of 1.6 million in January 2017, an 11-year low of 4.8 per cent, whilst the average weekly earnings excluding bonuses increased by 2.7 per cent compared with a year earlier.[20] By comparison, France's unemployment rate fell below 10 per cent for the first time since 2012 in August 2016.[21]

House prices rose by 6.9 per cent in 2016 to October.[22] Halifax expects house prices to rise again by 1 per cent and 4 per cent in 2017.[23]

New car sales are at an all-time high. The Society of Motor Manufacturers and Traders said 2.69 million cars were registered last year, 2 per cent higher than in 2015.[24]

The services sector, which includes retail and banking, grew at its fastest pace for 17 months in the run up to 2017. Chris Williamson of HIS Markit said this adds 'to signs that the UK economy continues to defy widely held expectations of a Brexit-driven slowdown'.[25]

Despite the negative economic predictions before the Brexit vote, growth in the UK economy is robust, particularly in London.

2.1 Investment in the UK

The opportunities Brexit presents for a regeneration in the UK's key sectors has attracted substantial foreign investment. It is those industries in which the majority of workers were opposed to Brexit, such as in the digital and technology (tech) industry, that have profited from significant investment since the vote and begun to recognise the wealth of opportunities opening up for them.

2.2 Tech-industry surge

Almost nine out of 10 London-based tech professional voted to remain in the EU. Prior to the referendum, technology was consistently flagged as one of the British industries that would suffer most in the wake of a Brexit vote. 87 per cent of tech professionals opposed Brexit, fearing that leaving the EU would make it:

1. harder for British companies to reach customers in EU countries;

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[18] Megaw, Nicholas. 'Growth in UK industrial production jumps to 6-year high'.
[19] ONS. 'Gross Domestic Product.' *Ons.gov.uk*, 26 January 2017. Available at https://www.ons.gov.uk/economy/grossdomesticproductgdp
[20] 'UK unemployment falls to 1.6million'. *BBC*, 18 January 2017. Web.
[21] 'French unemployment rate falls below 10% for the first time since 2012'. *The Guardian*, 18 August 2016. Web.
[22] Knowles, Tom. 'House prices starting to feel "Brexit effect"'. *The Times*, 14 December 2016. Web.
[23] Collinson, Patrick. 'UK house prices to rise marginally in 2017, says Halifax'. *The Guardian*, 28 December 2016. Web.
[24] 'UK car sales at record high in 2016'. *BBC*, 5 January 2017. Web.
[25] Jackson, Gavin. 'UK services sector defies fears of Brexit slowdown'. *Financial Times*, 5 January 2017. Web.

2. harder to find and employ the necessary talent from overseas, and;
3. harder to convince international companies to operate in the UK at scale. [26]

Since the referendum, however, the UK has experienced a surge of confidence-boosting investment, particularly in its tech industry.

A few months after the Brexit vote, Google committed to extending an enormous new London headquarters, which will create 3,000 jobs and house 7,000 staff.[27] Days later, Facebook announced that it would increase its British workforce by 50 per cent when it opens its new office in Fitzrovia in 2017.[28] Snapchat (now Snap Inc.) announced in January that it will set up its main international hub in the UK.[29] Last month, Apple boss Tim Cook met with the Prime Minister to tell her that he is 'very optimistic' about the UK's future after Brexit. He referenced Apple's plans to build a new UK headquarters at Battersea Power Station as proof of the company's support of the UK, adding, Apple is 'a big believer in the UK'.[30]

The tech industry in the UK is still one of the best and fastest-growing in the world. London in particular is becoming a global tech leader and the digital sector increasingly drives London's economy. The City has been ranked number one in Europe for supporting startups and scale-ups in the European Digital City Index.[31] The UK's technology sector drew more investment than that of any other European country in 2016.[32]

According to research published in November 2016, employment in London's digital technology sector is predicted to grow by almost a fifth over the next ten years, taking employment in the sector to 284,400 jobs to 2026. Meanwhile, the number of digital tech companies in London is set to grow by a third during the same period, taking the total number of digital technology companies in London to 61,800 by 2026.[33]

2.3 Change in outlook

Tech professionals should now be optimistic about the future of their industry. Following the UK vote to leave the EU:

1. international companies have committed to operating in the UK at scale, which will increase the number of workers, and therefore boost innovation and productivity, in the sector;

[26] Hern, Alex. 'Britain's tech sector overwhelmingly opposed to Brexit'. *Guardian*, 4 March 2016. Web.
[27] Davies, Rob, and Alex Hern. 'Google commits to massive new London headquarters'. *Guardian*, 16 November 2016. Web.
[28] Farrell, Sean. 'Facebook will hire extra 500 UK workers for new central London HQ'. *Guardian*, 21 November 2016. Web.
[29] Hern, Alex. 'Snapchat to set up main international hub in the UK'. *Guardian*, 10 January 2017. Web.
[30] Rodionova, Zlata. 'Apple CEO Tim Cook tells Theresa May he is "very optimistic" about UK's future after Brexit'. *Independent*, 10 February 2017. Web.
[31] European Digital City Index 2016. Available at https://digitalcityindex.eu/
[32] 'UK tech sector leads European investment in 2016'. *London and Partners*, 12 January 2017. Web.
[33] 'London's tech sector set to grow following EU referendum'. *London and Partners*, 11 November 2016. Web.

