ICAEW REPRESENTATION 107/17

Inquiry into Financial Regulation and Supervision Following Brexit

ICAEW welcomes the opportunity to comment on the *Inquiry into Financial Regulation and Supervision Following Brexit* published by House of Lords Committee on 24 July 2017, a copy of which is available from this link.

This response of 29 September 2017 has been prepared on behalf of ICAEW by the Financial Services Faculty. As a leading centre for thought leadership on financial services, the Faculty brings together different interests and is responsible for representations on behalf of ICAEW on governance, regulation, risk management, auditing and reporting issues facing the financial services sector. The Faculty draws on the expertise of its members and more than 25,000 ICAEW members involved in financial services.

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RESPONSES TO SPECIFIC QUESTIONS

Current regulatory regimes

1. **What is your overall assessment of the EU's financial services regime, in light of its current application to the UK? To what extent is it effective, and for whom?**

A consistent regulatory framework was established for a single market in financial services under the EU's Financial Services Action Plan and subsequent initiatives. The UK has implemented this through various enabling legislation and the Prudential Regulation Authority's (PRA) and Financial Conduct Authority's (FCA) rulebooks. The EU financial services regime has been significantly enhanced in recent years and there are now a range of measures to give us comfort that overall prudential regulation will be broadly effective in ensuring the resilience of the financial system through the economic cycle. The costs that enhanced regulation has imposed on financial services firms are well documented and may intensify in coming years as capital requirements continue to build and the competitive landscape changes. Nevertheless, since the Great Financial Crisis, profitability and the rates paid by customers for financial products, have been dominated by the effects of the low interest rate environment. It may therefore only be over the medium to long term that the costs, and the effectiveness, of the enhanced regulatory regime will become apparent.

The UK has seen some of the worst elements of the Great Financial Crisis but that has also meant we have often led the way in policy response and development. EU regulation has largely followed UK measures and sought to build on the lessons learnt here. Consequently, the UK has played a significant role in much of the drafting of the regulations and Directives that followed the Great Financial Crisis.

Nonetheless, there are elements where the UK is leading and the EU has not followed, at least at this stage. The UK's Senior Managers Regime (SMR) has brought positive change in banks and their culture. It has brought a statutory and regulatory focus on individuals working in financial services firms. Other jurisdictions are observing how effective SMR proves to be and may seek to emulate it in due course e.g. US.

Whilst we have said and believe that overall, the EU regime works reasonably well, there are elements that do not. Many of the issues where there is room to improve were covered in a Bank of England and FCA responses to an EU call for evidence:

http://www.bankofengland.co.uk/financialstability/Pages/regframework/response.aspx

https://www.fca.org.uk/publication/corporate/eu-regulatory-framework-call-for-evidence-response.pdf

As ICAEW Chartered Accountants we are particularly close to the measurement and verification of financial performance and resilience. From this perspective we have two observations that we believe are pertinent to the scope of the inquiry:

Firstly, we note the significant progress that has been made through the adoption of IFRS 9 for the recognition of appropriate provisions for credit losses. This new approach to accounting for credit losses promises to ensure that capital and profitability reflect at an early stage the expected riskiness of lending and the deterioration of credit quality. However, it also introduces greater judgement and consequential variability into the financial performance and position of credit institutions – potentially greater variability between periods, between economies and between

institutions. ICAEW are conscious of the potential for this variability to be interpreted negatively, including by the public and policy makers and we have published a briefing paper to provide guidance on the effects of IFRS 9. We believe that this context is essential to the inquiry both in assessing the rigor of the regime that is now in place and in anticipating and responding to how it might be evaluated over the medium term.

Secondly we would like to point out that it essential that the key financial metrics that are used to take the temperature of individual institutions and in aggregate to assess systemic resilience are robustly measured and reported on. Unlike the financial balance sheet and profit and loss account, regulatory metrics are not encompassed in the audit opinion on an institution's financial statements. ICAEW has created a framework for assurance to be provided over these metrics and we believe that voluntary adoption of this approach fills a gap in the regulatory regime.

