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# HOW WILL BREXIT AFFECT THE EU'S CAPITAL MARKETS?

MILAN, 14 June 2017

Chris Bates

# The story so far



**23 June 2016**

UK referendum – 52% vote to leave EU

**13 July 2016**

Theresa May becomes UK Prime Minister

**17 January 2017**

Theresa May Lancaster House speech on UK objectives

**24 January 2017**

UK Supreme Court rules that Act of Parliament needed

**16 March 2017**

UK European Union (Notification of Withdrawal) Act

**29 March 2017**

UK serves Article 50 notice

**29 April 2017**

European Council adopts negotiation guidelines

**22 May 2017**

European Council adopts negotiation directives

**8 June 2017**

UK General Election

**19 June 2017**

Scheduled start date for negotiations

# Where do we go from here?



Article 50 negotiations

Triggered by UK notice to European Council  
2 year period to negotiate withdrawal: UK Government served notice on 29 March 2017

Long-term UK-EU agreement(s)

No prescribed timeline: EU Treaties only provide for EU to enter into treaties with “third countries”

Negotiations with third countries

Replacing EU FTAs and other arrangements

Limited impact on existing arrangements

Resetting domestic laws

Major amendments to UK law and regulation

Limited changes needed to EU law

# Article 50, Treaty on European Union

**1** Any Member State may decide to withdraw from the Union **in accordance with its own constitutional requirements.**

**2** A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, **the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union.** That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the **consent of the European Parliament.**

**3** **The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification** referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

**4** For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

**5** If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

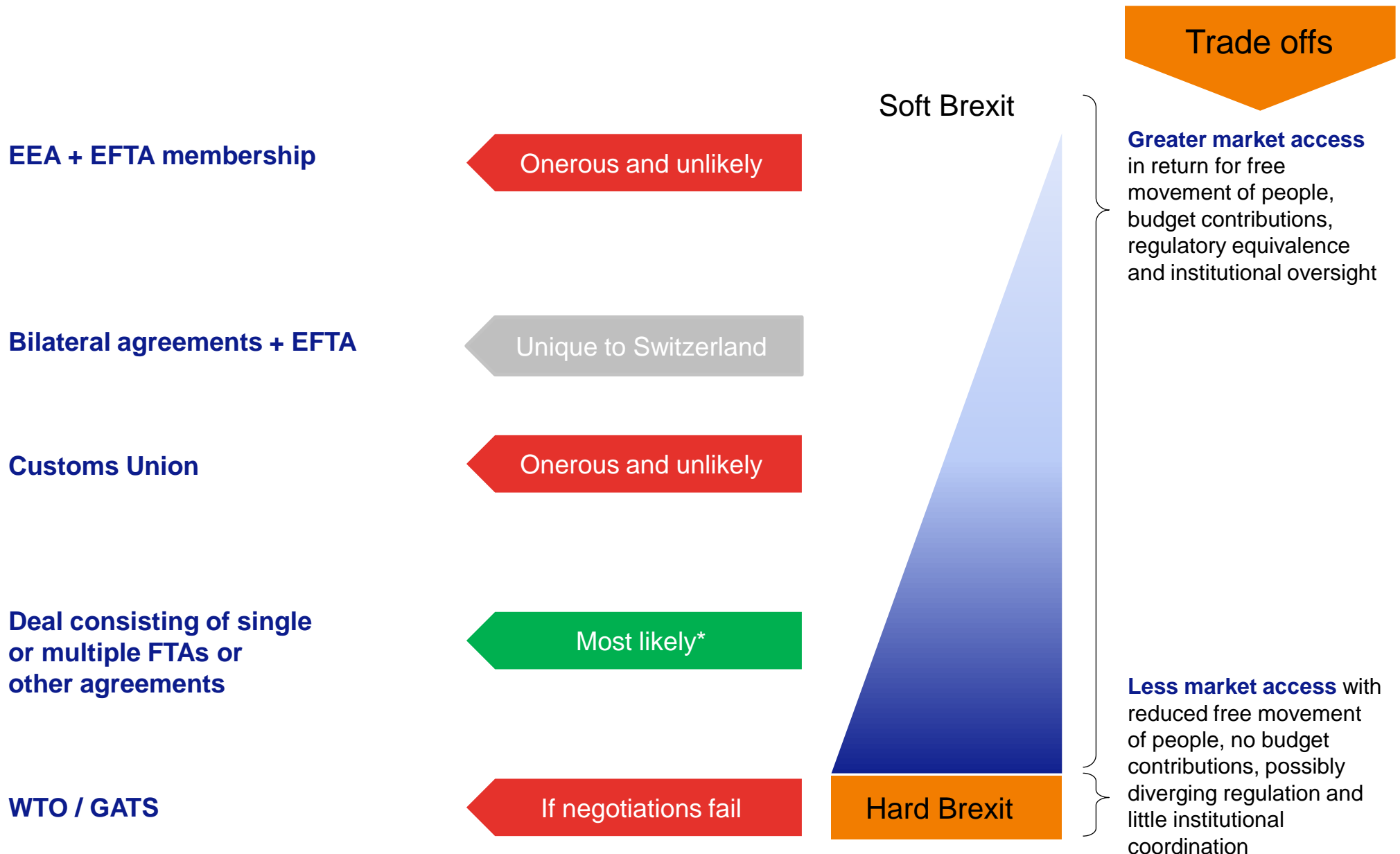
# What does the UK want?



