Amafi
Association française des marchés financiers

Financial Newsletter
INTERNATIONAL AND FRENCH MARKET NEWS

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WE'LL ALWAYS HAVE PARIS…
How France is wooing Brexit refugees

Editorial

The vote by the British people to leave the European Union (EU) marks a turning point. The web of relations built up over the last 45 years must now be dismantled and forged anew, for even if it is no longer part of the Union, the UK is still geographically bound to Europe and one of the continent's major partners.

Many questions will have to be answered during the two-year negotiation process that begins once official notification is given of the decision to leave. Financial market issues represent a huge and complex task, which we overlook at our peril. As things stand, London is unquestionably the financial capital of the EU, which has reshaped its economic financing model to give the market a bigger role. Yet it is unthinkable that the engine that increasingly powers European business investment, and thus the growth that these firms generate, should be outside the control of the Union's institutions, not least because such an outcome would negate regulatory measures taken in response to the financial crisis.

Accordingly, the EU needs to rebuild its internal financial capabilities, whilst overhauling the equivalency mechanisms that allow third country participants to provide financial products and services in the EU, since these are unsuited to a situation as particular as that of the UK. France has much to offer on both of these fronts and can play a driving role. AMAFI is backing several marketplace initiatives that are being taken forward with this goal in mind.

Pierre de Lauzun
AMAFI Chief Executive

Feature

The UK's "leave" vote in the referendum on European Union membership triggered a massive shockwave that is only just starting to subside. At stake is Britain's future role inside and outside the EU, as well as its position as the top global financial centre. But one country's loss is another's gain. Paris, already the leading marketplace in the eurozone, is gearing up to become the financial capital of the future.

Bye bye Britain

On 23 June this year British voters opted by a 4 percentage point margin to quit the EU, leaving the country deeply divided over its future. The date for triggering Article 50 of the Lisbon Treaty, thus starting the two-year countdown to departure, has been announced for March 2017. What will actually be negotiated is up in the air. UK prime minister Theresa May has said repeatedly that "Brexit means Brexit" – though what *that* means is still far from clear – and, more specifically, that there will be no attempt to remain inside the EU or "rejoin it by the back door". One issue very much in the foreground is the future of London as a global hub and Europe's de facto financial centre. Financial services account for up to

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ten per cent of the UK's gross domestic product, and the capital's status as a global and regional powerhouse would be undermined if it loses access to the single European market. Another concern is that euro-denominated clearing of derivatives and other financial contracts is likely to move away from the City. French president François Hollande and senior German politicians, among others, have already said euro clearing must take place in Europe.

Rivalling for attention

As Britain takes weighs up the implications of departure, other European financial centres are setting out their stall to attract companies and staff that may be mulling their very own Brexit. Of particular interest are banks and financial firms, which may no longer be allowed to sell their services into the rest of the EU if the UK loses its "passport" – the right for firms authorised in one member state to do business across the region without needing separate authorisations from each country. The issue is especially sensitive since a number of European officials and prominent financial industry leaders are arguing forcibly that post-Brexit Britain should no longer have unfettered access to eurozone markets. True, things are unlikely to change overnight if London were to forfeit its passporting rights. But feelers are already being put out to determine what the new landscape would look like.

There are several rivals for London's crown. In Germany, the lobby group Frankfurt Main Finance has opened a hotline for banks wanting to discuss relocation, prompted by concerns over their euro-denominated securities clearing. Ireland's inward investment promotion agency, IDA, has sought to attract hundreds of back-office staff to Dublin. And Amsterdam is focusing on niches such as high frequency trading and financial technology, or fintech.

In France, the campaign is not confined to any particular sector but spans the entire industry. Politicians, the public authorities and the financial community as a whole, including the regulators, have joined forces in a high-profile effort to emphasise the strengths of Paris as – literally – the go-to financial centre.

Package of new measures

Prime minister Manuel Valls expressed his full support for the Come to Paris campaign in a keynote address to a forum organised in June by Paris Europlace, the body responsible for developing and promoting the capital as a financial marketplace. Mr Valls told a distinguished audience, including the finance minister, the central bank governor and the mayor of Paris, that the government's aim was to further strengthen the capital's place in the European and global financial system, because "France's attractiveness is the Paris financial centre".

