



Society of Actuaries

ERM Conference - Brexit

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If the UK decides it made a mistake it can decide not to trigger the Article 50 (TEU) Notification.

Legally:



Hit: Correct

Until notification is made the UK referendum has no effect under TEU

Politically:

Very Difficult

There's a hard two year deadline on negotiating a withdrawal agreement

✗ Myth

- If agreement reached before expiry of two years from notification EU Treaties cease to apply when agreement is approved (unlikely scenario)
- If no agreement reached within two years either
 - Extend the negotiating period with unanimous consent of European Council (of Ministers), i.e. all Member States, and European Parliament or
 - Hard stop if extension not agreed
 - Extension vulnerable to national self interest, political manoeuvring, may be influenced by new governments in France/Germany

The UK can negotiate its withdrawal terms and future relationship with the EU at the same time

? Myth

→ Law is ambiguous

Article 50(2) – agreement negotiated setting out arrangements for [a Member State’s] withdrawal “*taking account of the framework for its future relationship with the Union*”.

European Commission view – negotiate withdrawal and when UK has withdrawn negotiate future relationship

Politically - and potentially for business – unlikely to be acceptable.
Prolonged uncertainty

If Worst Comes to Worst UK can Rejoin

✓ Hit: Correct

But not easy – A.49 TEU – requires unanimous consent of remaining Member States

Hit or Myth?

A Hard Brexit wouldn't be too bad

A&L Goodbody



? Make up your own mind, but

- UK out of EU with no agreement on future relationship
- No UK access to EU markets (goods/services) and vice versa
- No day 1 equivalence determination (impact on reinsurance etc.)
- PRA can no longer be EU group supervisor of multi-national groups
- UK would be a third country for data protection purposes
- UK free to make own rules without EU constraint e.g.
 - Abolish VAT
 - Relax financial services legislation
 - Impose external tariffs e.g. higher rates of IPT on foreign (re)insurers if they can access UK market
- EU external tariffs would apply to UK
- Immigration controls, potentially visa requirements for EU workers in UK and vice versa
- Questions over enforceability in EU Member States of UK court judgments and vice versa
- Market shock?

It will all be ok because the UK and EU can rely on rights as members of the World Trade Organisation

✗ Myth

“Most favoured nation” under GATS

- Means WTO members can create barriers to entry but can't be greater for one WTO member than another
- Exception for trading blocks so EU members can trade freely in services among themselves but can exclude third countries once same external barriers to entry are applied to all WTO members. So UK outside the EU would have similar status to e.g. US or Japan.
- Specific carve out for arrangements like Swiss bi-lateral agreement on direct insurance branches
- Conclusion: WTO delivers few if any benefits to UK or EU in context of Brexit

Post-Brexit Relationship Options

	EU Budget Contribution	4 Freedoms Capital, Services, Goods, People	Implement Relevant EU Laws for Market Access	Input to Law making	Free Sale of Goods in EU	Establishing Branches in EU	Freedom of Services
European Economic Area	✓	✓	✓	✗	✓	✓	✓
European Free Trade Association	✓	✓	✓	✗	✓	Bilateral Agreement Regulated in EU	✗
Customs Union	✗	✗	✗	✗	✓	✗	✗
Comprehensive Economic and Trade Agreement	✗	✗	✗	✗	✓	✗	✗
World Trade Organisation	✗	✗	✗	✗	✗ (Most Favoured Nation Tariffs)	✗	✗
Wishing on a star 	✗	✗	✗	✓	✓	✓	✓ 