Association of Foreign Banks

Norton Rose Fulbright

Brexit survey

The impact on the foreign banking sector

November 2017

Contents

Executive summary

The financial services industry constitutes around 7 per cent of UK GDP, directly employs 1.1 million people (two-thirds of them outside London) and contributes a significant proportion of tax revenue to the UK. An important part of the industry is the banking sector, consisting of UK domestic banks and non-UK banks that have established themselves in the UK (many of which use the EU passport to conduct cross-border business).

Following the UK's vote to leave the European Union, the Association of Foreign Banks formulated a position statement earlier this year (Appendix 1). This was followed by a survey, carried out with Norton Rose Fulbright, among the AFB membership gauging the foreign banking sector's sentiment on Brexit. A cross section of AFB members, including some of the world's largest banks, responded, looking at three areas:

1. The UK's post-Brexit relationship with the EU
2. Immigration impact on staff
3. Business confidence/political stability in the UK

Common themes

The replacement of the EU passport

The main concern was what type of trading relationship will be established between the UK and the EU after March 2019 – in particular, the type of framework that will replace the EU passport in the UK. The consensus was that there was no simple solution, although some form of mutual market access seemed to be the preferred replacement. Clarification on continued EU market access (i.e. the Government's plans for the UK's post-Brexit trading relationship with the EU) was also seen as time critical.

Impact of any subsidiarisation requirement on branches of foreign banks

A requirement to subsidiarise was a clear 'red line' for most branches, with both EU and non-EU branches confirming that a subsidiarisation approach would cause them to reassess their presence in the UK, possibly leading to the closure of the UK branch. A number of non-EU branches believe, however, that any subsidiarisation requirement is more likely to apply only to EU branches.

Location of euro-denominated clearing

London is the global financial centre for euro-denominated clearing. A number of respondents feared that any relocation from London would push up the cost of clearing. Even those banks which did not view clearing as an important issue for their particular London operations noted that assessments were still being conducted at head office level. This was due to the fact that capital and cost implications of inefficient clearing were seen as important at a group level.

Current and future business activities following the Brexit vote

For some, the Leave vote has had a negligible impact on their current business levels in the UK. For others, some have seen their UK business activities negatively affected and some have seen the development as an opportunity – one instance of this is further activity by clients following the recent depreciation in Sterling. Many banks said that they will take a 'wait and see' approach, assuming that they will know more soon than they currently do about the UK and the EU's post-Brexit trading relationship.

Immigration and access to talent

There have been some concerns raised, mainly from EU nationals who have been in the UK for less than 5 years (permanent residence in the UK can be applied for after 5 years) about their residency rights after March 2019. A small number of EU branch respondents said that they now find it more difficult to attract people to London. Other banks felt reasonably confident that a negotiated outcome will enable staff to continue to live and work in the UK.

Future of London as an international financial centre and other centres around the world

Will London, in the longer term, be able to maintain itself as an international financial centre? Some concerns were raised about this. Some respondents stated that it should not be assumed that business activities lost in the UK would automatically relocate to the EU. Brexit, it was felt, should not be seen as a zero-sum game in which losses in the UK are gains for the EU. Other international financial centres, particularly in the US and East Asia, may be the ultimate beneficiaries if the UK and the EU fail to agree a framework allowing sufficient access to each other's markets.

Several non-EU banks raised the possibility of the UK negotiating trade deals with their respective home states post Brexit – a win-win opportunity in their view. Much recent attention has focused on the challenges facing banks; many non-EU banks see that there will also be long-term opportunities for the UK.

Policy areas for the UK Government to focus on

Almost all banks wanted the UK Government to focus on three actions.

- They want the UK and the EU to secure a transitional deal soon: this would create breathing space and allow banks to defer key decisions until the Brexit negotiations are further advanced.
- They want clarity on the UK's post-Brexit trading relationship with the EU: notably, which framework will replace the current EU passport.
- They want clarity on the residency rights of EU nationals in the UK: and they want to know what the post-Brexit immigration system in the UK will be.

This report is split into three sections to reflect AFB structures:

1. UK branches of EU banks
2. UK branches of non-EU banks
3. UK incorporated subsidiaries of foreign banking groups

Please note that when referring to the different foreign banking structures in the UK, the report refers to 'EU' and 'non-EU' banks rather than 'EEA' and 'non-EEA' banks. This is purely done for simplicity and does not seek to exclude banks outside the EU but inside the EEA.

Anonymised quotations give an insight into the direct thoughts of senior officers.

Thank you

We would like to thank all AFB members who participated in the survey. We hope that you find this report of use and that it provides a useful insight, at this stage of the Brexit negotiations process, as to what foreign banks' sentiment is on this subject.

It should be remembered that this survey was conducted in the late summer/early autumn of 2017.

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Key findings

UK's post-Brexit relationship with the EU

UK branches of EU banks

- Passporting into the UK is essential for business and is the preferred option to any alternative
- General belief that mutual market access would be the best passport alternative, although there was some support for equivalence
- Impact of location of euro-clearing was dependent on the bank's business model. It was seen as very important for those that booked business in the City

UK branches of non-EU banks

- Mixed view on passporting – for some it is important, but for many others it is either inapplicable or immaterial as the group already has a footprint in EU member states, i.e. can transfer activities, including Euro clearing, into other EU entities already in existence within the banking group
- General view that there needs to be a formal framework in place as an alternative to passporting, with a preference on mutual market access over equivalence
- Impact of location of euro-clearing was dependent on the bank's business model. Even where it was not relevant, many respondents stated that they would still like to see euro-denominated clearing continue in London

UK incorporated subsidiaries of foreign banking groups

- Generally, passporting did not seem to have a significant impact; it is either inapplicable to the business model (minimal exposure to EU market) or alternative options are being considered to maintain permissions. For those who commented, mutual market access was preferred to equivalence as the best passporting alternative
- Concerns around the effect of the loss of Euro clearing on the City's current position as a global financial centre

Immigration impact on staff

UK branches of EU banks

- Some concerns expressed on UK residency rights by EU citizens who have been in the UK for less than five years
- Limited immediate impact on recruitment for some
- Changes to recruitment and a higher volume of regulation anticipated when taking on new EU staff