Paris is indeed the leading financial marketplace in the eurozone, with the industry as a whole providing more than 1.2 million direct and indirect jobs. As European leader in equities, corporate bond issuance and investment management, Paris also has expertise in new ways of fundraising for small and midsize businesses, including private equity and crowdfunding. Paris-based Euronext is the zone's largest stock exchange, accounting for 40 per cent its total market capitalisation, and also leads the field in continental Europe for tech stocks. It was in Paris that the Euro PP, or Euro Private Placement, system was invented, raising more than €12 billion in funding for European businesses in 2015 alone. And Paris is also on the way to becoming the leader in green and sustainable finance. No wonder, then, that the French financial centre hopes to lure talent away from London – and to reap the full benefits of Brexit.

A series of measures, unveiled at the Europlace forum, will be taken to make France even more attractive, both for companies and for inbound employees, in what the prime minister called the "new environment that is taking shape". The initiatives include a one-stop shop to deal with administrative procedures for foreign businesses and their employees, particularly in terms of work permits, housing and schooling (schools will offer more classes to incomers' children in their native language where necessary).

On the subject of taxation, a vexatious issue seen by many as a handicap for Paris, the prime minister acknowledged wryly that simplicity was "not a characteristic feature of the French tax system". He went on to announce a package of measures aimed at addressing some of the issues. The government has pledged to gradually reduce corporate income tax from 33.3 per cent to 28 per cent and has scrapped the 10.7 per cent exceptional surtax on companies with turnover in excess of 250 million euros. The regime for taxing so-called inpatriates (see box) has also been modified to provide stronger incentives, notably by extending the time period for tax breaks.

Some commentators have said the measures still fall short of the mark. But for UK-based companies or banks that may be seeking a new base across the Channel, taxation is not the only selection criterion. Equally important are the skills that a financial centre can offer and, above all, its regulatory environment. On that score, Paris has made major strides.

"Agility" and other initiatives

President François Hollande said in a recent interview that France would adapt its rules and regulations to make the Paris financial market more attractive in the aftermath of Brexit. In fact, the process has been underway for some time.

Among the measures taken so far are the "simplification shock", a

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programme launched by the government in 2013 to slash red tape and lower regulatory barriers to competition, and a deregulation bill passed in 2014. As regards financial regulation, the Autorité des Marchés Financiers (AMF) has been dialoguing regularly with the industry as part of its Better Regulation policy intended to improve regulatory quality, and in particular to avoid "gold plating" European regulations and placing an unnecessary burden on companies.

The Brexit vote has made the question of attractiveness more pressing and prompted a swift response.

The AMF, together with the prudential regulator, ACPR, recently announced plans to simplify and speed up the licensing process for British firms looking to move some or all of their operations to France. An English-speaking contact will guide them through the sign-up procedure and help ensure that applications are processed smoothly. Talks will be initiated with local authorities to provide for temporary relief from local taxation on companies and commercial premises. And a special online facility has been set up to answer a broad range of questions that relocation might raise.

In late September the AMF unveiled a new programme, Agility, to welcome UK-based asset management firms and fintech companies looking to move to continental Europe – especially Paris – in order to gain access to the single market and the European passport. Agility's stand-out feature is the 2WeekTicket, a mechanism that allows firms holding an authorisation from the UK's Financial Conduct Authority to obtain "pre-authorisation" from the AMF in just two weeks. This gives them a head-start on the job of finding and opening new offices. The final authorisation giving access to the European passport will be issued two months later, provided all the requirements are met. Applicants will have access to English-speaking "coaches" at the AMF to help them get to grips with the relevant laws and regulations.

THE INPATRIATE TAX REGIME: MAKING FRANCE MORE ATTRACTIVE?

Under French tax law, the term "inpatriate" applies to an employee who is either assigned by a company outside France to work for an affiliate or subsidiary in France or who is recruited outside the country by a French-based company.

The tax regime for inpatriates is one of the most advantageous in Europe (for example, no such scheme exists in Germany, and Luxembourg exempts only expenses incurred as a result of relocation, such as furniture removals, apartment searches and school fees).