2. **Are current EU proposals on banking and financial services in your view positive for financial stability? How do you expect the EU's regulatory framework to evolve in the coming years?**

Financial stability

CRD IV has evidentially been effective in improving bank capital positions across the EU and UK, but it should be remembered that this is not the only factor to consider regarding the financial stability of a system. The liquidity guidelines that have emerged post crisis again support individual firm strength, but we believe that the system as a whole should be assessed too and factors like interconnectedness and concentrations should be examined. Consequently, it is too early to conclude on the effectiveness of the fire breaks that have now been incorporated into the system. However, we do believe that individual measures such as IFRS 9 adoption and the more widespread application of voluntary assurance to key regulatory metrics will contribute to an increasingly robust system in coming years.

Notwithstanding the progress that has been made, the UK and the EU do not operate zero failure regimes. To do so would be impossibly costly and burdensome. This means there have to be effective resolution strategies and support for them to operate successfully when rare examples of individual firm failures do actually occur. The Bank Recovery and Resolution Directive (BRRD) established a common approach within the European Union (EU) for the recovery and resolution of banks and investment firms. The BRRD represents an important step forward in ensuring that the EU effectively addresses the risks posed by the banking system in a prescribed and pre-agreed way. However, the success of these measures will also depend on the behaviours and legislation at the local and national level. For example, varying national approaches to the title of assets, the rights of citizens and/or counterparties could in practice frustrate the smooth execution of BRRD tools.

Similarly, Solvency II has increased capital at insurance firms and brought a stronger alignment between risk and capital. This again supports a more stable financial system.

It should also be noted that although the question references the EU, proposals in the international pipeline, especially Basel IV, might be expected to have a greater impact on UK financial institutions. The pertinent question at this time is whether the UK can now cultivate a stronger voice in these fora given its potential future ability to adopt this regulation with a greater level of independence from the EU approach. With such a voice comes a greater responsibility to act in consideration of global financial stability. In any realignment of such relationships we urge the UK government to bear in mind the significance of accounting measurement and verification to effective regulation and to ensure that shaping factors such as international financial reporting standards (IFRS) and international auditing standards are able to be represented.

EU evolution

The UK, along with the Dutch have been cited as the voice of 'moderation' at the EU 'table'. There is now the risk that more polar views, or those that favour one or a small number of nations may be advanced.

As above, whilst the UK has suffered a great deal through the crisis the UK has been leading the way in policy development. The EU risks losing this expertise. The UK has favoured approaches that have been scrutinised by practitioner groups and consumer bodies. The EU risks losing the benefit and perspectives these stakeholders bring.

The UK has typically favoured a proportionate regime and one where new ideas are evaluated through the lens of a cost-benefit analysis. The commercial viability and empirical basis of new EU rules may have less examination going forward.

As above, there are significant legal differences across the EU27 states which may prevent new measures such as BRRD working effectively. The EU will need to prioritise more engagement across its members on commonality of outcome if not law.

The European Commission's President's 'State of the Union 2017' speech indicates how the EU might evolve. Directionally he focuses on the need for a stronger union, stronger enforcement of the rule of law across the EU and an evolution of national legal frameworks

"If we want banks to operate under the same rules and under the same supervision across our continent, then we should encourage all Member States to join the Banking Union."

3. **What are the key differences between financial regulation as agreed at the international, EU and UK levels, and where are the gaps? How important is it to maintain a level playing field for regulation?**

Differences

Capital

The approach to bank capital is an area where there have been differences between international and EU approaches. The Basel Accord was originally intended for internationally-active diversified banks. In the EU (CRD IV, CRR) we have elected to apply the same Basel rules to all banking and investment firms. The US, in contrast, has not. It applies the Basel rules only to its international banks. It recognises that applying global standards to its large, internationally-active banks will reap financial stability benefits.