UK branches of non-EU banks

- Some, but no major concerns from EU nationals about their residency rights after Brexit
- Some branches with EU nationals looking to formally regularise their status to allay any concerns
- No immediate changes to recruitment, although many expressed concerns around access to talent going forward

UK incorporated subsidiaries of foreign banking groups

- Some, but no major concerns from EU nationals about their residency rights post-Brexit
- Concern around future recruitment of staff with in-depth knowledge of the home state location
- No immediate changes to recruitment, but ability to continue to recruit on a global basis seen as key

Business confidence/political stability in the UK

UK branches of EU banks

Business confidence

Mixed response:

- Some reported no change
- Others have seen investments originally planned for the UK put on hold
- Some actively growing their UK business as a result of Brexit opportunities

Political stability

Key policy concerns and focus areas:

- Framework which will replace the EU passport in the UK
- Agreement on a transitional period as soon as possible
- Residency rights of EU nationals

UK branches of non-EU banks

Business confidence

Mixed response:

- Some reported no change
- Others reported reduced levels of investment from clients, but limited impact on business activity to date, although uncertainty around the current situation was preventing some from pursuing strategic activity

Political stability

Key policy concerns and focus areas:

- Agreement on a transitional period as soon as possible
- Residency rights of EU nationals

UK incorporated subsidiaries of foreign banking groups

Business confidence

Mixed response:

- Majority have seen only a limited impact on business activity to date, although a few anticipated that there may be some in the future
- Some have seen Brexit as an opportunity to do more business in the UK

Political stability

Key policy concerns and focus areas:

- Clarity around the post-Brexit trading relationship between the UK and the EU
- Agreement, as soon as possible, between the UK and the EU on a transitional period
- Trade agreements between the UK and countries outside of the EU post-Brexit

Other areas

UK branches of EU banks

- Requirement to subsidiarise a clear ‘red line’ and would cause most to reconsider their presence in the UK
- Many anticipated a different level of regulatory requirements applicable to the branch if they were to move from an EU branch to a non-EU branch

UK branches of non-EU banks

- Though any subsidiarisation requirement would be more applicable to EU branches than themselves, non-EU branches see a requirement to subsidiarise is a clear ‘red line’ and would cause most to reconsider their presence in the UK
- Concern expressed around impact of Brexit on UK economy and London’s status as a global financial centre and the rise of non-European centres globally as a result

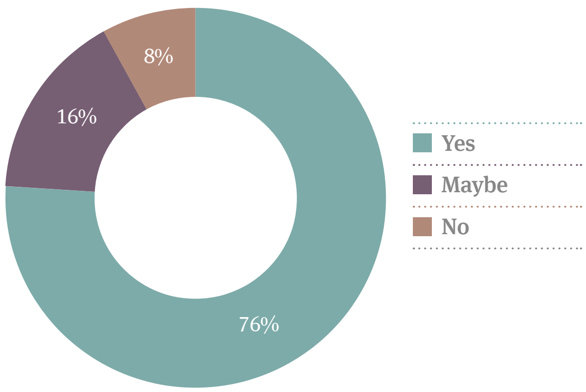
UK incorporated subsidiaries of foreign banking groups

- Concern around Brexit’s impact on the UK economy and London’s status as an international financial centre

UK branches of EU banks

UK's post-Brexit relationship with the EU

If the UK were to no longer maintain the EU passport, do you feel 'mutual market access', 'equivalence', or any other framework would be the best alternative to passporting?



Although the continuation of the EU passport was the preferred option for almost all respondents, many EU branches stated that, in the absence of this, a sufficient and workable alternative would be available. There was mixed opinion, however, as to which framework would work best. For the majority who felt that mutual market access would be the most appropriate replacement, this was due to the view that the general patchwork nature of EU equivalence provisions would not make an equivalence agreement a 'sustainable' alternative. A particular concern was that the decision to grant the UK equivalence would probably be monitored on an ongoing basis, with the potential for it to be revoked at any time at short notice. As such, it was felt that equivalence would not be a suitable framework through which long-term business could be conducted.

> Mutual market access would indicate some form of trade agreement, which would be our best case scenario. The issue with 'equivalence' is the need for monitoring and risk of divergence leading to uncertainty

For those who felt that equivalence would be a suitable alternative, this was mainly down to their own individual business models which reflected the activities undertaken by their firms.

Reservations from those who did not feel there was a suitable framework to replace passporting included a concern that any alternative would be likely to result in increased capital and liquidity requirements on banks in the UK, with the cost of doing business in general rising as a result. The issue of grandfathering was also raised, with many strongly believing that this would greatly assist them in their transition from an EU branch to a third country branch, which many firms are already considering.

> At the moment, mutual market access and equivalence are not deemed sufficiently reliable for the bank to build its business around

What would be your firm's response if foreign bank branches in the UK were required to become a UK incorporated subsidiary of their parent bank?

> If a UK subsidiary became necessary our bank would most likely close our London branch and leave the UK

A requirement to subsidiarise was a clear red line for EU bank branches, mainly due to the increased costs associated with this structure; in particular, subsidiaries' capital requirements.

A significant majority of EU branch respondents said that enforced subsidiarisation would cause them to reconsider their presence in the UK, with the two most likely outcomes being reallocation of regulated activity into the EU, or closure of London branches and withdrawal from the UK altogether. For some respondents converting their branch into a Representative Office is also seen as an option.

> A sensible middle ground would appear to be to allow branches where the parent is in a regulated market of similar standing to the UK and only insist on subsidiary status if UK deposits are being raised

Some branches are actively assessing alternative structures which do not require them to subsidiarise, with some seeking to distinguish the position on subsidiarisation on the basis of whether or not there was any deposit taking activity. Many respondents said that their branch would consider ceasing deposit taking activities if this helped to ensure that it would be able to become a third country branch as opposed to a subsidiary.

> We are currently considering all options that do not require subsidiarisation

To what extent is the location of Euro clearing important to your business in London?

Responses to this question depended on whether the issue was relevant to the London branch's business model, meaning that some EU branches felt that the location of Euro clearing was not an important issue for them.