2. the Prime Minister has said that the UK will be open to the 'best and brightest',[34] which will allow tech companies in the UK to find and employ the necessary talent from overseas, and;

3. smaller British companies should still be able to reach customers in EU countries if the UK government can negotiate an alternative model for accessing the EU.

Tech professionals will benefit from the UK leaving the EU if the Government is able to continue to nurture our expanding tech sector in London, and if the UK develops affordable office space in and around London to allow startups to grow.

Recently, the *Telegraph* reported that 72 per cent of venture capital and private equity investment went to regional businesses in 2016, amounting to £9.2bn.[35] The figures were released in a report by Tech Nation, which revealed the UK leads in Europe, attracting £28bn in technology investment since 2011, compared with £11bn in France and £9.3bn in Germany.[36] According to the report, UK digital tech investment reached £6.8billion in 2016, which is 50 per cent higher than any other European country.[37] The tech industry has grown to be a major contributor to the UK economy because of the talent and investment pouring into the sector. The digital economy, which is growing at twice the rate of the wider economy, now contributes around £97bn a year, up 30 per cent in five years, according to the report.[38]

Following the recent surge of investment in the UK, the *Federation of Small Businesses* said its members' confidence had bounced back and that the 'outlook seems brighter'.[39] The UK Government should aim to agree on a deal that encourages diversification and drives innovation and competition between smaller and larger companies.

When the 87 per cent of tech professionals who opposed Brexit said that they believed Brexit would make it harder to find and employ the necessary talent from overseas, what they meant is that they think Brexit would make it harder to find talent *from the EU*. One of the main arguments for the Leave campaign was that leaving the EU would allow Britain to look to the rest of the world, beyond the Europe, and find talent in the 80 per cent of the global economy to whom the UK has held back its focus as an EU member. An increasing number of tech professionals and entrepreneurs now recognise this.

Venture capital investor Harry Briggs, for example, recently wrote an article in the *Telegraph* in which he described Brexit as perhaps the best thing that ever happened to the UK tech industry. In it, he explained how, as a Remainer, he 'blithely assumed the EU is "a good

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[34] May, Theresa. 'The government's negotiating objectives for exiting the EU: PM speech'. Lancaster House, 17 January 2017. Speech.

[35] McGoogan, Cara. 'Tech sector growing faster than UK economy with 72 pc of investment outside London, report says'. *Telegraph*, 22 March 2017. Web.

[36] 'Tech Nation 2017: At the Forefront of Global Digital Innovation'. *Tech City*. p.15. Available at file:///C:/Users/oneilld/Downloads/Tech_City_2017_report_full_web.pdf

[37] 'Tech Nation 2017: At the Forefront of Global Digital Innovation'. *Tech City*. p.8.

[38] 'Tech Nation 2017: At the Forefront of Global Digital Innovation'. *Tech City*. p.10.

[39] 'Small business confidence bounces back to pre-referendum levels'. *FSB*, 11 January 2017. Web.

thing"' because it afforded him access to talent in the EU. But, as Briggs points out, this kind of thinking ignores the immense talent available in the rest of the world.

'ROLI is a case in point', Briggs writes, 'it has 60 Britons in its team, and 17 people from the rest of the EU, but nearly twice as many, 33, from the rest of the world'. He recognises that the UK's top educational institutions are sending talented non-EU students home at the end of their studies because of the UK's current EU bias. This is talent that the UK is helping grow, but then letting go because the UK has signed agreements with other EU countries promising to take their talent first and foremost. As Briggs says, 'Brexit could prove to be a fabulous chance to simplify our immigration policies […] and to nudge our most ambitious entrepreneurs to think beyond the Atlantic, the Mediterranean and the Black Sea in terms of talent'.

He concludes: 'perhaps the upheaval of Brexit might even cure us of institutionitis, and free us to become a truly "start-up" nation'. It is clear that, following the referendum, investment is a vote of confidence in the UK and its ability to operate after it leaves the EU.

2.4 Venture capital

The boost in the UK's technology industry is just one example of the positive economic outcomes to key sectors from Britain's decision to leave the EU. Similar investments by international companies have been seen across a number of other sectors, including from Chinese construction firm CNBM, German supermarket conglomerate Lidl, luxury car and aero engine manufacturing company Rolls Royce, and Danish energy company DONG.

In July last year, one month after the referendum vote, the US bank Wells Fargo invested £300 million for a new headquarters in London. Following this, Goldman Sachs and JP Morgan hailed the City as 'one of the most attractive places in the world to do business', citing its 'stable legal system' and 'deep liquid capital markets unmatched anywhere in Europe', despite their opposition to Brexit.[40]

Harry Briggs' optimism as a venture capital investor is reflected in the market. UK firms backed by venture capital raised £685.56m in funding across 110 deals following the referendum vote. This contrasts a global fall in total quarterly funding by 14 per cent, with £19.81bn invested across 1,983 deals globally – the lowest since Q3 2014.[41]

Venture capital investment in the UK increased for Venture Pulse, KPMG International, and CB Insights, contrary to the global average declining. Patrick Imbach, co-head of tech growth at KPMG, said:

> The increase in venture capital investment shows despite Brexit, investors are committed to funding high quality UK startups. While many VCs are naturally being more considered about where they choose to invest, the fact remains they are putting