Post Brexit the UK could evaluate the case for a similarly differentiated approach. There is a strong case for the regulation of larger banks to continue to be aligned to global standards, as in the US. But going forward there may be greater flexibility to examine options that could reduce the costs for smaller banks and perhaps help to promote competition and growth in the UK. For example, more proportionate, differentiated rules might enable banks of different size and business model to compete on an equal footing than the same rules applied to all banks.

Gap

Accountability

The UK is leading in seeking to build more accountability at a personal level through a statutory mechanism. The UK has implemented the Senior Managers Regime (SMR) for banks and large insurers and has now sought to extend this to all regulated firms. The rollout of SMR, whilst painful and cumbersome in its documentation requirements, has led to positive benefits in allocating responsibility, improving decision-making and securing budget to remedy control weaknesses.

Outlook

A consistent regulatory and capital framework facilitates effective competition in financial services. Increasingly financial market infrastructure and prudential capital regulations have been agreed at an international level, with global banking rules agreed through the Basel Committee and others being developed by the EU in conjunction with other global rule-makers. The UK has benefited from consistent international rules since it facilitates global financial markets. The outcome of the US election has meant there is less likely to be international consensus on the way forward. Completing the final phase of Basel III (which has been nicknamed ‘Basel IV’ by some) has been delayed owing to these political positions. We can no longer take for granted an international standard that describes a consensus of best practice agreed by leading nations.

A level playing field

Continued strong engagement with international rules are important for the UK’s attractiveness as a global financial centre.

It is important, therefore, to maintain the UK’s influence over the development of international regulations post-Brexit. As a global financial centre it would be important to maintain a voice in drafting future rules given the impact on financial services is very large in the UK relative to GDP.

Equally, EU regulation will continue to be a significant consideration for UK financial services firms, not least due to the need to achieve ‘equivalence’ to maintain access to EU markets. It may be possible to have a differentiated approach but still sell financial services in the EU. Historically, the EU has accepted a wide range of approaches as equivalent. This suggests exact equivalence is not required. For example, the EU has granted equivalence to countries such as Brazil and India for banking and countries such as Mexico and South Africa for insurance.

https://ec.europa.eu/info/sites/info/files/file_import/equivalence-table_en_0.pdf

However, it is important to remember that equivalence may not be the panacea it first appears. This is because among other things, equivalence is granted by Directive and Article. This means that whilst a third country bank (one from outside the EU) may be deemed to be regulated and supervised from an 'equivalent' jurisdiction, it may not be able to undertake all the activities it might like to do or that are in its commercial interests. For example, being a bank and accepting deposits, in and of itself, may not be very profitable. Making markets in financial investments may be, but that would require a separate and distinct equivalence permission. Being able to achieve equivalence for all the activities that are profitable is not guaranteed in the absence of passporting rights. This may make it difficult for a firm to commit to a UK presence only.

4. **Are there any particular legal or practical challenges related to incorporating the existing body of EU financial services legislation into the UK's domestic law, for example the PRA rulebook?**

We see potential practical challenges in the time and effort to revise legislation and regulations. It is unclear how well the plans and resources of the financial services regulators, the PRA and the FCA, match the scope of the challenge.

Transition, equivalence and alignment

5. **What would be the key priorities for a transitional arrangement, and how much continuity would you expect to see under such an arrangement?**

One of the key priorities for transitional arrangements would be clarity. To enable firms to plan today it would be helpful to communicate the end state. A 'transition' is by definition something that takes you from 'A' to 'B', the end-state. It would be useful to shed more light on what 'B' looks like as early as possible.

Initially, it may seem prudent to seek very long transitional arrangements so that firms can continue to operate as they do now for as long as possible. However, it is likely that the multi-year planning financial institutions are required to do (now) for their own and regulatory purposes is likely to mean this may not lead to that expected outcome. If there is a lack of information on the end-state, firms may plan for a worst-case scenario ('no deal') and execute contingency arrangements now on that basis i.e. firms may leave the UK quicker with very long transitional arrangements.