> For us the location of Euro clearing is not a major topic. We believe markets will adjust fairly quickly to any change of location

Even where the issue was not important to the London branch's business, it was noted that assessments were being conducted at the head office level at some banks, as the capital and costs implications of inefficient clearing were seen as an important issue at a group level.

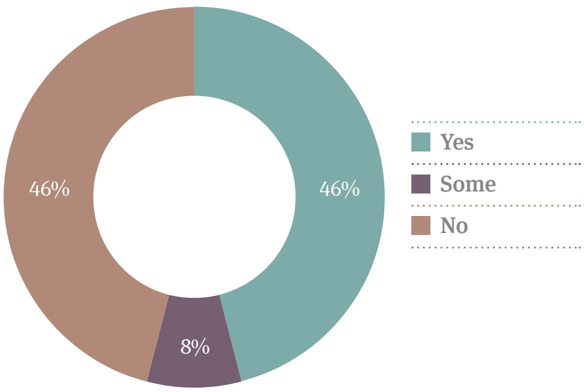
For those that booked business in the City, the location was considered an important subject. Interestingly, one respondent cited the importance of netting and law, warning that if 'bits' of the plumbing are removed, other 'bits' would be affected. This indicates a view amongst some banks that rule changes, either at a national or European level, affecting the framework by which Euro clearing takes place, could lead to unforeseen consequences on both the operation of the market and the end result for firms and their clients. For example, one bank saw its location as an important issue, since a relocation from London to the remaining EU countries would likely push up the cost of clearing for certain financial products.

> The relocation of Euro clearing may ultimately drive up the cost of clearing for certain financial products

> At this stage (without too many facts) fears are mainly based on emotional grounds. However, a robust (and possibly generous) offer from the UK Government – seen to be doing the 'right thing' – would assist greatly

Immigration impact on staff

Have you experienced any concerns from staff about continuing to work in London?



The survey responses to questions on immigration were interesting, with a clear split between those who had registered concerns from staff due to Brexit and those who had not.

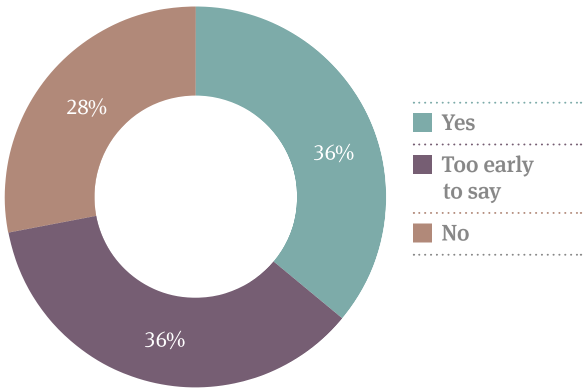
For some, the current political debate on EU citizens' rights has had no impact on their banks with very few, if any, concerns raised. This was especially the case for those firms in which staff were predominately from the UK.

Nonetheless, some respondents said they have seen limited concerns raised amongst their EU staff, some of whom had started applying for British citizenship. Those EU citizen staff that have been in the UK for less than 5 years (permanent residence in the UK can be applied for after 5 years) were apprehensive about the uncertainty surrounding what the future will hold for them, and called for clarity on the EU citizen residency rights position in the UK as soon as possible. A small number of respondents even said that they now find it more difficult to attract people to come to London from their other EU-based operations.

> We expect that existing staff from the EU will not be impacted – as confirmed by the UK government

Although the above demonstrates that some EU branches have seen a certain degree of concern by their staff, others felt reasonably confident that negotiations will result in an outcome that will enable future staff to continue to live and work in the UK post Brexit.

Do you anticipate any changes to recruitment and/or contracts of employment of EU nationals once the UK leaves the EU?



Whilst not an area of concern for some due to the limited number of EU staff employed by their London branch, others were worried about what Brexit will mean for hiring and retaining EU nationals going forward. Looking to the future, although there had been no immediate effect on recruitment levels (even if some have experienced a limited increase in the difficulties in attracting staff to the UK following the EU Referendum), respondents acknowledged that the UK's exit could have an effect on the hiring process in the future.

> For future staff, this remains unclear – we will closely monitor the developments from both the EU and UK

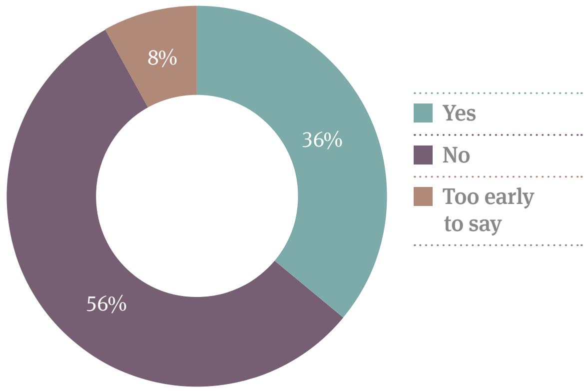
Given the composition of future employment contracts are likely to be determined by the UK's post-Brexit immigration system, many anticipated a higher volume of regulation when hiring EU nationals in the future. For some, however, it was felt that the impact of additional requirements in this area would be negligible, on the basis that they were accustomed to this type of hurdle when moving employees around the globe.

> We will deal with it when we have clarity, but for now we don't anticipate any major problems

Change was seen as inevitable, however, there was a view that it was too early to determine what exactly this change would be. As such, most said they are waiting for clarity from the Government as to what the UK's post-Brexit immigration system will be for EU nationals.

Business confidence/political stability in the UK

Has Brexit affected the level of business your bank undertakes/plans to undertake in the UK?



> At this stage there is no evidence that Brexit has significantly impacted our business

The picture was mixed amongst EU branch respondents, with 56% reporting no change to date. Many were keeping a positive view, with one reporting that they were at the beginning of a relaunch of their international business from London, and another looking to grow the local UK business with corporate and institutional clients as Brexit has focused their bank's mind more sharply on their UK clients.