- Framing issues:
  - Control of immigration / UK borders
  - Control over UK laws / ending jurisdiction of European Court of Justice
  - Leaving EU single market and EU customs union
- UK-EU relations: a new strategic partnership
  - Securing citizens' rights: UK citizens in EU and EU citizens in UK
  - 'Ambitious' FTA with EU: 'freest possible trade in goods and services'
  - Avoiding a 'cliff-edge'
- New free trade agreements with other countries
- Domestic issues
  - 'Great Repeal Bill': converting existing body of EU law into UK law
  - Preserving the United Kingdom: Scotland and Northern Ireland

... before UK general election

# “Hard” or “soft” Brexit?



\*Theresa May sets Brexit course away from EU single market – Financial Times, 2 October 2016

# What does the EU want? – Phase 1



- Securing citizen's rights: EU citizens in the UK and UK citizens in the EU
  - Lifelong guarantee of full EU citizen status -residence, work, social security, family rights, etc.
  - EU law applicable, supervision by the Commission, CJEU jurisdiction
- Settling the methodology for the financial settlement
  - Exit from the EU budget and termination of membership of Institutions (EIB, ECB, etc.)
  - Contingent commitments incurred before withdrawal (over future years)
  - Specific withdrawal costs , e.g. relocation of EBA and EMA
  - Instalment arrangements and supervision (Commission, Court of Auditors, OLAF, CJEU jurisdiction)
- Avoiding a 'hard border' between Northern Ireland and Republic of Ireland
- Common approach to third country partners
- Governance of the agreement including dispute settlement

.As soon as the European Council decides that **sufficient progress has been achieved** to allow negotiations to proceed to the second phase, there will be new sets of negotiating directives. In this context, to the extent necessary and legally possible, matters that should be subject to **transitional arrangements** (i.e. bridges towards the foreseeable framework for the future relationship) and which are in the interest of the Union, will be included in those future sets of negotiating directives in the light of the progress made.

While a relationship between the Union and a non Member State **cannot offer the same benefits as Union membership**, strong and constructive ties will remain in both sides' interest and should encompass more than just trade.

Any free trade agreement should be balanced, ambitious and wide-ranging. It **cannot, however, amount to participation in the Single Market or parts thereof**, as this would undermine its integrity and proper functioning. It must ensure a level playing field, notably in terms of competition and state aid, and in this regard encompass safeguards against unfair competitive advantages through, inter alia, tax, social, environmental and regulatory measures and practices.