[40] Halligan, Liam. 'That Brexit apocalypse? It just isn't happening'. *The Spectator*, 23 July 2016. Web.
[41] Dow Jones. *Venture Capital Report: Europe 3Q 2016*. Available at http://images.dowjones.com/wp-content/uploads/sites/43/2016/10/19075529/DJ-VentureSource-Europe_3Q16.pdf

> their cash to work and are backing those fast-growing British businesses which have high potential and good equity stories. The full impact of Brexit on the UK economy and the VC market in particular is expected to become clearer over the next two to three years as the UK negotiates the terms of its exit from the EU. For startup companies that operate in a dynamic and rapidly changing environment, this means Brexit is not likely to be a key concern. However, a number of investors are beginning to evaluate Brexit impacts on a case-by-case basis and are often looking for companies to address implications from Brexit when pitching for new investment.[42]

The Government needs to offer maximum certainty to all its key industries as soon as possible; most importantly for financial services.

3.1 Reconfiguring the UK economy

Financial services are strategically and economically important to the UK. Nearly 2.2 million people work across the UK in financial services, two-thirds of whom are employed outside London, producing nearly 12 per cent of total economic output and contributing £66bn in taxes and generating a trade surplus of £72bn.[43] A large number of economically active people in St Albans work in financial services. Indeed, half of St Albans's economically active population works in London.

Many economists, think tanks, and politicians argue that the UK should look to secure its financial services by negotiating to keep all current agreements, including any passporting arrangements, under which many firms currently operate within the EU internal market.

However, Brexit presents an opportunity to expand and grow the UK's financial services by allowing Government to recalibrate the structure of the economy. This would entail consideration to changing agreements under which many UK firms operate within the EU's passporting regimes.

Further, only nine of the free trade agreements the EU has cover services, and eight of those as a later development or are not yet in force.[44]

Passporting rights have been widely considered a vital advantage of maintaining the country's membership of the EU internal market that the Government must protect as the UK leaves the EU. The following sections examine the value of the passport system and considers alternative agreements the UK should seek to negotiate with the EU.

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[42] Schutte, Shane. 'The UK venture capital scene is bucking a global trend'. *Real Business*, 17 October 2016. Web.

[43] 'Key Fact About UK Financial and Related Professional Services 2016'. *The City UK*, March 2016. p.3. Print.

[44] Lindsell, Jonathan. *Lessons from Switzerland: How might Britain go about business outside the EU?*. London: Civitas, October 2015. p.12. Print.

3.2 What is 'passporting'?

Passporting is a system that allows a firm authorised under one of the European Economic Area's internal market directives to carry on activities in another member states on the basis of its home state authorisation. It was introduced in full in 2007. There are many different passports and each is sector-specific.

The Legatum Institute define passporting as:

> mechanisms [that] enable provision of services on a cross border basis or by way of commercial presence without the need to have a locally authorised and capitalised subsidiary.[45]

3.3 The pros and cons of passporting

In some sectors, the passport is important to business. Passporting can enable counterparties and customers located elsewhere in the EU to be dealt with directly and more easily for most businesses. It can reduce costs for UK-based financial institutions when dealing with EU counterparties and consumers. Further, under passporting, a fund can be domiciled elsewhere in the EU, managed in London, and sold in the internal market. Many reports argue that London has become the preferred choice for asset managers outside Europe to base themselves because of the City's current free access to the EU internal market.[46] Although, many asset managers now take a different view.

Maintaining the passporting regime would require the UK to maintain its adherence to EU standardised financial regulations. This can have the benefit of trading with countries comprised of vastly different economic structures as equals.

But standardised regulation is not necessarily beneficial if the standardised system itself is flawed. Therefore, accessing the standardised system through the passport can also be less valuable.

There have been substantial costs to the UK imposed by EU regulation, which add unnecessary layers of process. For example, the Alternative Investment Fund Managers Directive (July 2013) imposed standards on client reporting and deposits to protect investors, but with the cost of a mooted financial transaction tax, which would add a levy of 0.1 per cent every time shares or bonds were traded. Further, the Directive imposes a recurring annual cost on the UK of £1.532bn, but with £0 recurring annual benefit.[47] This directive has always been opposed by the UK.[48]

EU regulations are often costly and often do not benefit the UK economy. The total cost of the top 100 EU regulations to the UK economy is £33.3bn annually. According to UK

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[45] Singham, Shanker A., and Victoria Hewson. *Financial Services Briefing*. Legatum Institute Special Trade Commission, October 2016. p.3. Print.

[46] Newlands, Chris, Madison Marriage, and Attracta Mooney. 'Brexit: Asset managers retreat from the City of London'. *Financial Times*, 3 July 2016. Web.

[47] 'Top 100 EU rules cost Britain £33.3bn'. *Open Europe*, 16 March 2015. Web.

[48] See various Deloitte surveys and insights, available at https://www2.deloitte.com/lu/en/pages/aifmd/articles/alternative-investment-fund-managers-directive.html

Government Impact Assessments (IAs), these regulations provide a total benefit of £58.6bn annually. Open Europe notes that £46bn of this annual benefit stems from just three items, which they claim 'are vastly over-stated'. According to Open Europe, for example, 'the stated benefit of the EU's climate targets (£20.8bn) was dependent on a global deal to reduce carbon emissions that was never struck'. Crucially, Open Europe estimates that up to 95 per cent of the benefits forecast in the IAs have failed to materialise.[49]

Despite substantial market regulation, the EU was still unable to prevent the 2008 financial crisis, and has since been unable to contain the economic chaos in the Eurozone. Signing up to the passport after the UK leaves the EU means signing up to the EU's system of regulations.