> We cannot see any significant change in the current level of business planned in the UK in relation to Brexit. However the high level of uncertainties may affect the level of investment in the UK and business opportunities in the UK market, which may affect the level of Banks' business in the UK

For others, the position was not so encouraging. A key theme amongst those respondents who have seen Brexit negatively affect their branch's business activities is that some investments, originally planned for the UK, have been put on hold until further clarification is given on the UK's post-Brexit relationship with the EU. One respondent confirmed that they had already relocated two major new business lines that were being developed in their London branch, while another reported that the impact on exchange rates had begun to affect the volume of business they can do at 'acceptable returns'.

> If the Branch loses the ability to provide cross-border business from the UK into the EU post Brexit, then EU clients are likely to be serviced by [our home state entity] instead

For many EU branches, clarity on the UK Government's vision for Britain's post-Brexit relationship with the EU was greatly sought after, especially in the areas of trade (and financial services within it) and also what the UK's immigration system will look like after March 2019.

What particular policy areas do you feel the Government could address in order to build up business confidence in the UK as Brexit approaches?

> The government would do well to agree a transition period asap. This would take some of the uncertainty and allow businesses and banks to delay big decisions. As it stands, businesses and banks are forced to make decisions before knowing the eventual outcome of negotiations

EU branch respondents stated it was key that the UK and EU settle a status quo transition agreement as quickly as possible. This would create a much needed breathing space and allow banks to defer making key decisions until the eventual outcome of the Brexit negotiations were known. In additional to the transition period, there was a call for the UK Government to clarify the nature of the future trading relationship between the UK and the EU, especially in respect of what framework may ultimately replace the EU passport, on which so many EU branches rely.

> In general terms, we need clarity as soon as possible on the nature of the future relationship between the UK and the EU, particularly in the financial services area

Respondents also called for the Government to clarify what its post-Brexit immigration system will be, a key issue for many given the likelihood that the current framework for EU nationals will be replaced.

Other areas

What other significant issues have you been discussing with colleagues in relation to Brexit?

A lack of certainty around the UK's post-Brexit trading relationship with the EU was affecting the ability of some EU branches to plan for the future, particularly when assessing the extent to which they can retain their trading activities in London. Additionally, the structure in which financial services will move cross border from banks' head offices into their UK entities will be determined by the type of regulatory framework applicable to those operating in the UK – an issue that, at this stage, is currently unknown.

A significant issue for many is the structure of their London entities, which many believed would be likely to change as a result of Brexit. Respondents were actively looking into becoming a third country branch, especially given a lack of willingness from the UK regulators to 'grandfather' existing bank licences.

> Our ‘base case’ is to be treated as a third country branch – although some form of Grandfathering from old to new or over a transitional period would assist greatly

The type of regulation applicable to different banking structures was also a hot topic of discussion, with many anticipating that Brexit is likely to impact the levels of regulation applicable to their banks if they were to move from an EU branch status to that of a non-EU branch. One example given was the Senior Managers and Certification Regime, since the application of this regime depends on each bank’s structure.

Are there any areas or policies which may lead your bank to reassess its presence in the UK?

There was a close to unanimous view from EU branch respondents that any requirement for them to subsidiarise following Brexit would be a clear red line.

> In case the bank would be forced into a subsidiarisation process the bank would reassess its presence in the UK

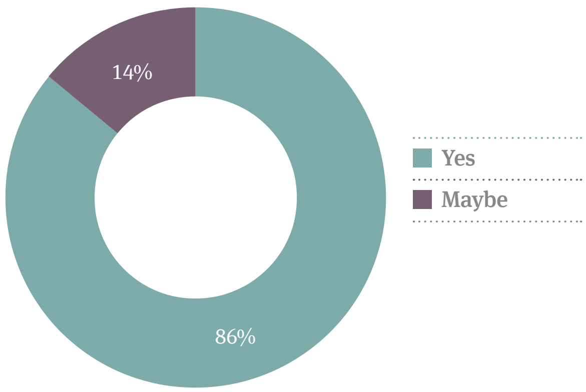
The loss of passporting was also raised as a key issue, with one respondent stating that, if there was no direct replacement, this would undoubtedly impact their presence in the UK as they service many European clients from London. Another respondent said if syndication activity was no longer allowed, this would cause the bank to reassess the need to be in London.

> A significant increase to the cost of doing business from the UK platform, such as the requirement to incorporate

UK branches of non-EU banks

UK's post-Brexit relationship with the EU

If the UK were to no longer maintain the EU passport, do you feel 'mutual market access', 'equivalence', or any other framework would be the best alternative to passporting?



> There certainly needs to be some equivalence or mutual framework in place for UK banks to operate in Europe and one assumes for European banks to operate in the UK

For most non-EU branches, this question is inapplicable to them as the group already has a footprint in other EU member states. However, respondents agreed that there certainly needs to be a formal framework in place which allows continued access between the UK and the EU market for those firms which currently rely on the passport.

Mutual market access was the favoured replacement, with the majority stating this was the best option due to the fact that equivalence can be withdrawn at any time and is not therefore a stable basis on which to conduct a long-term business strategy.

One respondent did question whether there was sufficient political will to put in place a mutual market access framework, stating that they were not convinced that the EU has an appetite to agree such a deal with the UK.

What would be your firm's response if foreign bank branches in the UK were required to become a UK incorporated subsidiary of their parent bank?

The majority of non-EU branches felt that any subsidiarisation requirement would be more likely to apply to EU branches than themselves, and a sizeable portion of respondents did not see subsidiarisation as an issue they need to pay great attention to.

> [Subsidiarisation] is unlikely to be relevant to us as a branch of a non-EEA Bank.

Those respondents who did provide feedback on any potential subsidiarisation requirement said it would be a clear red line, causing them to reconsider their presence in the UK. One respondent said that they would be likely to close their London branch altogether, with reasons stated similar to those of EU branches.

> We would likely reconsider our position and potentially terminate our operations in the UK

To what extent is the location of Euro clearing important to your business in London?

As with UK branches of EU banks, the responses from UK branches of non-EU banks were dependent on whether business was being booked in London. Even where it was not, many respondents stated that they would still like to see euro-denominated clearing continue in London given the advantages this brings and the potential consequences, both predictable and those less so, on the efficient working of the clearing market.

