

MITIGATING HARD BREXIT



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THE ASSET MANAGEMENT INDUSTRY is of key importance to the UK economy, in terms of employment and tax revenues as well as the wider business needs that fund strategies support. The UK has a world-leading constituency of managers and professional advisers, and UK-based investors provide significant levels of capital to a wide variety of investment strategies.

With the Article 50 process having been triggered, a key question the UK government should be considering is how the domestic regime might be adapted to mitigate certain of the effects of a 'hard' Brexit. Of course, the ongoing relationship with Europe will be of vital importance to the industry and certainly a central pillar of the upcoming negotiations should be ensuring that there is an appropriate transitional period to avoid a regulatory cliff edge. Issues including the equivalence of the UK under relevant EU financial services laws will need to be determined, but one would hope that the negotiations do not become so contentious that the UK asset management industry is treated less favourably than those in other third countries.

However, there will inevitably be managers whose investment and fundraising focus is on the UK. It would therefore seem appropriate to consider whether a revised legislative and regulatory framework needs to be established to sit alongside the EU-equivalent regime. This regime should be established around three key principles:

- It should provide for proportionate and flexible regulation to ensure the UK's competitiveness, whilst providing for appropriate levels of investor protection;
- The UK should have a wider range of tax-efficient investment vehicles, which provide appropriate flexibility for fund structures and can be used across all asset classes; and
- There should be no material barriers to investment in UK structures by overseas institutional investors; further, the regime

should encourage international investors to establish a presence in the UK.

COMMITMENT

The implementation of a robust, investor-focused domestic regime which is separate to EU derived regulation would clearly be advantageous; certainly some of the more controversial EU rules, such as pay regulation, could be abandoned. The government should also be considering the introduction of a fast-track authorisation process for managers or investors that are regulated in other reputable jurisdictions to minimise barriers to entry to the UK market.

The government is considering changes to the UK limited partnership law; these reforms should now be prioritised. In addition, innovations such as a tax-exempt corporate fund structure and investment holding vehicles sharing the features of those available in Luxembourg and Ireland would enhance the UK's competitiveness.

A key priority should be ensuring that the marketing rules in the UK provide the required flexibility to facilitate investment by UK and overseas investors. Whilst the government cannot dictate the marketing restrictions that apply overseas, our laws should permit investment by, and marketing to, professional investors to the extent they have a presence in the UK.

If the UK is able to attract institutions with available capital to the UK and the process of marketing to such institutions is not onerous, then managers (and the associated infrastructure) will follow.

Finally, the industry should be advocating, and lobbying for, a clear, coherent and stable tax regime.

Issues such as VAT will need to be addressed in the context of Brexit, but a commitment that, for an identified period of time, there will be no further changes to the treatment of managers' returns would likely be extremely welcome.