Furthermore we understand there have been technical concerns regarding whether the withdrawal of passporting rights could affect the enforceability of existing loan agreements. In accounting terms this could have a significant impact on a bank's balance sheet, capital and viability should there be uncertainty regarding the resolution of such technical issues at the reporting date. We assume that where such technical issues are detected they are addressed by the government on a timely basis to avoid the uncertainty that might otherwise arise.

6. In practical terms, how and when could a transitional arrangement be agreed and put in place? How long would such a transition need to last?

Please see our comments in question five.

7. What are the benefits and drawbacks of seeking equivalence? What conditions are likely to be attached by the EU to any equivalence decisions?

As above, given their legal form, equivalence is granted by Directive and Article. However, this is not typically how financial services firms are designed or organised. For example, an investment bank may have a banking licence (to take deposits) for ancillary activities but its primary activities in derivatives may be far more significant to the bank's business model and profitability. Whilst such a firm may have been granted equivalence on 'accepting deposits' and apply CRR, it could not take for granted that it would be deemed equivalent against another, more useful directive, the one that supported its derivatives business (MiFIR / MIFID2). For example, this is not an activity that has historically been granted equivalence.

https://ec.europa.eu/info/sites/info/files/file_import/equivalence-table_en_0.pdf

Crucially, it is important to remember that equivalence is granted at the discretion of the EU. It could be granted or not and it could be terminated at their discretion. This would make it very difficult for UK firms to plan their business and they may therefore relocate to EU-land as a contingency.

The EU has granted equivalence where there is not exact copy-out of EU legislation (see table in link above). This suggest the focus is on equivalence of outcome rather than on a strict legal positions.

8. What alternatives may exist for maintaining alignment between the UK's and EU's regimes? What options could be considered for resolving disputes or arbitrating on such matters? What would be the barriers to a more bespoke arrangement?

Hypothetically, alignment could be achieved either by a sub-ordinate relationship or one where discussions are elevated.

Whilst the UK has elected to leave the EU, it is not leaving Europe. If policy debate is elevated to a pan-European body, that included the UK, it could mean international alignment at the European level.

The future environment

9. What effect will the loss of the UK have on the development of the EU financial services framework and its capital markets?

It is very difficult to quantify the 'loss' as we do not yet know what the post-Brexit position will look like. Without a definition of an end-state and description of the relationship between the UK and the EU27 it is difficult or impossible to quantify the extent of the losses.

For example, in one extreme where the UK maintained full-passporting rights and was a key stakeholder in policy determination then the 'loss' might be very small or near zero.

On the other hand, if the UK's exit were on more severe terms, then the 'loss' would be considerably larger.

Notwithstanding the considerations above we think the impact will very significant. This is because historically the UK capital markets and its financial services sector have been very important to the EU financial system. UK capital markets represent 32% of market capitalisation across the EU-28 and the UK's professional, scientific and technical services sector accounted for more than 26% of sector value added across the EU-28. In these terms the UK must continue to play a very significant role in the provision of these markets and services. We make the point as it is crucial that policy makers frame their approach in full appreciation of the nature and complexity of the opportunities and challenges facing the EU and the UK where fresh barriers are erected to cross-border flows of capital and the provision of professional and financial services.

One of the major success stories of the past 30 years has been the substantial increase in foreign ownership of UK quoted shares, with non-UK ownership of UK companies increasing from 12% in 1990 to 54% in 2014 and the total market value of UK quoted shares increasing nearly fourfold over that period1. In this increasingly fluid world of global capital the UK has been particularly successful; 14% of global capital imports in 2014 came to the UK and we were second only to the US2 in attracting these. But it is important to recognise the diversity of factors accounting for this success. The London capital markets and financial services sector are part of a sophisticated eco-system that comprises very many interconnected elements. It is possible to measure the size and economic footprint of this eco-system, as we have done above, and to describe what it does and who does it. But the system is too complex for anyone to be able to accurately model the effect of changing an individual or group of parameters from among the many thousand conditions that sustain and nourish it.
What we do know is that every trade has two sides, so EU-27 consumers of UK services and markets will lose as well as UK providers of those services if their efficacy or availability is impaired. Given the size of the UK markets and financial services sector any such losses will be substantial for both sides.