The passport requires that the UK sign up to the authority of EU supranational bodies such as the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA), and therefore be subject to European Court of Justice (ECJ) interpretations and case law. This would also logically require the UK's continued membership of the internal market and would most likely, as has been made clear by EU representatives and other member states, involve a commitment to the free movement of people and continued payments to the EU. Given that membership of the internal single market is not feasible without signing up to all 'four freedoms' (free movement of goods, services, labour, and capital over borders), it is vital that the Government now seriously considers alternative arrangements for our financial services.

Maintaining the passporting regime would be beneficial to the UK if the EU were to allow the continuation of the UK's passporting rights without the UK needing to adhere to the jurisdiction of the ECJ, the 'four freedoms', and to all its financial regulations. As this is unlikely to happen, sound reasons exist for the UK to abandon the passport once it leaves the EU rather than to seek to protect it at any and all costs.

3.4 Abandoning the passport

Abandoning the passport would achieve two main economic aims that the UK Government should pursue in its negotiations with the EU.

Firstly, it would enable the UK to regulate better and more competitively in the future. Barnabas Reynolds, a UK and EU regulatory lawyer working across the financial sector, argues that '[i]f the UK wants to achieve its traditionally key values of free and clean markets, systematic risk-protection, and consumer protection, it must ditch passporting'.[50] Many EU financial services laws are modelled on those of the UK, such as the framework arising from MiFID, so UK services will still operate under similar frameworks. Additionally, upon leaving the EU, the UK should seek to develop parallel EU and non-EU compliant frameworks to maximise the UK's flexibility as a financial centre.

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[49] 'Top 100 EU rules cost Britain £33.3bn'. *Open Europe*, 16 March 2015. Web.

[50] Reynolds, Barnabas. *A Blueprint for Brexit: The Future of Global Financial Services and Markets in the UK*. Politeia, 2016. Print.

Regulation is increasingly driven at a global level, primarily by the Financial Stability Board (FSB) and Basel Committee on Banking Supervision (BCBS), with legislation appearing in EU-specific form.[51] It is unlikely that the UK would substantially deviate from finalised EU initiatives in national law, but upon leaving the EU the UK could choose to do so over time in order to adhere to international commitments rather than conform to overbearing EU requirements it does not support.

Secondly, as is implied above, 'ditching the passport' would recover the UK's independence over trade policy and services regulations. This means the UK would be well-placed to negotiate improved access to emerging markets (such as those in the Far East, Central Asia, and South America) and build on existing business in the EEA and worldwide.

The availability of passporting and access to the internal market is valuable. However, the fact that the EU accounted for 33 per cent of export for financial services and the largest country destination for financial services exports is the USA demonstrates that large amounts of cross-border trade can be, and is, done without a passporting mechanism.[52] As a former minister who negotiated the first passporting directive, Peter Lilley, has said, '[t]he value of passporting rights, though worth keeping, should not be exaggerated'.[53]

However, the passport should not be abandoned without first introducing an alternative framework to replace it.

4.1 Alternative to the passport: equivalence

It is because the UK and EU have a mutuality of interest in economic growth as well as a shared vision of an open Britain and an internationally competitive Europe that it is reasonable to conclude that the UK can negotiate mutually advantageous deals.

Moreover, the Treaty on European Union stipulates that members must form a relationship characterised by friendliness and cooperation. Article 8 states:

> 1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.[54]

The UK is a neighbouring country. Therefore, according to EU law, the UK's withdrawal from the EU will be friendly and the deals struck in negotiations fair.

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[51] Smith, Ronald. 'Stuck in the Middle with EU: How Global Regulators are Killing the Value of EU Membership'. *Adam Smith Institute*, n.d. Web.

[52] Ullah, Saif. 'How important is UK financial services trade with the EU?'. *City of London Economic Research*, 30 August 2016. Web.

[53] Lilley, Peter. 'Brexit should be swift. Here's how we do it'. *Conservative Home*, 19 September 2016. Web.

[54] Treaty on European Union. Available at http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A12012M%2FTXT

The German finance minister, Wolfgang Schauble, recently warned against seeking to ‘punish’ the UK, stating that London as a financial centre ‘serves the whole European economy’, so it is preferable to ‘keep Britain close to us’.[55]

But EU officials cannot be expected to make unrealistic concessions such as allowing UK firms to retain their passports in full. These deals may not be politically advantageous for the future cohesion of the EU project.

The UK Government, too, cannot be expected to protect the City’s passporting rights. The Prime Minister said in her Lancaster House speech in January that regaining control of immigration and law-making are priorities for the UK in Brexit negotiations, even if that means discontinuing the UK’s membership of the internal market. Pursuing passporting rights in negotiations would result in a situation in which the UK went from being half inside the EU prior to the referendum to half outside the EU afterwards.

Bundesbank President, Jens Weidmann, recognised this in September last year, saying, ‘passporting rights are tied to the single market, and would automatically cease to apply if Great Britain is no longer at least part of the European Economic Area’.[56] The ‘single’ market is tied to the EU’s ‘four freedoms’.