At present, the inpatriate regime includes a reduction of up to 50 per cent (more in certain situations) in the personal income tax base, both for employment income and for passive income. In addition, wealth tax is levied on the inpatriate's French-held assets only, not on offshore property. The regime applies during the first five years of French tax residence.

Employees hired directly by a French company can choose to have a flat 30 per cent of their net remuneration treated as an inpatriation bonus, which is non-income taxable. This bonus, equivalent to the amount gained by moving to and taking up residence in France, is exempt from income tax, provided the reduction does not exceed 50 per cent of the inpatriate's total remuneration.

Under the revamped scheme, the inpatriate regime would be extended from five to eight years and financial institution employers would be granted an exemption in respect of the 20 per cent *taxe sur les salaires*, or payroll tax, applicable to the compensation of employees in industries such as finance that are not subject to VAT on at least 90 per cent of their turnover.

Time will tell

So, will London's loss be Paris's gain? Businesses in the UK have reacted with dismay to the outcome of the referendum. In a recent KPMG survey of the chief executives of British-based companies, more than three-quarters – especially in the banking industry – said they would consider moving their HQ or operations outside Britain (72 per cent of those surveyed voted "remain"). The chairman of Lloyd's of London has revealed that planning is underway to relocate insurance business elsewhere in the EU once Article 50 is invoked. And banks and financial institutions are reported to be making contingency plans for an exodus of euro clearing business, even if it does not happen in the immediate future.

Of course, there are many uncertainties and contingencies, including the potential outcomes of post-Article 50 negotiations, whether the UK opts for a "hard" or "soft" exit, and even whether Brexit is a prelude to other EU departures (think Czechout, Departugal, Byegium – or even French Leave). After all, support for Europe is often half-hearted and occasionally conspicuous by its absence. Yet, as one French MP said: "Europe has many faults, but anyone in the room who has a better idea should stand up now!"

As the EU's tectonic plates shift, the outlook is definitely uncertain. Nonetheless, Paris is determined to fulfil its ambition of becoming the financial capital of the future.

Anthony Bulger

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Europe

LSE-DB merger

The European Commission was informed of the proposed tie-up between the London Stock Exchange and Deutsche Börse on 24 August, after shareholders of the two exchanges voted in favour of the deal. This triggered an initial investigation by the Directorate General for Competition, which sent out questionnaires to stakeholders, associations and businesses. Responding directly and via Paris Europlace, AMAFI offered input based on the terms of reference laid down by its Board in April (*AMAFI / 16-20*).
AMAFI stressed the challenges associated with the acquisition of a dominant position in specific market segments, such as clearing or indices, highlighting the risks for users in terms of innovation and costs. It also pointed out that the draw of such a powerful grouping for major issuers could disrupt other market platforms, which would be detrimental to the small businesses financed by these platforms, at a time when the market's ability to finance this type of company is becoming increasingly critical.

Emmanuel de Fournoux

MiFID 2

MiFID 2 Project Leaders Group

The MiFID 2 Project Leaders Group set up at end-2015 continued its work between May and July 2016, holding three thematic meetings on product governance and cost & expense reporting. It is currently preparing an implementation guide on product governance.

Level 3 measures

AMAFI pursued discussions with the AMF as part of ESMA's work on Level 3 guidance, even though Level 2 measures are still being published.

- On investor protection questions, where ESMA's work is furthest advanced, AMAFI stressed issues raised by the Compliance Committee and the MiFID 2 Project Leaders Group. Because of their implications, product governance aspects were a central focus. Other topics discussed included placement and underwriting obligations, suitability tests, recording of conversations and communications, best execution, as well as costs and expenses.
- On market structure aspects, which are to be covered by a Q&A released by ESMA this autumn, AMAFI flagged a number of issues, including the treatment of OTC derivatives. The AMF met with representatives of the Market Structure Committee and the MiFID 2 Project Leaders Group in late August to discuss the work underway at European level.

