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Europe at a crossroads

The vote for Brexit is not a good news for Europe, but the EU must continue on its path. Editorial extracted from the No. 23 of the AMF Financial Regulation Newsletter.

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Europe at a crossroads

It was unquestionably a year of surprises in 2016. The decision of the UK population to vote for Brexit is not good news for Europe, but the EU must continue on its path. Despite the uncertainty of the forthcoming negotiations resulting from the British government having triggered Article 50 of the Lisbon Treaty on 29 March 2017, the EU must anticipate the future. This will mean predicting and preparing for the potential impact of Brexit on Europe's financial markets and their participants. At present, these participants have an EU passport enabling them to freely offer their products and services across borders that may tighten in future. The EU must also assess all current relationships with its non-European partners. Some European texts, such as the Alternative Investment Fund Managers Directive (AIFMD), the European Market Infrastructure Regulation (EMIR) and some provisions of MIFID II, include provision for third-country passport or regimes based on the concept of

equivalence. Such regimes were not designed for countries that have their largest share of financial activities in Europe. They must therefore evolve.

None of the above should in any way compromise the efforts undertaken in recent years to secure trade and restore confidence. Work is under way. EMIR, which was one of the main reforms undertaken in the wake of the financial crisis, is playing its part. The clearing obligation, which was implemented by a first group of market participants in June and then in December 2016, will be extended further. Collateral has to be exchanged systematically for derivatives that are not subject to central clearing. This last phase of the implementation of EMIR will take place gradually while legislators are starting to work on EMIR 2. At this stage, the AMF believes that EMIR merely needs to be revised so that the reform is more effective and proportionate. Possible amendment of the third country regime would nevertheless be necessary and far-reaching.

With clearing houses now an essential part of the security chain, they must remain free from systemic risk. It was therefore crucial that the EU adopted a specific recovery and resolution regime for central counterparties. On 28 November 2016, the European Commission published a draft regulation. It is one of the main areas needing attention to complete the post-crisis reform agenda.

Lastly, Europe must continue its push for a Capital Markets Union (CMU) if it wants to remain strong. On 20 January 2017, the European Commission launched a consultation ahead of the Mid-term Review of its CMU Action Plan. The AMF believes that the discussions on cross-border fund distribution should focus on ways of removing real barriers, without neglecting closer investor supervision. Digitalisation and FinTech companies are able to provide solutions and should therefore be encouraged, provided their growth is based on a sound regulatory framework conducive to investor protection and innovation

Keywords

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