Since the Prime Minister and EU officials sit on opposite ends of the same red line, passporting cannot be maintained.

If passporting is off the table, the UK must look elsewhere for access to the EU internal market. There are a number of other options available to the UK. Vincenzo Scarpetta and Stephen Booth highlight bespoke agreements and local arrangements as two viable options with precedent. Under bespoke agreements, the UK can try to protect certain markets, as was achieved by Switzerland on the provision of direct insurance via branches. Under local agreements, UK firms can set up subsidiaries in EU member states in order to provide services across the continent, but this would require substantial costs.[57]

This report finds that the best alternative to the passport (and, in many respects, an improvement on the passporting system) is an equivalence-based trading relationship with the EU.

The EU itself recently indicated that an equivalence-based relationship would be beneficial to both the UK and the EU. The FSB, International Organization of Securities Commissions, and ESMA indicate that equivalence is the key to interjurisdictional mutual recognition and substituted compliance.

As Michel Barnier, now the chief EU negotiator on Brexit, put it in 2012 when he was EU commissioner regarding an EU-US trading relationship:

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[55] Forster, Katie. ‘Brexit: Germany’s Finance Minister says EU “should not punish Britain” to keep City benefits’. *Independent*, 4 February 2017. Web.

[56] Oltermann, Philip. ‘Hard Brexit will cost City of London its hub status, warns Bundesbank boss’. *Guardian*, 19 September 2016. Web.

[57] Scarpetta, Vincenzo, and Stephen Booth. ‘How the UK’s financial services sector can continue thriving after Brexit’. Open Europe report, October 2016. Print.

> Where the rules of another country are comparable and consistent with the objectives of US [or, in this case, EU] law, it is reasonable to expect US [or, in this case again, EU] authorities to rely on those rules and recognise activities regulated under them as compliant.[58]

This objective interpretation of equivalence has also been reaffirmed by ESMA.[59]

4.2 Current equivalence models

Many EU financial services laws allow financial institutions in third countries to access the internal market if the third country's laws are deemed equivalent to the EU's in a relevant area: i.e., the EU acknowledges that the legal, regulatory and supervisory regime of a third country is as good as its own.

According to Scarpetta:

> Equivalence is outcome-based – that is, the regulations of the third country do not need to replicate the EU's word-by-word as long as they achieve the same objectives – and can bestow passport-like rights in some cases.[60]

Companies in the US, Japan, Singapore, Canada, and many others currently enjoy this equivalence-based status.

The Ministry of Foreign Affairs in Japan released a letter entitled 'Japan's Message to the United Kingdom and the European Union', which urged the UK and EU to establish or maintain 'an equivalent framework for regulations and certifications of standards', particularly in areas concerning chemicals, medicines, radio and telecommunications, and automobiles in order to avoid disruption to Japanese businesses operating in the UK and EU.[61]

The US, Australia, Canada and others have been judged equivalent with regard to Central Counterparties for the clearing of over-the-counter derivatives, for example, whilst Switzerland and Bermuda have obtained full equivalence under Solvency II (which outlines requirements for the insurance sector).[62]

As the UK's laws are exact to the EU, British companies should have maximum freedom to trade with and operate within the internal market.

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[58] Barnier, Michel. 'The US must not override EU regulators'. *Financial Times*, 21 June 2012. Web.
[59] Belchambers, Anthony. 'Equivalence offers the best hope for a UK-EU markets deal'. *Financial Times*, 18 January 2017. Web.
[60] Scarpetta, Vincenzo. 'Understanding regulatory equivalence – an effective fall-back option for UK financial services after Brexit?' *Open Europe*, 19 October 2016. Web.
[61] Japanese Foreign Ministry. 'Japan's Message to the United Kingdom and the European Union'. p.10. Available at http://www.mofa.go.jp/files/000185466.pdf
[62] Scarpetta, Vincenzo. 'Understanding regulatory equivalence – an effective fall-back option for UK financial services after Brexit?' *Open Europe*, 19 October 2016. Web.

4.3 UK equivalence with the EU

Pursuing an equivalence-based relationship with the EU would be sensible as this approach would not import the 'four freedoms' or involve other concessions on UK sovereignty. It would also mean that there would be only two key issues to discuss in negotiations, as Reynolds highlights:

1. Whether the UK and EU can achieve complete coverage of equivalence-based access, and;
2. Whether the UK can encourage the EU to treat the UK fairly in assessing whether their respective rules are equivalent.[63]

It is highly likely that the UK would be deemed 'equivalent' because the Great Repeal Bill, which will be enacted as soon as the UK leaves the EU, ensures that the UK will maintain all the legislation it currently has within the EU upon leaving, which can then be amended as Parliament sees fit. Whilst it can take a third country several years to obtain equivalence, the UK currently has the exact same regulations as the EU. This should make equivalence much easier and faster to achieve for the UK than for other countries.

The assessments of equivalence are carried out by the European Commission's Directorate General for Financial Services (DGFISMA) and are based on advice from the EBA, ESMA, and the European Insurance and Occupational Pensions Authority. The EU then grants equivalence on specific aspects of individual regulations: it is a patchwork of measures across a variety of sectors.

