

# BREXIT: IPOS - CONCERN OVER UNCERTAINTY?

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Legal Briefings - By **Charles Howarth, Partner, Tom O'Neil, Partner, Mike Flockhart, Partner, Carol Shutkever, Partner and Dinesh Banani, Partner**

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In the weeks leading up to the referendum, there was a hopeful expectation that a vote for the UK to remain in the EU would result in work beginning on a backlog of IPOs which had been held back.

The vote for the UK to leave the EU has instead created uncertainty that seems likely to inhibit market activity at least for now.

Clearly market volatility will make it difficult to price IPOs and owners and issuers will not wish to come to market if valuation levels are unattractive, but there has been comment in the market that uncertainty about the impact of the UK's departure from the EU on the listing and prospectus regime is likely to dampen activity. We believe that there is little ground for concern about this because there is unlikely to be any material change to the listing and prospectus regime. The reasons for this are:

## HISTORY

The London Stock Exchange had its rules on "Admission of Securities to Quotations" long before the UK joined the EEC in 1973 and the regime has evolved over the forty-three years of the UK's membership, with the first EEC Admissions Directive in 1979 introducing the term "Official Listing", followed by the Listing Particulars Directive in 1980. The UK has been closely involved in, and has influenced strongly the evolution of the EU securities regulatory regime and the development of the creation of the single market for EU financial services.

## STATUS OF THE LONDON STOCK EXCHANGE

In order to protect the LSE's status as a leading international listing venue and trading platform, even if the UK is no longer a member of the single market at the conclusion of negotiations with the EU, the Treasury and FCA can be expected to continue to require adherence to international standards equivalent to the requirements imposed by the Prospectus and Transparency Directives.

## UK POLITICS

The Leave campaign did not focus on the legal framework for capital markets, so we believe there is unlikely to be significant political pressure to make changes in this area.

## FUTURE RELATIONSHIP WITH THE EU

**EEA (Norway model)** - if the UK and the EEA Member States agreed that the UK should join the EEA, then the UK would have no choice but to retain the current suite of EU Directives and Regulations. The UK would not, however, regain the same influence it had as an EU Member State to influence future EU legislation and regulation.

**Customs union/free trade agreement/WTO** - other permutations, including a customs union like that between the EU and Turkey, bilateral agreements with the EU, of which Switzerland has 120 covering different aspects, a free trade agreement, like that between the EU and Canada or dealing with the EU on the basis of WTO membership would bring no obligation to have an equivalent listing and prospectus regime, although the EU Commission has the power to decide whether a third country's prospectus regime is equivalent to the requirements under the Prospectus Directive, in which case a third country prospectus may be used to market securities in EU Member States, without being required to be approved as an EU prospectus.

Even if the UK were to be outside the single market and the government were to decide to make significant changes to the listing and prospectus regime, it is unlikely that the consequences would have much impact on the UK IPO market. The prospectus content requirements under the Prospectus Directive are informed by the IOSCO standards that seek to harmonise disclosure levels globally, including in the US. It is difficult to see why the UK would wish to diverge from these. Outside the single market, a UK prospectus would no longer benefit from the passport that allows a prospectus approved by the regulator in one EEA Member State to be used to market in another Member State. The impact of this would be limited because in practice, the passport is used in only a minority of larger IPOs with a retail element in more than one Member State.

In summary, while we cannot predict the extent to which market conditions may adversely affect the IPO market following the UK's vote to leave the EU, nor when the UK will finalise its new relationship with the EU, we do not believe that there is a basis for uncertainty over the future listing and prospectus regime that will affect IPOs in the UK.

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## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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