# UK Government – key players



**Theresa May**  
Prime Minister



**Boris Johnson**  
Foreign Secretary



**Philip Hammond**  
Chancellor



**David Davis**  
DExEU



**Liam Fox**  
International Trade



**Greg Clark**  
BEIS

**Oliver Robbins**  
Perm Sec, DExEU

**Tom Scholar**  
Perm Sec, HMT

**Charles Roxburgh**  
Second Perm Sec, HMT

**Catherine Webb**  
Dir Market Access and Budget,  
DExEU

**Katharine Braddick**  
Director General, Financial  
Services, HMT

# EU member state and EU key players



**Emmanuel Macron**  
French President



**Donald Tusk**  
President of the European Council



**Jean-Claude Juncker**  
President of the European Commission  
(end of term November 2019)



**Michel Barnier**  
European Commission Chief Negotiator



**Antonio Tajani**  
President European Parliament



**Angela Merkel**  
German Chancellor  
(Elections October 2017)

**Piotr Serafin**, Chief of Staff of President Donald Tusk

**Didier Seeuws**, European Council, Special Task Force on the UK

**Hubert Legal** (France): Council Legal Director

**Sabine Weyand** (Germany): Michel Barnier's deputy

**Diego Canga Fano**, Head of Cabinet of President Tajani

**Alexander Italianer**, EC Secretary-General

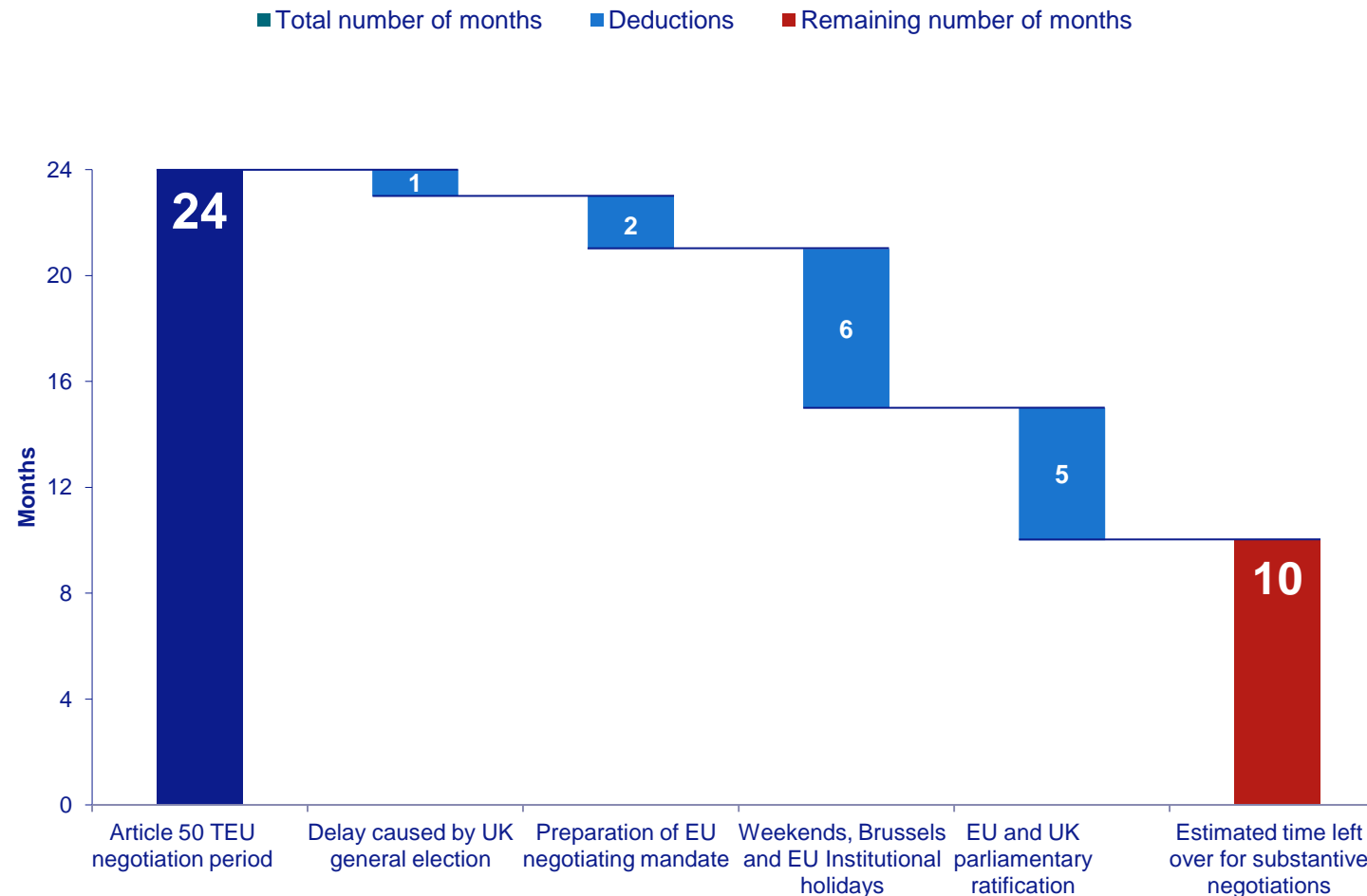
**Luis Romero Requena**, Director General of the Legal Service