It may be tempting to ignore factors as specific and perhaps even obscure as accounting standards or the insolvency regime. But these are the cogs that drive the international flows of capital.

In that context the UK government needs to consider specifically:

- Ensuring mutual recognition of financial reporting frameworks. At present listing rules and UK company law require the use of 'EU-adopted IFRS'. We strongly support continued UK use of International Financial Reporting Standards. To ensure these standards can continue to be maintained a mechanism will be necessary to ensure that the UK has the flexibility to adopt

[1] Source: ONS, Ownership of UK quoted shares 2014
[2] Source: IMF, Global Financial Stability Report, April 2015, p3.

new and revised standards independent of the EU endorsement process that currently applies in UK law.

- The 73 EU-27 companies with a listing on London regulated markets, and others who might be attracted to raise capital in London in the future. Further analysis is needed of the factors that might cause a UK listing to become unsustainable for these entities in the future. Specifically, the continued mutual recognition of regulatory frameworks for statutory audit. UK and EU-27 businesses with cross border activities or raising capital cross-border in UK-EU27 face the proliferation of legal and regulatory uncertainty necessitating contingency planning, complexities and burdens where there is uncertainty regarding the recognition of their audited annual financial statements. It is important that UK-EU27 agreement is reached on the mutual recognition of UK-EU27 regulation frameworks for statutory audit.
- Those companies making use of their rights under the prospectus directive to passport prospectuses into the UK or from the UK into the EU-27. 51 UK companies used the passport in 2015. A disruption to this regime will increase the costs of raising capital.
- The international recognition and reputation of UK professional qualifications, in particular for statutory audit. To avoid legal uncertainty regarding future recognition rights of existing and future holders of UK professional qualifications (both UK and EU-27 nationals) it is desirable to include in a UK-EU27 agreement, mutual recognition for professional qualifications.
- Continued mutual recognition of insolvency practitioners between the UK and the EU-27. At present Regulations 2015/848 on insolvency proceedings and 2015/2012, the ‘judgments regulation’, provide recognition as of right of the appointment and judgments of insolvency practitioners across the EU-28. Without these rights, English law governed restructurings and insolvencies would be less certain in outcome and may be more affected by the practices and discretion of courts in the EU-27. There would be consequential negative implications for investor confidence and cross-border investment. In a financial services context an efficient and reliable insolvency system is particularly important.

10. Where is there scope for the UK to amend its regulatory regime? What precedents exist under current equivalence decisions for divergence to occur?

We believe there are many possibilities for the UK to amend its approach (see response Q.3). The UK could seek equivalence and operate a slightly modified approach.

There are a number of precedents for this. Many countries have been deemed equivalent. Equivalence does not therefore mean exact duplication of written regulations. Andrew Bailey (CEO, FCA) has suggested this should be sensibly treated as equivalence of outcome.

https://www.fca.org.uk/news/speeches/why-free-trade-and-open-markets-financial-services-matter

Equivalence does however, usually depend on a global view of what a good outcome looks like. In the recent past and for banking this has typically been achieved through the Basel Accords. However, as above, there is less probability of reaching international consensus with the current US president and positioning. This poses a risk as going forward it may be harder to define a target 'good outcome' if there is not an international consensus to support it.

11. What challenges will expected innovations in financial markets, for instance in the FinTech sector, present in respect of regulation and supervision post-Brexit? How can these challenges be overcome? Can the UK maintain a competitive advantage while adapting to a new regime? If so, how?