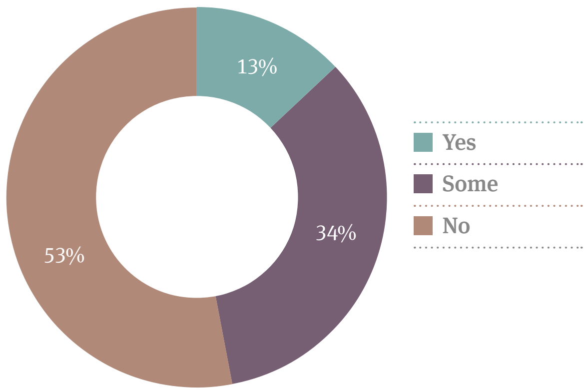
> We cannot build our system and operating model based on an unstable operating environment. We would rather see a permanent solution

Interestingly, one respondent referred to the current uncertainty regarding the future location of euro-denominated clearing and its negative impact on their business, arguing that its location was an important issue given London's advantages, but perhaps foreseeability was more important as this will help to provide certainty and therefore stability as to what is now seen as a political issue for the EU.

Immigration impact on staff

Have you experienced any concerns from staff about continuing to work in London?

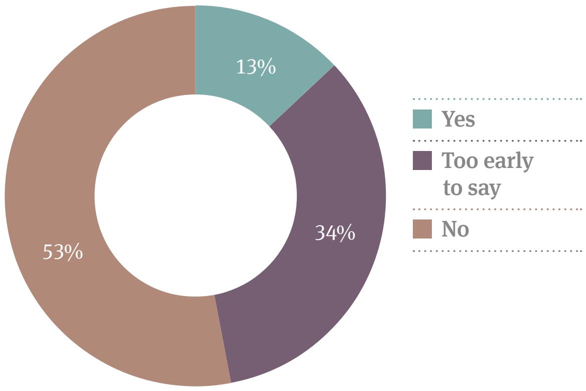
> Relatively limited at present, although we have issued a communication to staff based on guidance as to what we know today about their options



The majority of non-EU branch respondents have experienced limited or no concerns from staff about continuing to work in London, and with any concerns stemming mainly from EU nationals. This may be partly due to the fact that a number of non-EU branches employ mainly UK and/or non-EU nationals, meaning that the current uncertainty surrounding EU citizens' rights post Brexit is less of a direct issue.

Banks who do employ EU nationals reported that they have been working with staff to explore what options are available to them with an aim to formally regularise their status in the UK to alleviate any concerns.

Do you anticipate any changes to recruitment and/or contracts of employment of EU nationals once the UK leaves the EU?



> Not yet known based on the UK Government needing to formalize policy in this area but continuing right to work is an existing provision in our contracts of employment

This was not seen as a key issue at this stage, with most saying that it is too early to say whether their recruitment levels and employment contracts would be affected post Brexit. Consequently, respondents were taking a 'wait and see' approach and waiting for the Government to formalise its post-Brexit policy in respect of EU nationals before they change their recruitment processes and contracts.

Looking ahead, there were some concerns raised around future access to talent and potential constraints placed on them when seeking to hire nationals from the EU post Brexit. One respondent felt that one of London's key strengths as an international financial centre is its talent pool, and that any reduction in the talent pool, and therefore the availability of staff to firms, would be seen as a possible constraint when operating in the capital beyond March 2019.

> If we see the reduction in the highly skilled talent, the entire industry will face a constraint

Business confidence/political stability in the UK

Has Brexit affected the level of business your bank undertakes/plans to undertake in the UK?

A number of non-EU branches did not see Brexit as affecting the level of business that their bank undertakes, or plans to undertake in the UK, due to minimal European activity and limited reliance on EU passporting rights.

For others, especially those with business activities in the UK which are tied to the EU, the uncertainty over the UK's future trading relationship with the EU was clearly seen as an issue due to the way their clients are reacting to the political developments in the UK. One respondent expressed concerns around reduced levels of investment in the UK from clients whilst the Brexit negotiations are ongoing, which they felt were having a knock-on effect on their business.

> Until we see the end state of Brexit negotiation, it is unlikely we can allocate additional resources in this region. As a result, we cannot foresee active strategic actions in the next few years

Furthermore, another respondent commented that some of their firm's 'strategic activity' was likely to be put on hold until there was more clarity on the situation.

> The uncertainty of Brexit may hinder the investment appetite of our clients which will then affect the Bank's business here

What particular policy areas do you feel the Government could address in order to build up business confidence in the UK as Brexit approaches?

Non-EU branch respondents felt the Government and the EU should focus on securing an agreement amongst themselves, as soon as possible, on a transition period. It was felt that this would then allow banks to focus on preparing for the UK's post-Brexit trading relationship with the EU, a topic on which banks would welcome greater focus and attention from both the Government and the EU at this stage in the Brexit process. As expected, almost all respondents called for the UK and the EU to secure a deal which has a framework in place to allow for the most frictionless possible flow of financial services between the UK and the continent.

> To reduce the uncertainties around the Brexit, the government should focus on the negotiations and bring about the results asap

The rights of EU workers post Brexit was a key area of focus and, looking to the future, further information from the Government on the type of immigration system it will be looking to establish following the UK's departure was also sought.

Other areas

What other significant issues have you been discussing with colleagues in relation to Brexit?

Some respondents have been actively discussing within their banks the impact that Brexit could have on their operations in the UK, notably whether any changes will need to be made following potential changes to the UK's regulatory landscape by the Government and Regulators.

Some banks have been assessing the impact that Sterling's depreciation has had on their business activities in the UK following the 2016 vote. Overall, the fall is seen as a mixed blessing. Some found that the weaker pound has helped their clients invest further in the UK, a development which was welcomed by many banks. Ultimately though, the depreciation has also meant that banks' profits in the UK have been negatively affected by the foreign exchange conversion rate to the home states' currency.

One respondent said that Brexit has been a factor for the Group when determining where it allocates capital going forward, amongst its various entities across the world.

Interestingly, although not linked to any specific policy area, one respondent noted that supervisory coordination could become more important in the future between the UK's and the EU's supervisory authorities, given what many see as the potential fragmentation of the EU's financial system as a result of Brexit.

> We hope to see more coordination among supervisors

Are there any areas or policies which may lead your bank to reassess its presence in the UK?