This means that whilst many regulations are covered by equivalence, with some more wide-ranging than others, some EU regulations offer no equivalence at all (see Appendix A). In instances where there are 'gaps' in the equivalence system, Reynolds recommends either filling the gaps 'by amending existing legislation (which the UK could vote on both in the Council, which would vote by QMV [Qualified Majority Voting], and in the EP [European Parliament], which would require a majority vote)' or not filling the gaps and instead leveraging the UK's 'attractive, tailored and regulatory framework and financial clout to drive business and liquidity to the UK, operating as an entirely free-market financial centre'.[64] The Prime Minister outlined a Brexit vision in January in which both of these methods are achievable.

However, any deals made on third-country equivalence models tend to require reciprocity. The European Commission says that benefits of an equivalence-based relationship with non-EU regulatory frameworks 'accrue to both the EU and third-country financial markets'.[65] This implies that whether the UK is deemed equivalent or not will depend on whether the UK can offer similar access to the EU firms in the UK. This should not be a problem given the

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[63] Reynolds, Barnabas. *A Blueprint for Brexit: The Future of Global Financial Services and Markets in the UK*. Politeia, 2016. p.6. Print.

[64] Reynolds, Barnabas. *A Blueprint for Brexit: The Future of Global Financial Services and Markets in the UK*. Politeia, 2016. p.19. Print.

[65] European Commission. 'EU equivalence decision in financial services policy: an assessment'. Europa, 27 February 2017. Print.

language and tone of the Prime Minister's Lancaster House speech, in which she spoke of an open Britain, and the UK's traditionally open economy. Further, the negotiation should not be thought of as a one-way dialogue; as in what the UK can achieve from the EU in negotiations. The UK should also leverage the level of access it will provide for EU firms to operate within the UK and use its superior financial infrastructure to its benefit. Currently, UK-based financial services account for 40 per cent of Europe's assets under management, and 60 per cent of its capital markets business. UK-based banks provide more than £1.1tn of loans to the rest of the EU. [66] And, there are around 8,000 firms in the EU which rely on Britain for their business, compared to 5,500 in the UK. [67]

4.4 Diversifying the UK economy

Currently, the most significant 'gap' to the equivalence-based relationship is the Capital Requirements Directive (CRD IV). CRD IV contains rules for banks, building societies, and investment firms, and implements the requirements of Basel III as well as requirements designed to deal with perceived problems in the banking sector which Basel III does not address.[68] Many bankers, such as those quoted in the *Financial Times* article, 'Banks fear chill wind of EU "passport" freeze',[69] and economists, such as Scarpetta and Booth,[70] have and continue to argue for the UK to maintain the CRD IV passport in a bespoke agreement with the EU. They posit these arguments because CRD IV does not have any provisions for third-country access to EU markets.

If the UK were unable to form an agreement on CRD IV, there are a number of alternative options available to UK banks; one of which is the aforementioned local arrangement. It may be unlikely that the UK banking industry loses the CRD IV passport, given that the EU relies heavily on it, too, for accessing London, the EU's financial centre. Losing CRD IV in negotiations could impose costs on both the UK and, to a greater extent, the EU.

Alternatively, choosing to diverge from the standards set by CRD IV could also have its benefits to the UK. Because CRD IV goes notably further – to an often restricting standard – than Basel III, the UK could ditch CRD IV and still adhere to the Basel III requirements, which are international standards formed by the BCBS. For example, CRD IV imposes requirements on remuneration that limits 'the variable remuneration of 100% of the fixed remuneration' for each individual.[71] Such a cap on bonuses does not exist under the Basel III framework.

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[66] Boffey, Daniel. 'EU will lose out from bad Brexit deal on City, says leaked report'. *Guardian*, 1 February 2017. Web.

[67] Arnold, Martin. '"Significant" Brexit risk for 5,500 UK groups using EU passporting'. *Financial Times*, 20 September 2016. Web.

[68] 'Capital Requirements Directive IV'. *Bank of England*. Available at http://www.bankofengland.co.uk/pra/pages/crdiv/default.aspx

[69] Noonan, Laura, and Jim Brunsden. 'Banks fear chill wind of EU "passport" freeze'. *Financial Times*, 21 September 2016. Web.

[70] Scarpetta, Vincenzo, and Stephen Booth. 'How the UK's financial services sector can continue thriving after Brexit'. Open Europe report, October 2016. p.41. Print.

[71] European Banking Authority. 'On the application of Directive 2013/36/EU (Capital Requirements Directive) regarding the principles on remuneration policies of credit institutions and investment firms and the use of allowances'. EBA, 15 October 2014. Print.

The UK opposed the provisions within CRD IV that enforced a banker's bonus cap when it was first introduced.[72] Other benefits to the UK leaving CRD IV include being able to:

- impose higher Tier 1 capital requirement;
- change its position on internal hedging, and;
- loosen countercyclical buffers to allow banks to more easily meet their buffer requirements under Basel III.[73]

An additional consequence of diverging from stringent regulations such as CRD IV is a diversified banking industry in the UK. A more diversified banking industry would be of great benefit to the UK economy and wider society, particularly in light of the financial crisis in 2008 and in the dawn of a possible Eurozone crisis.

