

PROCESS/COORDINATION ENVOI CLIENT BRIEFING

1/ **Coordination avec le DPU pour *templater* le client briefing finalisé et validé par l'avocat (#pardpu@cliffordchance.com)**

2/ **Coordination avec les équipes de Londres/Delhi pour :**
- Demande de mise en ligne du client briefing sur le site externe de Clifford Chance
(~GLB.PublicWebsiteSupport@CliffordChance.com)

3/ **Coordination avec les équipes de Londres/Delhi pour :**
- Demande de création du client briefing sur Vmail + Validation du Vmail et coordination pour envoi à la liste de distribution revue par l'avocat (GLB.VxSupport@CliffordChance.com)

4/ **Prévenir équipe communication** (#parcommunication@CliffordChance.com) pour diffusion/promotion du client briefing sur les réseaux sociaux Clifford Chance

5/ **Envoyer un email à #K&I_GLB_K&I_Alerter@CliffordChance.com** afin de prévenir de l'envoi d'un client briefing.

→ *Modèle d'email à K&I :*

Dear all,

*Please be advised that the client briefing attached was sent to the following distribution list:
[marketing list]*

(If you would like this to be sent to any further mailing lists, please let me know.)

Kind regards,



BREXIT DEAL OR NO DEAL? – THE NETHERLANDS MITIGATES THE RISKS WITH LEGISLATIVE MEASURES

The Netherlands is introducing a number of contingency measures to anticipate a potential hard Brexit, including (i) providing the Dutch Government with legislative tools to act quickly to mitigate unforeseen but unacceptable adverse consequences and (ii) ensuring that settlement systems currently designated by the UK will continue to qualify as systems within the meaning of the EU Settlement Finality Directive in case of an insolvency of a Dutch member firm. We also briefly discuss some market entry considerations for UK firms in case of a hard Brexit.

THE DUTCH BREXIT OMNIBUS ACT

On 16 November 2018, a legislative proposal was submitted to the Dutch Parliament in anticipation of a potential hard Brexit (the "Dutch Brexit Omnibus Act" (*Verzamelwet Brexit*)).

The Dutch Brexit Omnibus Act is a result of an inventory carried out by the Dutch Government to identify any amendments to the Dutch body of statutes required to address any undesired legal impact of a hard Brexit. This has led to a limited number of proposed changes. According to the Dutch Government, in most cases the existing Dutch legislative framework provides sufficient flexibility and scope to adequately amend laws and regulations to address the consequences of a hard Brexit, to take temporary measures or to implement Brexit-related EU decisions.

According to the explanatory memorandum to the legislative proposal, three categories have been identified:

- Measures to address the 'known': measures needed irrespective of the existence and timing of a Withdrawal Agreement, which deal with a variety of specific topics as a result of the UK becoming a third country, such as the recognition of driving licenses and the registration of UK legal entities whose sole activity is in The Netherlands;
- Measures to address 'known unknowns': measures needed to be taken in particular areas but the contents of which are still unknown and depend on the result of the withdrawal negotiations between the EU and the UK. These areas are in the domain of social security and healthcare insurance;

Key issues

- The proposed Dutch legislative measures anticipating a hard Brexit hardly bring any concrete relief or guidance for businesses
- The main measure is the temporary power of the Dutch government to rule by decree (bypassing Parliament), enabling it to quickly repair any unforeseen adverse consequences of a hard Brexit
- An amendment to the Dutch settlement finality provisions will help Dutch firms retaining access to English payment and securities settlement systems (including CCPs) such as LCH, Swapclear, CREST and CLS
- UK investment firms may apply for cross border licenses in The Netherlands, in which case the full MiFID regime would apply. Such licenses have so far not been granted as the Dutch regulators are treating such applications with caution
- Own account trading in The Netherlands by UK investment firms is exempt from licensing requirements in The Netherlands (subject to certain quality requirements in respect of the counterparty).