Many respondents remained committed to the UK regardless of the negotiation's outcome, although a number did say that the size and scale of their bank's operations in the UK could be impacted by policy decisions in both the UK and the EU.

Reduced access to talent after March 2019 was an area which would lead firms to reassess their presence in the UK and a restrictive immigration policy was a concern for many.

> Anything that would restrict our ability to attract skilled and qualified staff

Some non-EU branch respondents said that any potential subsidiarisation requirement would be likely to cause them to reassess their presence in the UK. Such a potential requirement has not been looked at as extensively as with EU branches, given that many non-EU branches felt that it was not as relevant to them.

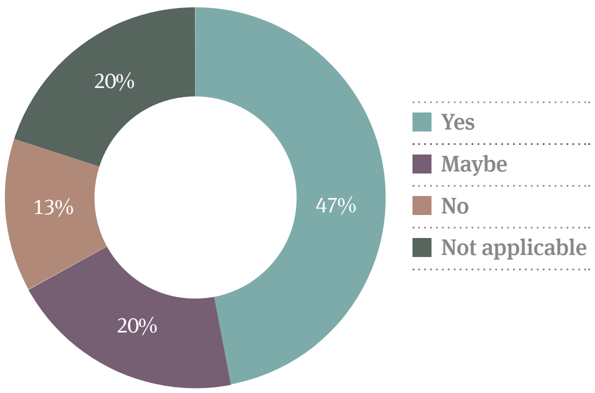
Taking a more global view on the future of international finance in the years ahead, one respondent commented that if the US continues to review the regulatory regime and become more 'friendly' to non-US/foreign banks, then this could further attract capital from other locations. It was felt that such a development should be considered when the UK and EU discuss their future post-Brexit relationship, as the overall outcome of the negotiations will affect not just the UK and the EU, but other international financial centres as well. As such, business lost in the UK as a result of Brexit may not automatically shift to the EU.

> If the US continues to review the regulatory regime and become more "friendly" to non-US banks, this could further attract capital from elsewhere. As a global institution, it is important that the UK and the EU discuss the future relationship in the global context

UK incorporated subsidiaries of foreign banking groups

UK's post-Brexit relationship with the EU

If the UK were to no longer maintain the EU passport, do you feel 'mutual market access', 'equivalence', or any other framework would be the best alternative to passporting?



There was generally mixed feelings on passporting, although this was irrelevant to many due to minimal exposure to the EU market or access to the EU via other European offices. Even though maintenance of the current passport would be the preferred option, there was a view that there would be a suitable replacement and most were supportive of a regime that replaces the passport framework but allows continued market access between both the UK and the EU. Mutual market access appeared to be the preference, with very few preferring equivalence.

> There is no ideal replacement for passporting and we are therefore left with looking for the least damaging alternative

Others felt very strongly that there would be no suitable replacement, especially given that the EU will be unlikely to agree a replacement framework which covers the key aspects of the passport. Respondents also questioned the permanency of any post-Brexit trade deal for the financial services sector, with many expressing a concern that any framework, including mutual market access or equivalence, would be revocable and subject to political determination.

There was also a view that it was currently too early to comment on the situation and many are therefore taking a 'wait and see' approach, awaiting an understanding of the full terms of the possible alternatives before commenting. Clarification on continued EU market access was seen as time critical, with one respondent warning that significant damage would be inflicted on the City unless clarity was provided by the end of the year. Some, however, advise caution; one UK subsidiary stated that the type of activities they undertake in the UK and the EU requires them to be domiciled in an EU country – currently the UK – and, as a result, they are investigating opening a branch in the EU so they can ensure they can still provide those activities in the EU.

> All in all, 'mutual market access' is the framework which is most likely to be politically expedient but it is highly doubtful that the terms of access would be anywhere near as beneficial as at present

What would be your firm's response if foreign bank branches in the UK were required to become a UK incorporated subsidiary of their parent bank?

Although this question was not relevant to this set of respondents as their organisations were already operating on a subsidiary basis, even within this grouping there were concerns about any potential requirement for UK branches of foreign banks to become a UK incorporated subsidiary. There was a suggestion that such a move could harm the UK's relationships with other financial centres as they could potentially take reciprocal action against UK-based banks operating outside of Britain.

> I do think [subsidiarisation] would harm the UK's global relationships …

To what extent is the location of Euro clearing important to your business in London?

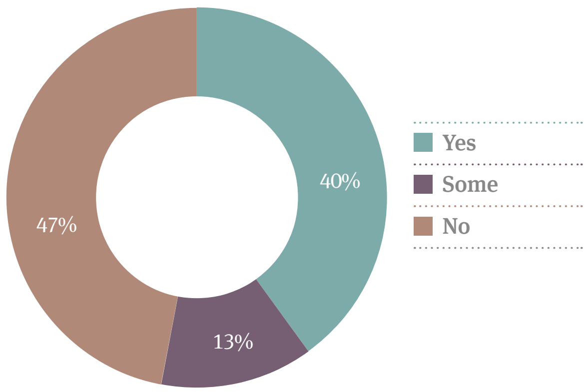
The responses to this question were mixed and reflected individual business models. Importantly, there were concerns raised around the knock on effect of the loss of Euro clearing from London, with one respondent stating that one of the reasons for establishing itself in London was its position as a global financial centre and that, if it were not for this, they would be looking elsewhere.

> Any loss of this type of business from London is detrimental as it will reduce its global standing

Regional implications that would affect where they were domiciled, as well as their workflows, were raised as an issue, as well as the cost and compliance impact of euro-denominated clearing moving out of London, although there was a view that at this stage such costs are difficult to quantify.

Immigration impact on staff

Have you experienced any concerns from staff about continuing to work in London?