Emmanuel de Fournoux, Pauline Laurent, Victor Maurin

Europe

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➚ Market abuse

Regulation

The new Market Abuse Regulation (MAR) came into effect on 3 July. After the last remaining Level 2 documents were released between March and June 2016, AMAFI published a briefing paper in mid-July on the main features of the new system (*AMAFI / 16-32*).
AMAFI also responded to the AMF's consultation on amendments to its General Regulation and policy to accommodate MAR. The association underlined the importance of clarity and provided feedback on the AMF's proposals (*AMAFI / 16-26*).
Furthermore, AMAFI published a Q&A on MAR implementation. The Q&A, which draws heavily on discussions with AMF staff (*AMAFI / 16-29*), is to be expanded to cover issues that are still under review, including market soundings.

Investment recommendations

MAR's definition of "investment recommendations" raises challenges because of the potential impact on procedures for producing and distributing such recommendations. This is why AMAFI endeavoured to identify the factors underpinning the definition with a view to providing operational guidance about the communications likely to be captured by the definition. AMAFI will be talking about these aspects with the AMF in the near future.

Updating the AMAFI-FBF Market Abuse Guide

AMAFI has begun updating its Market Abuse Guide to build in changes stemming from MAR and capitalise on feedback about the existing system. As part of this, it plans to extend the classification of potential market abuse and indicators of abuse, while accommodating the peculiarities of certain markets and products, such as commodities and mid caps. This will form the groundwork for joint discussions with the AMF. AMAFI is looking to publish the new guide before the end of the year.

Pauline Laurent, Sylvie Dariosecq

➚ PRIIPs

AMAFI took part in a workshop organised by the European Commission on 11 July on Packaged Retail and Insurance-based Investment Products (PRIIPs). The event highlighted the many outstanding questions about the PRIIPs arrangements that the Commission has been unable to address satisfactorily, despite saying it will publish a Q&A. AMAFI wrote to the Commission on 19 July, calling again for application of the PRIIPs framework to be postponed. It also spread awareness among MEPs about the issues resulting from the many and serious uncertainties still remaining just a few months away from the start date

A dedicated working group is examining questions of interpretation and implementation issues, some of which have already been raised with the AMF.

AMAFI also took part in a marketwide initiative by teaming up with nine other industry associations to co-sign a letter sent in late July to the Finance Minister, drawing attention to the problems raised by the PRIIPs framework. The signatory associations issued a joint communiqué that was widely circulated in the press.

Uncertainty has only increased in the intervening period. Meeting in plenary, the European Parliament voted on 14 September to reject the Regulatory Technical Standard (RTS) on PRIIPs. At that time, it asked the Commission to submit a new delegated act that would address the objections, particularly about performance scenarios and comprehension alerts, and to postpone the application date for the framework, which is tied in any case to publication of a finalised delegated act. The European Council still has to decide whether to adopt or reject the RTS, and appears to be waiting to see whether the Commission agrees to postpone. The Commission, however, is holding firm, arguing that the Level 1 Regulation could apply even without Level 2 measures, an outcome that would put institutions required to implement the arrangements in a very awkward situation. This question is currently under discussion with the AMF.

Pauline Laurent

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Blockchain

AMAFI reviewed ESMA's discussion paper on Distributed Ledger Technology (DLT), whose blockchain system is behind the virtual currency known as bitcoin.

It is important when examining these kinds of technological breakthroughs to look beyond the immediate benefits and to consider their compatibility with the goals underpinning the legal framework for capital market activities, namely investor protection and the prevention and management of systemic risk. AMAFI endorses AFTI's detailed analyses of the questions raised by the discussion paper and is backing initiatives aimed at trialling these technologies in circumscribed settings, such as unlisted securities issued with no central depositary (*AMAFI / 16-39*).

Emmanuel de Fournoux, Victor Maurin

Prudential requirements for investment firms

Further to the report that it published last December on a prudential regime for investment firms, the European Banking Authority (EBA) conducted a quantitative impact study with a view proposing a regime for such firms.

This summer, the EBA released templates to fill in along with instructions, asking for replies to be submitted by 7 October. To help its members prepare their responses, AMAFI organised a meeting that was attended by representatives of France's prudential and resolution authority (ACPR). Concerns and proposals were put to the ACPR, which will forward them to the EBA. The European authority, in turn, is expected to publish a discussion paper on the topic before the year is out.