Financial Services in general and banking in particular is increasingly about data. There is the risk that tensions may emerge between Financial Services regulation and Data regulation under General Data Protection Regulation (GDPR). At this stage it is very unclear how this will be resolved. A thriving UK Fintech sector seems much more viable if the UK's data protection standards do not depart from those of the EU.

12. Will leaving the EU affect the way that the UK represents itself in international fora? How can the UK continue to maintain influence when dealing with organisations such as the FSB and IOSCO in setting international standards?

While the nature and terms of our engagement with international bodies is ultimately bespoke to the situation, there are a number of general themes from our experience that reflect how the UK has been effective in international fora. In our experience the UK has historically been an enthusiastic and committed supporter of many initiatives to standardise the financial system internationally. Our effectiveness in these bodies might be attributed to:

Adoption of the standards: The UK has been a strong supporter of international standards in a number of areas – for example by adopting the International Auditing Standards of the IAASB. Even where we have adopted international standards (IFRS) as part of a EU-28 initiative – for example in the case of International Financial Reporting Standards or the Basel III bank capital rules, we have a strong voice for standardisation. In the case of the Basel III standards we implemented key elements such as the new leverage ratio requirement ahead of the international timetable.

Engagement with standard development and due process: We have been a vocal commentator in the standard setting process. For example, in the case of IFRS, ICAEW has consistently engaged with the International Accounting Standards Board both in the development process for the standards and in helping develop the governance of the standard setter. UK firms are also vocal participants in this process.

The UK's engagement with other nations and international bodies needs to be developed to help build our voice at these fora. In the past we have been able to use our EU voice and relationship with the US. We now need to develop our relationship and work with a greater number of nations. We will need to develop an outreach programme that builds and maintains many more relationships and we need to increase our representation on international bodies. To achieve international agreement, we may need to be more open-minded and progressive in our thinking. This is notwithstanding that some countries have elected to compete in a 'race to the bottom' and seen an erosion of practices and behaviours in their jurisdictions. There is an opportunity for the UK to both progressive at the standard setting stage but to also demonstrate leadership and reap the benefits of a flight to quality.

Effective enforcement: The UK has a robust and effective enforcement regime to ensure compliance with the spirit and letter of international standards. ICAEW plays its part as a regulator for our members in ensuring compliance with International Auditing Standards as adopted in the UK and the anti-money laundering requirements in our regulations derived from UK law – which is in turn based on the international recommendations of the Financial Action Task Force.

We suggest that it is in our actions, specifically our actions in the three areas above which demonstrate our commitment to the standards, which secure our influence. As a sincere and enthusiastic supporter of international standards the UK can engage with authority in these fora.

Conversely, to detach from or to deemphasize our commitment to these standards would naturally erode our influence. It is important to recognise the constraints that this places on the UK's freedom of manoeuvre and to set expectations accordingly. As we have illustrated in question 9, investment flows to capital markets, and in particular to UK markets, are much more international than they were 30 or 40 years ago. Our financial institutions are much more interconnected, in ways which it is difficult to map. While the US may have the size and scale to stand somewhat aloof from international standards – for example financial reporting standards, it is unrealistic to expect the UK to be able to take a similar approach.

We have outlined above the many ways in which the UK currently engages in the international standard setting and regulatory process. The wide range of international bodies that are relevant

here should also be recognised. We are particularly engaged with the International Accounting Standards Board, the various independent boards of the International Federation of Accountants, the OECD Base Erosion and Profit Shifting initiative and the anti-money laundering recommendations of FATF. It is important that this engagement is maintained and strengthened.