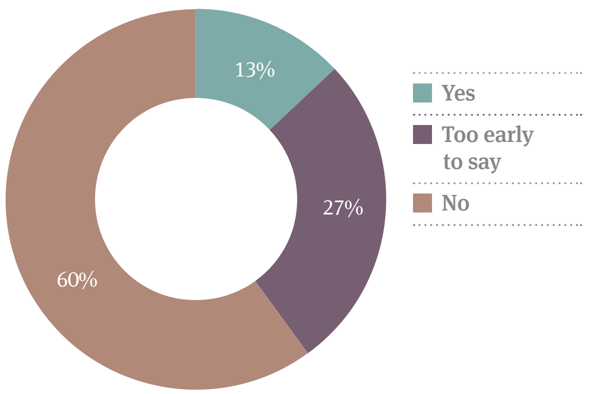
> Those that are affected naturally now have uncertainty in their lives and the sooner all parties have clarity and certainty the better

Opinion was very much divided amongst respondents. For some, this was not an issue as they employ mainly UK nationals or have a small EU work force and have seen very little, if any, concerns raised by staff about continuing to work in London.

There were additional concerns expressed around access to talent after March 2019, particularly in relation to hiring those with an in-depth knowledge of the location of the parent bank. That said, some banks were positive about the UK's access to talent going forward, believing that staff with the correct skills would still be able to seek employment in the UK.

> We expect those talented and qualified individuals who will continue to be drawn to London and the UK, to be able to work here

Do you anticipate any changes to recruitment and/or contracts of employment of EU nationals once the UK leaves the EU?



The majority of respondents did not see this as a significant issue, because many employ mainly UK nationals or have a small EU work force, while others employ non-EU nationals who are subject to an entirely different immigration system in the UK.

> Whilst I believe the UK will compromise on EU nationals' ability to engage in employment in the UK, I doubt many will chose to take up the opportunities and the opportunities will now lie elsewhere

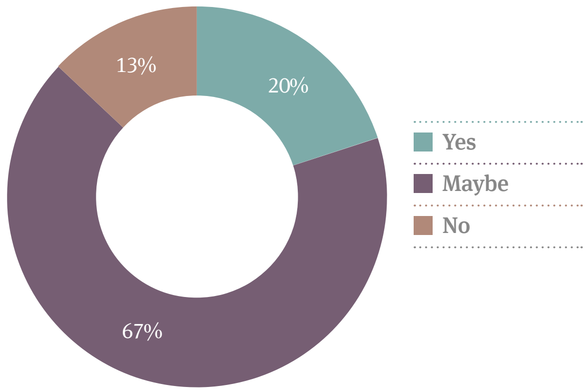
When looking at employing EU nationals post Brexit, some respondents said they expect to follow the same process as they currently do when employing non-EU nationals. In the end, they said they will adapt their recruitment process to reflect the UK Government's post-Brexit immigration system.

Given the uncertainty surrounding the Brexit negotiations, others are simply awaiting further details on the negotiation's outcome before contemplating what changes they will make to their employment contracts.

> We would follow the same process for EU nationals as we do currently for non-EU nationals and make any changes depending upon any new immigration controls coming from Government

Business confidence/political stability in the UK

Has Brexit affected the level of business your bank undertakes/plans to undertake in the UK?



The majority of respondents have seen limited impact on their business activity to date, in part because the main focus of many firms is on the UK market with limited business activity in the EU.

Brexit has already positively benefitted some banks, as they are currently using the situation as an opportunity to do more business in the UK. In the longer term, some subsidiaries with their head office based outside the EU, were seeing the potential for the UK to secure a trade deal with their home state as an opportunity for their UK operations.

> We are continuing to expand in the UK. Brexit will make no difference, although in the long term it might actually be better if a trade deal is negotiated with our home country

On the other hand, there were reports of some subsidiaries having to restructure their business and operational flows following Brexit, as well as experiencing difficulties in terms of future planning due to a lack of clarity. Even for those respondents who have seen little change in their recent business activity stemming from Brexit, it was anticipated that there may be a greater impact in the future if a large proportion of European business activities undertaken in the UK relocates to the continent over the next few years.

> We remain concerned that there could be secondary impacts of Brexit especially if there is strong relocation into Europe

What particular policy areas do you feel the Government could address in order to build up business confidence in the UK as Brexit approaches?

There was a strong call for a clear, coherent negotiating position from the UK Government. Clarity around the transition period was seen as key, with many stating they felt a lengthy transition period was needed with an agreement on this reached between the UK and the EU as soon as possible.

> A lengthy transitional period is absolutely imperative and I have grave doubts whether 2 years will be sufficient

The basis on which trade between the UK and the EU will be conducted in the future was a hot topic, particularly the trading framework which may replace the EU passport. The rights of EU nationals in the UK after March 2019 was also a key discussion point, with respondents eager to hear from the Government about the post-Brexit immigration system it will be looking to establish.

Other areas

What other significant issues have you been discussing with colleagues in relation to Brexit?

A key theme amongst respondents was the future of London as a major international financial centre in respect of two areas: the first being the future trading relationship with the EU post Brexit, and the second being future access to talent so that subsidiaries, along with EU and non-EU branches, can suitably employ the best calibre people for their UK operations.

> The impact on the employment market and whether we look to take the opportunity to recruit experienced staff who may not want to relocate with firms or whether we scale back in the UK and concentrate on others hubs in the Middle East and Asia

Other areas of discussion include the impact that Sterling's depreciation has had on the UK entity, especially in the context of managing currency risk associated with the ongoing uncertainty/volatility many feel the UK is currently experiencing. Other respondents had also been considering if, and how, they would have to adapt their business model in light of the Leave vote.

"[The] impact on other entities who currently use the 'sister' services in UK – our European offices have very different working practices and less flexibility in terms of providing services

One individual stated they have been looking at restructuring options, thus assessing legal, regulatory and taxation considerations, whilst another bank had been discussing applying for licences for existing European branches. Others were considering how their other entities within the business may be affected.

Some have been assessing what impact, if any, Brexit has had on the UK's (in particular London's) real estate market. For a number of respondents, a key recent issue has been a much more high level discussion of ensuring that they can continue to access both current and future customers.

Our one major issue is continued access to customers

Meanwhile, non-European subsidiaries have been discussing with their colleagues the potential for the UK to secure a trade deal with their home country post Brexit, and the benefit this could have for their UK entity, as well as the market in their home state. This shows that, although there are some significant challenges facing banks as a result of Brexit, many non-European banks see that, in the longer term, there are also some potential opportunities.

The speed at which a potential free trade deal with the GCC could be executed

Are there any areas or policies which may lead your bank to reassess its presence in the UK?