**Sir Julian King** (UK) European Commissioner for the Security Union (designate)



**Guy Verhofstadt**  
Brexit negotiator  
European Parliament

# How much negotiating time is there?



- **1 month** – the UK’s general election will take about a month out of the 24 month timetable
- **2 months** – the time it is likely to take the European Council to agree a negotiating mandate for the European Commission
- **3 months** – weekends
- **2 months** – (August 2017 and August 2018) very little happens as the European Institutions shut down for summer
- **1 month** – public holidays for EU officials between March 2017 – March 2019
- **5 months** – the time it will take the EU and UK parliaments to ratify any final agreement

Note: excludes impact of German and other elections

**The UK is the EU's largest financial centre generating 24% of financial services income in the EU**

**45% of Euro FX trades and 41% of FX trades worldwide are executed in the UK**

**49% of global OTC interest rate derivatives trading is executed in the UK (vs. 17% in the rest of the EU)**

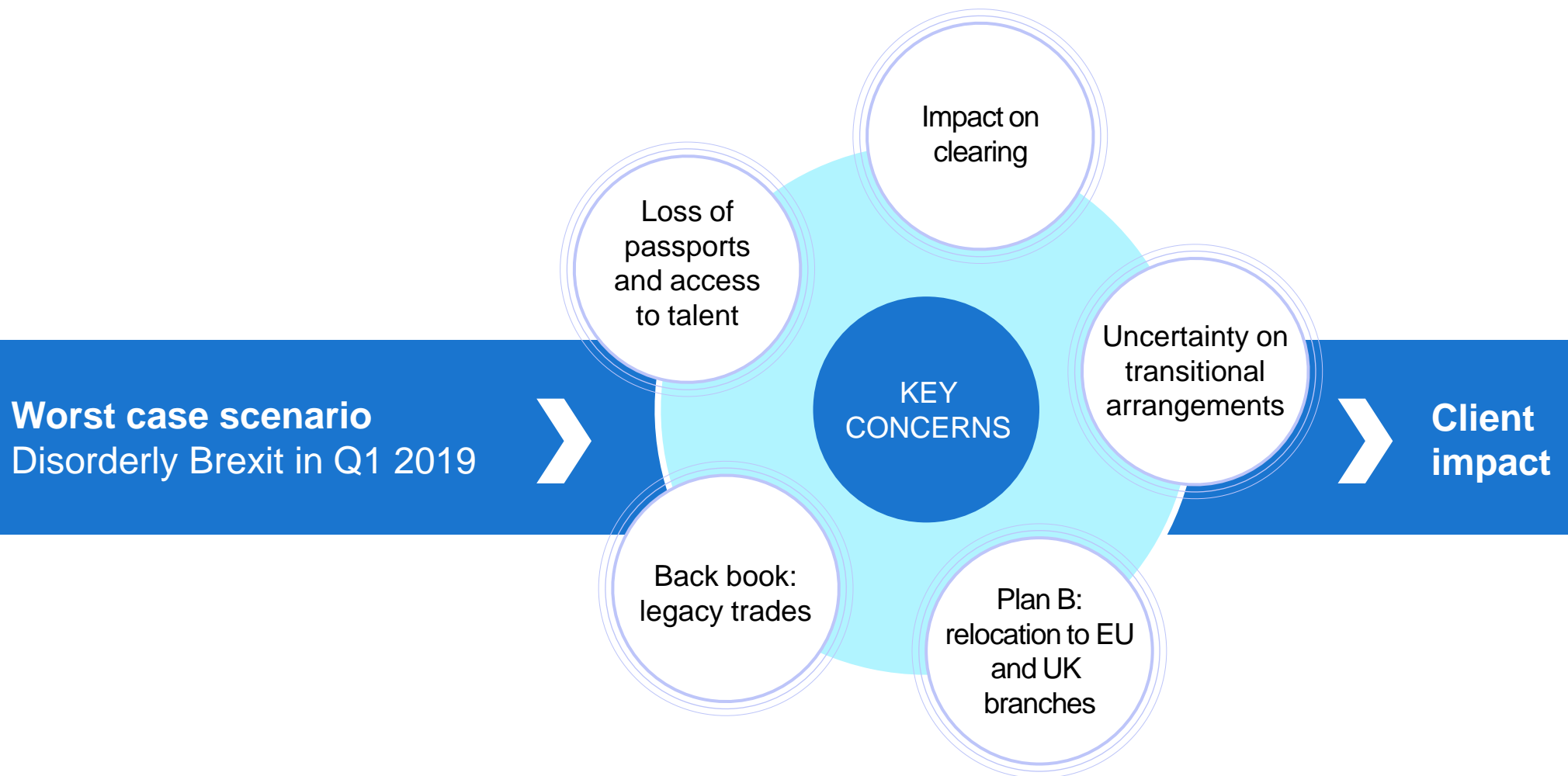
**46% of the EU's equity capital is raised through UK capital markets**

**76% of the EU's flow of alternative finance goes through UK financial markets**

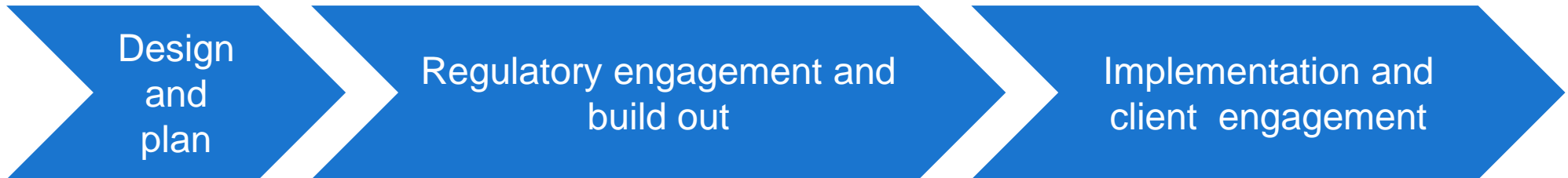
**37% of European assets under management are managed in the UK**

