UK and EU Regulators to Restart Post-Brexit Trade Discussions

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The EU executive responsible for financial services has indicated that the process of finalisation of a memorandum of understanding on regulatory cooperation in financial services (the "MoU") can restart once the UK has implemented the agreed-on deal on trading relations with Northern Ireland, known as the Windsor Framework.

On hold since March 2021, the MoU was trailed in a declaration that came alongside the Brexit Trade and Co-operation Agreement ("TCA"). As a post-Brexit trade agreement, the TCA is notable for what and how much it did *not* say about cross-border financial services, and what we know of the MoU does not exactly herald the prospect of borderless services once more. Rather, it is intended to be a framework for structured cooperation between regulatory authorities from different countries that should include not only discussions of international developments but also discussions on how to progress equivalence decisions (whereby one jurisdiction recognises another's regulatory regimes as being equivalent enough in outcomes to grant domestic market access).

While the MoU forum will not grant equivalence itself, or indeed market access, any revival of the equivalence discussion is to be welcome, particularly given that as of February 2022, the UK had granted the UK two equivalence decisions for financial services (one of which has since expired) and the UK had granted 28. Note, though, that a report on "Recent trends in UK financial sector regulation and possible implications for the EU, including its approach to equivalence" commissioned by the ECON Committee of the European Parliament starts out with the authors' expectation of "a limited use of the EU equivalence regime for the UK" in light of assumptions about significant divergence in regulatory requirements over the medium- to long-term.