Positively, a majority of respondents said that, at this stage, they are committed to the UK regardless of Brexit, although some within this majority did say that the scale of their business in the UK may be affected by the UK's position in the years ahead.

We will remain fully committed to the UK irrespective of the outcome of negotiations. That said, the size and scale of our operations here could be impacted by policy decisions

For those who were less categorical about maintaining a presence in the UK, the UK's current standing as a global financial centre was seen as a key determinant of their future in London, with many stating that they would be likely to reconsider their presence in the UK should this change.

Other areas discussed included changes to the UK's regulatory requirements, for example a more onerous approach to issues such as capital and taxation.

Not at this stage but if overtime the UK loses its global financial presence and influence it would be natural to consider if the UK is a suitable location to operate a global financial business

The Association of Foreign Bank's Position Statement on the foreign banking sector's key Brexit issues

Association of Foreign Banks

UK's post-Brexit relationship with the EU

Many non-EU foreign firms base themselves in the City to gain an EU passport as this enables them to establish branches and to provide cross-border services to clients and counterparties in other member states without the need for additional local authorisations. When the UK leaves the Single Market, formal passporting rights under relevant EU legislation will no longer be available. This means that other post-Brexit UK-EU trading structures, such as 'mutual market access' (reciprocal market access in financial and professional services), will likely be explored in depth during the negotiations. Meanwhile, many in the financial services industry believe that a transition period would help ensure that firms are in the best possible position to prepare for Brexit and the new post-Brexit UK-EU trading relationship. Brexit has introduced significant uncertainty as to whether UK based foreign owned banks will need to obtain EU authorisations, which will have time, cost and disruption implications if they are required to establish new operations in another EU country.

There continues to be uncertainty as to whether Euro denominated business (including Euro clearing) will have to relocate from the City to another EU financial centre. It has been noted that concerns have grown since the recent publication of the EU Commission's proposals to grant ESMA the power to recommend to the Commission that clearing houses outside the EU, which undertake "systemically important" volumes of euro-denominated trade, relocate to the EU if the firms pose what the EU sees as a risk to its financial stability. The benefit of the City's strength in Euro denominated clearing for countries and firms within the EU would be adversely affected by the likely disruption, cost and regulatory changes that such a move would create.

Immigration impact on staff

The diversity and wide pool of talent within the foreign banking sector in the UK originates from both European and non-European countries. Consequently, uncertainty as to whether EU employees will have a right to remain following Brexit, or whether visas for EU staff will be introduced and, if so, what costs this may bring to foreign banks that hire them, are all pertinent to foreign banks' future in the UK. The UK government's recent statement does provide some indication of their position on this issue.

There is also concern about the impact that the UK's post-Brexit immigration system will have on non-EU nationals looking to come to the UK. If the UK secures control of its immigration policy regarding EU nationals, could the Government's aim to reduce net migration overall into the UK lead to further restrictions being placed on non-EU nationals?

Business confidence in the UK

Since the referendum, foreign firms have undertaken significant work to identify the likely strategy that their client base will follow so that disruption to banking relationships and investment decisions are mitigated as much as possible. Meanwhile, there are suggestions that some firms have held back or reduced the level of investment in the UK given the uncertainty around the UK's post-Brexit relationship with the EU, although sterling's depreciation has made inward investment more attractive for some.

Given the Government has said the UK will leave the Single Market and Customs Union, much of the focus has been on the negative implications that Brexit will have on business. Less time is being given to potential opportunities that Brexit could bring to the foreign banking sector, once the UK has the freedom to negotiate bilateral trade arrangements with non-EU countries.

Political instability in the UK

Following the June 2017 General Election result, questions have arisen regarding the strength of the Government's position regarding the UK's Brexit negotiations. Once Brexit arrangements have been agreed, the UK will need to conduct trade negotiations on a significant scale – something it has not done in almost fifty years. Some observers have expressed concern about the unity and strength of the Government as it seeks to negotiate new trade deals in the years ahead.

Additionally, there is a strong likelihood that the Government could face cross-party opposition in Parliament when it introduces its eight Brexit related Bills to Parliament as identified in the Queen's Speech. Given the perceived weakness of the Government, doubts may emerge as to whether it will be able to pass the appropriate legislation through Parliament in the two year session.

About Norton Rose Fulbright

Norton Rose Fulbright is a global law firm. We provide the world's preeminent corporations and financial institutions with a full business law service. We have more than 4000 lawyers and other legal staff based in more than 50 cities across Europe, the United States, Canada, Latin America, Asia, Australia, Africa and the Middle East.

Recognized for our industry focus, we are strong across all the key industry sectors: financial institutions; energy; infrastructure, mining and commodities; transport; technology and innovation; and life sciences and healthcare. Through our global risk advisory group, we leverage our industry experience with our knowledge of legal, regulatory, compliance and governance issues to provide our clients with practical solutions to the legal and regulatory risks facing their businesses.

Wherever we are, we operate in accordance with our global business principles of quality, unity and integrity. We aim to provide the highest possible standard of legal service in each of our offices and to maintain that level of quality at every point of contact.

About the Association of Foreign Banks

The Association of Foreign Banks (AFB) is a trade body which represents the interests of the foreign banking sector in the UK to industry stakeholders including the Government, regulatory bodies, and financial services organisations. Founded in 1947, the AFB today has around 200 international banking group members, representing about 80% of the UK's foreign banking market, providing financial services through branches, subsidiaries, and representative offices in the UK.

The AFB's membership includes some of the world's largest banks; their UK firms, and affiliated organisations range from the largest with several thousand staff to the smallest with ten or less staff. Foreign banks engage in a wide range of banking and investment business activity in the UK, primarily in the wholesale banking markets.

As a trade body, the AFB represents the views of all foreign banks in the UK and ensures that their views are represented to policy makers. The AFB works with the foreign banks to ensure that they have the opportunity to engage in and help shape the AFB's activities with the industry's key stakeholders.

In addition to representing the sector, the AFB also provides a platform for foreign banks to discuss key industry topics and share information which may be of mutual benefit to the sector. This helps to ensure that the foreign banks continue to thrive in the UK and that London's standing as a major global financial centre continues.