Source: AFME

# Impact on capital markets firms and clients



# Hoping for the best but planning for the worst

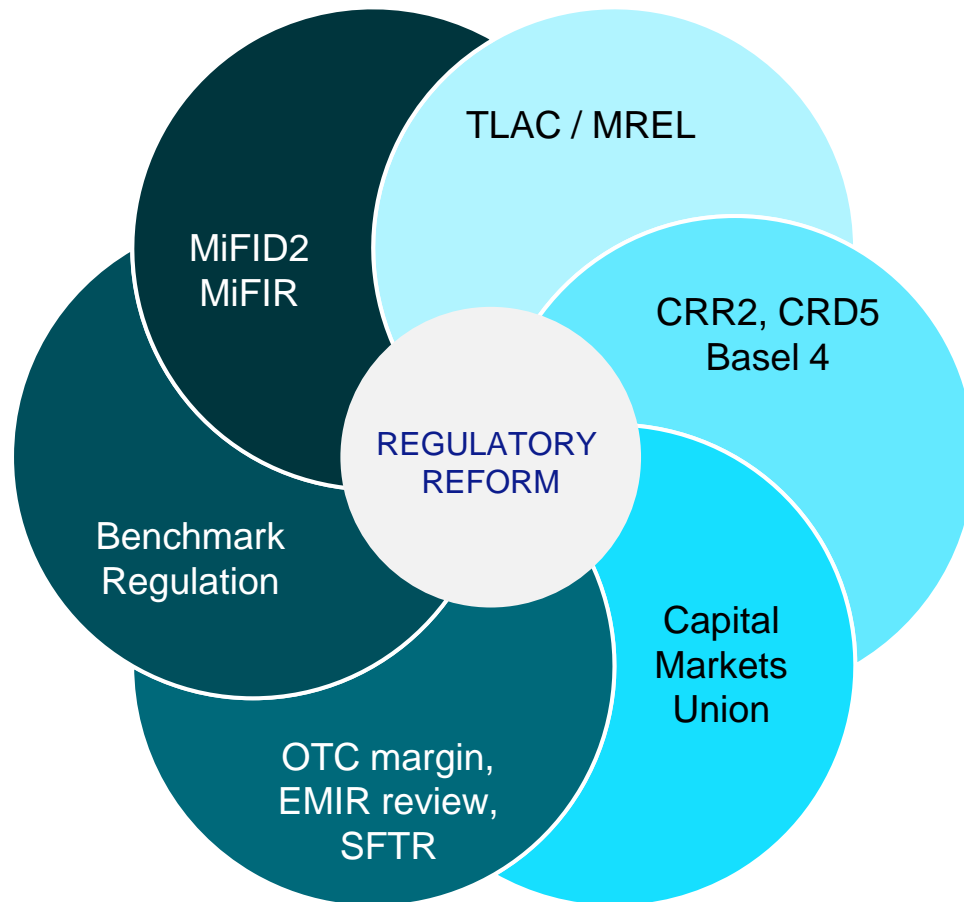


- Location choice
- New entity or scale existing entity
- Use of EU27 branches
- Business perimeter and model
- Choice of transfer tools
- Project plan
- Leak strategy

- Due diligence
- New licence or licence extension
- Model approvals
- Resolution planning
- Capital plan (incl. frictional capital)
- Technology build , reporting framework
- Legal and compliance preparation
- New systems and controls
- Outsourcing arrangements
- Financial market infrastructure
- New management and employee roles
- Employee consultations
- 'Pre-papering' new business
- Credit rating
- Tax management
- Initial announcements