The September BIS announcement augurs well as the UK will need representation at the most senior levels of banking supervision. Mark Carney's three year term as Chair of the Financial Stability Board ends in November 2017 but it was announced that he will now chair two key BIS central bank groups. He was appointed as Chair of the Global Economy Meeting (GEM) and the Economic Consultative Committee (ECC). The appointments takes effect on 1 December 2017. The Global Economy Meeting (GEM) comprises the Governors of 30 BIS member central banks in major advanced and emerging market economies that account for about four fifths of global GDP. It provides guidance to three Basel-based central bank committees - the Committee on the Global Financial System, the Committee on Payments and Market Infrastructures and the Markets Committee. The Economic Consultative Committee (ECC) is an 18-member group that supports the work of the GEM. Among other things, the ECC Chair makes recommendations to the GEM on the appointment of the chairs of the three central bank committees mentioned above and on the composition and organisation of those committees.

Supervision

13. The Commission is currently conducting a review of the European Supervisory Agencies. What, in your view, are the key areas where reform should be pursued and what might be the impact of such reform on UK supervision?

ICAEW responded to the recent EC consultation on the operations of the European Supervisory Authorities in REP 58/17.

https://www.icaew.com/-/media/corporate/files/technical/icaew-representations/2017/icaew-rep-58-17-the-operations-of-the-european-supervisory-authorities.ashx

We felt, and the feedback statement suggests that many other stakeholders also believed[3], that there should not be significant changes to the powers or remit of the ESAs at the present time. We believe that it is crucial that stakeholders are able to understand the regulatory regime. We are still undergoing a period of significant change and it will be some time before stakeholders are fully familiar with the new regime. What we need now is a period for reflection and evaluation before further change is considered to the regulatory architecture. The ESAs are carrying out valuable work, and there is much they can do to continue to develop their capacity and effectiveness within the existing framework. But we do not believe this is the right point to consider significant change. Without the opportunity to observe the results of the reforms already enacted, it will be more difficult to identify whether these reforms were the right ones, and whether they have been effective in improving the stability of markets and institutions.

There should be a clear distinction between the carrying-out of micro-prudential regulation – specific actions taken at the level of the individual firm – and the task of overseeing regulators to ensure they are effective in this role. We are concerned that this distinction has not currently been made explicitly enough and that the extension of additional powers to the ESAs, as was suggested in the consultation paper, risks confusing the boundary still further. The ESAs play an important role in supervising the supervisors. There is a clear public interest in them doing so. We felt this could be articulated more clearly, to provide a basis for assessing the powers of the ESAs and making decisions about how they should carry out their remit. In this way, powers that risked usurping or duplicating the macro-prudential role of the National Supervisory Authorities (NSAs) could be excluded.

Nevertheless, we note that the ESAs have an important role in securing mutual market access, for example by ensuring that arbitrary actions by NSAs or subtler differences in approach do not create barriers to entry or operation. By monitoring for inconsistencies of approach and application the ESAs play an important role in levelling the playing field.

Moreover, we felt there could be a role for certain increased powers as regards assessing equivalence; although this would need to be designed carefully. It is important that the assessment of equivalence does not become an overly bureaucratic exercise that itself acts to restrict trading opportunities. As such the actions of all of those tasked with assessing equivalence are most effective where the objective of the exercise, to facilitate mutually beneficial trade while having regard for investor protection and financial stability, is kept in mind. Doing so should militate against unnecessary bureaucracy or delay in the process. ESAs can play an important role in ensuring that these principles are applied consistently and fairly by NSAs. They could help to ensure that NSAs are efficient and consistent in their assessment of equivalence.

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[3] EC, Feedback statement on the public consultation on the operations of the European Supervisory Authorities having taken place from 21 March to 16 May 2017, p5.

14. How could an enhanced role for ESMA and the ECB in respect of euro-denominated clearing work? What are the options for the UK to retain euro clearing in the light of the European Commission's recent proposals?

We are not answering this question as it is not related to the work of ICAEW Chartered Accountants.

15. How would supervisory cooperation (as envisaged for CCPs) work in practice? Are there any precedents? What are the potential risks?

We are not answering this question as it is not related to the work of ICAEW Chartered Accountants.