The provisions required under CRD IV, some of which are described above, unfairly disadvantage smaller firms, particularly with regards to capital requirement. CRD IV does not discriminate: it applies to all financial institutions without considering a firm's size or business model. It assumes all firms compete on a level playing field, and thereby puts smaller firms at a competitive disadvantage. Consequently, it becomes difficult for smaller banks to generate return on capital except in riskier assets; driving them into areas of the industry within which it becomes further difficult for them to be internal ratings-based (IRB) approved (and therefore allowed to pursue an IRB approach under Basel III, like the majority, if not all, of the larger banks). CRD IV, then, is a significant barrier to the entry and expansion of smaller firms, and would be one area in which the UK could regulate better under an equivalence model outside the internal market.

The Competition and Markets Authority (CMA) states that 'smaller banks may be less able to spread the fixed overheads of these regulations over their activities', adding that BCBS standards 'were originally designed to apply to internationally active institutions only'.[74] Yet, in practice this has been applied to all financial institutions. Further, the Prudential Regulation Authority notes that 'the costs of the regime bore more heavily on smaller banks and that the benefits of applying the regime in full to smaller banks was proportionally less'.[75]

Diverging from CRD IV in a way that provides smaller firms with greater flexibility and allows the UK government to adopt a more proportionate approach to banking regulation concerning capital will diversify the UK banking industry further. In turn, this will:

1. provide greater choice for consumers and smaller firms;
2. improve the UK's resilience to recessions and reduce the risk that taxpayers lose money from bailing out banks in future, and;

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[72] Barker, Alex. 'Osborne gives up on challenge to bank bonus cap'. *Financial Times*, 20 November 2014. Web.
[73] Henderson, Andrew, and James Burnie. 'Brexit and Basel III: an invitation for more or for less?'. *Eversheds Sutherland*, 14 September 2016. Web.
[74] Competition and Markets Authority. 'Addendum to provisional findings: The capital requirements regulatory regime'. CMA, 15 April 2016. p.10. Print.
[75] Competition and Markets Authority. 'Addendum to provisional findings: The capital requirements regulatory regime'. CMA, 15 April 2016. p.11. Print.

3. speed up innovation and change in the banking system.

The financial system is not constituted only of banks. The UK has an opportunity to balance the system and empower the consumer once it leaves the EU. For example, if we want banks to be long-term investors, then the UK needs to recalibrate its economic structure (by, say, reducing tax, since raising equity is prohibitively costly in terms of tax).

Real businesspeople and those who move money for a living are in agreement. A letter signed by CEOs of various smaller banks addressed to Andrew Tyrie in June 2016 explains the negative impact an unbalanced financial system has had on all of society as well as the potential solutions the Government could provide post-Brexit. In it, the CEOs said:

> We hope that will result in a more proportionate approach to the regulation of smaller banks, particularly in respect of capital. This will help smaller banks and building societies compete more effectively and provide more credit to the economy which will be useful especially should the dominant incumbents reduce their lending appetite in a post Brexit environment.[76]

The way the economy is structured has tremendous influence on that country's resilience to economic shocks. A more diverse structure provides more resistance to shocks than does a more concentrated structure. This is because the risk is spread across a greater number of businesses.

Indeed, the US banking market is much more diversified and recovered faster and stronger than the UK since the last recession, and enjoys a more competitive banking market.[77] Note, too, the success of Lidl and Aldi in the UK and the positive competition they provide to big supermarkets such as Tesco and Sainsbury's.

The UK could achieve a more diversified and fairer economic structure once it has left the EU on an equivalence-based deal. The UK Government is therefore right to seek a comprehensive free-trade agreement with the EU, which builds on equivalence and covers the areas which are currently not included in the third country regimes (TCRs).

5.1 Realistic outcomes

As with any negotiation, ideas that work in theory and have practical precedent do not always turn out to be feasible. Nonetheless, the City of London has a very strong position from which the UK can to negotiate a lucrative deal.7 million jobs in the UK are supported by capital markets. The UK has 5 million SME compared with the EU's 23 million.[78] This is

[76] Letter available at http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/Challenger-banks-to-Chairman-30-06-16.pdf

[77] Competition and Markets Authority. 'Addendum to provisional findings: The capital requirements regulatory regime'. CMA, 15 April 2016. p.12. Print.

[78] Rolet, Xavier. 'New City Agenda: Brexit, financial services and championing SMEs, high quality jobs and growth'. House of Commons, 1 November 2016. Speech.

because the UK has the best schools and universities, attracts the best entrepreneurs and has financial services to support them.

London has always been one of the most liquid markets in the world and has issued more green finances than all other financial markets together. It is a world leader in 'clearing': 17 of the largest currencies in the world are cleared in London, and 90 per cent of US interest is cleared in London, to alleviate the balance sheet and reinvest. Firms are unlikely to move to the continent.

The EU has said this itself. A paper drawn up by officials working for the European parliament's powerful committee on economic and monetary affairs (Econ), warns that UK-based financial services account for 40 per cent of Europe's assets under management and 60 per cent of its capital markets business. 'And UK-based banks provide more than £1.1tn of loans to the other EU member states', the Econ secretariat's paper notes.[79]

Recently, the EU's chief negotiator, Michel Barnier, wrote in the *Financial Times* warning that Europe will face 'severe consequences' if a mutually-beneficial deal cannot be struck with the UK. He says he wants an 'orderly withdrawal' and hopes for an 'ambitious free trade agreement' after Brexit, adding: 'we believe it is in the best interests of both sides to reach a deal on the UK's orderly withdrawal from the EU'. He concludes: 'My personal conviction has always been that the UK and the EU share common values and interests. This will not change'.[80]

Additionally, a survey by US financial services firm Synechron found almost three-quarters of British bankers think London will still be the financial centre of Europe in five years' time. It would cost banks some £50,000 per employee to relocate staff away from London.[81]

The passport has certainly played a part in the success of the City of London by facilitating direct access to the EU internal market. There are around 5,500 passports in the UK, and 8,000 in the EU which rely on Britain for their business. However, there are a number of other reasons why firms will come to London rather than other EU capitals, such as its language, its legal system, its deep liquid capital markets, its access to a large skilled labour force and flexible labour market, and its traditional openness to the world.