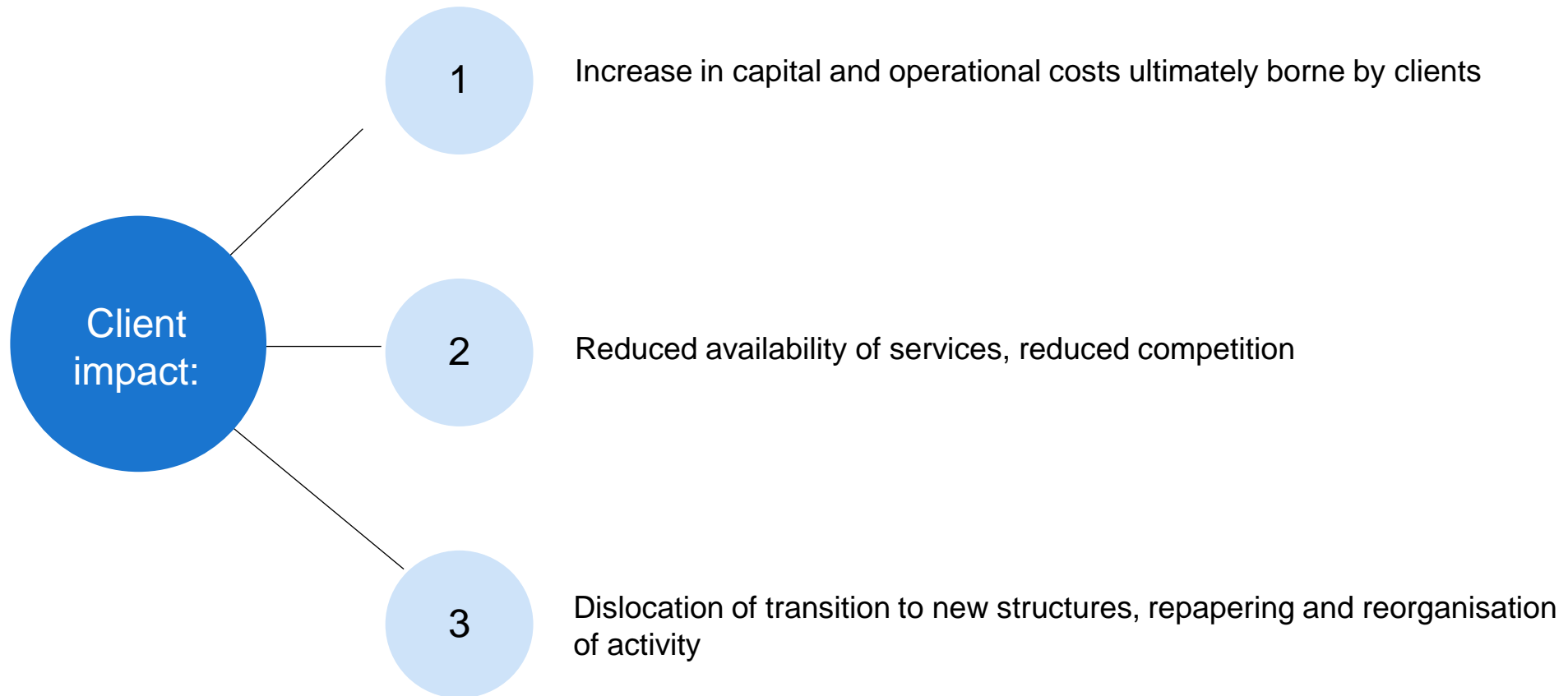
- Capitalisation of entity
- Formation of new branches
- Market announcements
- Client and third party outreach
- Regulatory notifications to clients
- Individual novations/ transfers (or merger / scheme)
- Repapering client relationships
- Legacy/ back book

# Managing regulatory change



- EU proposals requiring non-EU banks to form intermediate parent undertakings (IPUs) for their EU operations cuts across bank structural frameworks for US, UK and other banks.
- Risks that recognition arrangements not in place for e.g. clearing on UK CCPs, exemptions from intragroup margin, trading on UK venues
- Impact of Brexit on MifFID implementation (recalibration, change of instrument scope, reporting, etc.)
- Similar impacts on benchmarks, CRAs
- Regulatory workload

# How could this affect end users of capital markets services?





# Topic Guide – Brexit





**CLIFFORD CHANCE** Financial Markets Toolkit  
Topic Guide – Brexit

**Brexit**  
The UK has voted to leave the EU in the referendum held on 23 June 2016.  
This topic guide helps you to navigate relevant legislation and provides commentary on Brexit.

This Topic Guide features:

- Topic overview and current status
- Legislation
- Possible implications of a Brexit: area by area
- Clifford Chance briefings, call recordings ("Insights on Brexit") and seminar videos
- External links

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