Emmanuel de Fournoux, Victor Maurin

France

Brexit

Brexit marks a turning point in the European integration process, as our editorial and feature article point out. There is much at stake for France, notably given that it boasts a much bigger capital markets sector than Europe's other large countries. Measures to make Paris a more attractive financial centre announced by the Prime Minister, the President of the Île-de-France Region and the mayor of Paris at the Europlace international financial forum in early July sent a clear signal in this regard. Discussions led by the Treasury and Europlace are underway right now to identify the points that will make up France's position in the upcoming negotiations and to highlight the marketplace's strengths. AMAFI is of course playing an active part in these talks.

Bertrand de Saint Mars

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France

Advertising ban

The Sapin 2 Bill currently before Parliament is set to introduce measures banning ISPs from sending electronic communications of a promotional nature to retail customers if these communications concern certain financial contracts. The AMF's General Regulation will specify the categories of contracts subject to the ban based on the criteria set down in the legislation.

The AMF has lobbied hard for the ban after French retail investors were scammed by Cypriot ISPs operating under European passports. To be ready to introduce it quickly, the AMF launched a public consultation in early August on a draft amendment to its General Regulation aimed at implementing the new arrangements. AMAFI has been busy on this topic for some months and submitted observations (*AMAFI / 16-..*). In addition to suggesting a number of changes to clarify the wording, which is vital in the case of a framework that is intended to protect savers, AMAFI also argued for a proportional approach, as it seems unfair that the failure by a few foreign ISPs to stick to the rules should result in a blanket ban for all ISPs, even those that comply with the requirements. Also, it should still be possible to propose hedges, particularly currency hedges, to participants that need them. Since the law is not expected to be passed before the end of the year, AMAFI said that the intervening period should be used to hold more in-depth discussions with the industry.

Bertrand de Saint Mars

Taxation

Taxing savings AMAFI Barometer 2016

AMAFI prepares an annual tax barometer to assess France's attractiveness in terms of business finance. The barometer reviews the current situation and compares France with its main economic and financial partners. The 2016 version is now available (*AMAFI / 16-XX).*

The main finding from the updated barometer is that aside from the sheer complexity of its taxes on savings, France taxes residents that invest in their own economy far more heavily than its neighbours do. Even in northern Europe, where taxes are notoriously high, the overall rate on savings (income and capital gains) tops out at 27% in Norway and 30% in Sweden. In France it is close to 40% on dividends and almost 60% on some capital gains and on interest in excess of €2,000 per year.

However, France's situation has improved relative to its partners, especially the UK. This is essentially down to two factors: France got rid of its exceptional surtax on companies, while Britain put up taxes on distributed income, affecting the highest earners.

At a time when European nations are trying to make their financial centres more attractive, when taxes are coming down in most countries (the UK has approved a multi-year tax-cutting plan and Germany just announced a new EUR 15 billion tax cut), and with Brexit is looming in the background, it is urgent to change the way that France taxes savings to ensure sustainable financing for the economy. In other words, the relative improvement in France's situation must be continued. This issue has rightly been spotlighted by several candidates in the upcoming presidential elections.

Eric Vacher

Amafi Highlights

New Member - Law Firms And Consultancies

CID CONSULTING is a consultancy firm specialising in the implementation and supervision of the regulatory provisions applicable to banking and investment services. Cindy Elalouf is its senior manager.

Amafi Staff

Victor Maurin, Adviser, Market Activities, is leaving AMAFI to join the AMF as senior adviser in the Market Regulation Division of the Regulatory Policy and International Affairs Directorate. Victor joined AMAFI in February 2014.

Chloé Gonzalez has joined AMAFI as Legal Affairs and Compliance Adviser following a placement with the organisation as part of her master's degree in financial sector business law at University of Toulouse. Chloé also holds a degree from Cardiff University, which she obtained through the Erasmus programme.

Blandine Julé joins us as Compliance Adviser under a fixed-term contract to help deal with the many major dossiers ahead for the Compliance Division in the coming months. She holds master's degrees from Paris-Dauphine University (corporate and investment banking) and the University of Strasbourg (financial security law and compliance).

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AMAFI documents quoted in this Newsletter and flagged with a reference number are on our website at
www.amafi.fr
Most of them, notably AMAFI's responses to public consultations, are freely available, but some are restricted to members only.

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