The UK Government should not sacrifice the opportunities that the UK would have outside the EEA simply because it is not the status quo. From finance to business, most of the EU's current free-trade agreements do not cover services and there is not a single market for services in the EU. The UK is one of only two EU member states who trades more with the rest of the world than with Europe. That is one of the reasons why the UK should not be afraid to look outward for new prospects. There are many ways the UK can continue to

[79] Boffey, Daniel. 'EU will lose out from bad Brexit deal on City, says leaked report'. *Guardian*, 1 February 2017. Web.

[80] Barnier, Michel. 'Europe will be transparent and fair in Brexit talks'. *Financial Times*, 26 March 2017. Web.

[81] 'Nearly three-quarters of British bankers think London will remain the financial centre of Europe in five years' time, new research shows'. *Synechron*, 2 November 2016. Web.

support and enhance its financial services after it leaves the EU, and rethinking the value of the passport is just one of them.

5.2 Conclusion

This report finds that the City of London will not suffer as a result of Brexit if the Government can negotiate ambitious trade deals and consider alternatives to current financial frameworks, namely 'equivalence'. The chief executive of Barclays, Jes Staley, agrees. Barclays does not believe Brexit will result in a significant move of people away from London. [82] Nor do senior bank executives quoted in a recent *Bloomberg* article, who believe the 'banks are bluffing'.[83]

Contrary to the predictions of the British Bankers' Association boss in October 2016 and reports from the *Observer* that major banks would relocate in the first few months of 2017,[84] banks have so far kept their firms and workers in the UK.

Jason Kennedy, CEO of finance recruitment firm Kennedy Groups, says:

> [The banks] are a bit like dogs backed into a corner and barking – it's just noise. This is all about applying as much pressure as possible on the government to get the best deal. What have banks got to lose? Scream the house down and see what happens.[85]

As one European banking boss reportedly quipped, 'the only way France would be top of his list would be if you turned it upside down'.[86]

A badly designed final deal would damage both the UK and the other 27 EU member states. The exclusion of the main European financial centre (i.e. London City) from the internal market could have dire consequences in terms of jobs and growth in the EU.

As this report has shown, it is in both parties' interest to pursue a mutually beneficial deal. This should be in the form of a comprehensive free trade agreement based on equivalence, and one which covers those areas not currently included in the EU's TCRs.

The only real obstacles to achieving the types of deals explored in this report are political. Whilst the EU has more to lose than the UK in terms of financial services, it may wish to punish the UK in negotiations for narrow political purposes. Recent communications from the EU suggest that this should not be the case.

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[82] Dunkley, Emma. 'Barclays says Brexit will not curb London's "gravitational pull"'. *Financial Times*, 16 November 2016. Web.
[83] Finch, Gavin, Stephen Morris, and John Detrixhe. 'The Brexit Bank Exodus could be more like a trickle'. *Bloomberg*, 1 March 2017. Web.
[84] Browne, Anthony. 'Brexit politicians are putting us on a fast track to financial jeopardy'. *Observer*, 22 October 2016. Web.
[85] Finch, Gavin, Stephen Morris, and John Detrixhe. 'The Brexit Bank Exodus could be more like a trickle'. *Bloomberg*, 1 March 2017. Web.
[86] Ibid.

APPENDIX A

Industry	Main EU Law	Importance of EU passport	Is EU equivalence available?	Does equivalence grant passport-like rights?	Other alternatives and recommendations
Banking	MiFID (MiFID II/MiFIR in 2018)	**High: Long established, few barriers** (**CRD IV**: deposit-taking, lending, payment services, etc. **MiFID II**: portfolio management, investment advice, etc.)	Yes	Yes	• Bespoke UK-EU deal covering main elements of CRD IV passport • Push for equivalence in CRD V • Set up subsidiaries in EU countries (access to passport) • Operate branches in EU countries (no access to passport)
	CRD IV		No	No	
Asset Management	AIFMD (professional clients)	**Medium: Distribute funds across bloc, manage from single location** (marketing and management of funds across borders)	No	Potentially (via MiFIR)	• Push for swift implementation of third-country AIFMD passport • Push for third-country passport in UCITS VI • Delegation of portfolio management • Private placement
	UCITS V (retail clients)		No	No	
Insurance	Solvency II	**Low: Globally diversified, use subsidiaries** (direct insurance and re-insurance cross-border and via branches)	Yes (re-insurance)	Yes	• Bespoke UK-EU deal covering Lloyds London • Expand existing subsidiaries in EU countries and/or set up new ones.
			No (direct insurance)	No	

Source: Vincenzo Scarpetta and Stephen Booth. How the UK's financial services sector can continue thriving after Brexit. Open Europe, October 2016. p.7. Print.