

The Relationship between British and European Financial Supervision Law

Tobias Bauerfeind

**The Relationship between British and
European Financial Supervision Law**

On the Question of Future Post-Brexit Equivalence

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ABSTRACT

The dissertation addresses the equivalence regime in Union law. Although not new, Brexit has brought this legal principle into focus; at least since it became apparent that Single Market access, and thus the passporting rights so important for the financial market, will be lost for UK (companies) once the transition period expires.

Accordingly, the equivalence regime is analysed, *inter alia* by means of a legal-historical overview of the development of British and EU financial supervision law, in order to determine whether it is an appropriate market access instrument (post-Brexit) for third country firms and whether it can replace the passporting rights; and in particular, whether the numerous different equivalence provisions can be systematised for the future UK-EU prudential relationship and to what extent basic and further trends in third country regulation can be identified.

The example of the UK and Brexit is well suited for such an analysis of the equivalence regime, as no existing Member State has yet left the EU. Accordingly, British national law, particularly with regard to the financial market, has been strongly shaped by EU law over the decades of EU membership.

Nevertheless, it is uncertain in such a unique case whether the EU equivalence regime is capable of being claimed by the UK at all (first level) and (on the second level) of adequately compensating for the loss of access to the Single Market following the end of the transition period (from a UK perspective). The dissertation aims to answer these questions in the following.

PREFACE

This dissertation was completed as part of the Master of Laws (LL.M.) programme in Legal Practice at Oxford Brookes University (UK) in the academic year of 2019/2020 under the supervision of *Dr Scott Morrison*.

First of all, I would like to thank *Dr Morrison* most sincerely for his support, supervision and professional guidance of my dissertation, who has always been a reliable counterpart. I would also like to thank both *Dr Chieh Huang* and *Professor Peter Edge* for their encouragement during the LL.M. journey. Finally, I would as well like to thank both *Dr Detmar Loff* and *Mr Pascal di Prima* for enabling participation in the LL.M. programme.

The dissertation includes the applicable laws and statutes of all jurisdictions concerned herein until September 2020. Although the UK and Brexit are the initial elements of this dissertation, its results are not limited to the future relationship between the UK and the EU. Rather, it provides fundamental indications on third country market access into the EU by examining the Brexit case.

Frankfurt am Main, in the winter of 2020/2021

Tobias Bauerfeind

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