

The logo for K&L GATES, featuring the company name in white, uppercase letters on an orange rectangular background.

K&L GATES

A blurred background image of a city skyline at night, with lights from buildings and streets creating a bokeh effect.

2016 INVESTMENT MANAGEMENT CONFERENCE

# Impact of 2016 U.S. Election on Financial Services; Animal Spirits Uncaged?

Daniel F. C. Crowley



# U.S. POLITICAL AND POLICY LANDSCAPE

# MAKE AMERICA GREAT AGAIN



# 115TH CONGRESS: HOUSE FINANCIAL SERVICES COMMITTEE



**Jeb Hensarling (R-TX)**  
Chairman



**Maxine Waters (D-CA)**  
Ranking Member

# 115TH CONGRESS: SENATE BANKING COMMITTEE



**Mike Crapo (R-ID)**  
Chairman



**Sherrod Brown (D-OH)**  
Ranking Member

# EXECUTIVE BRANCH OFFICIALS 2016

SEC Chair  
Mary Jo  
White



FRB Chair  
Janet Yellen



Treasury  
Secretary  
Jack Lew

CFTC  
Chairman  
Tim Massad

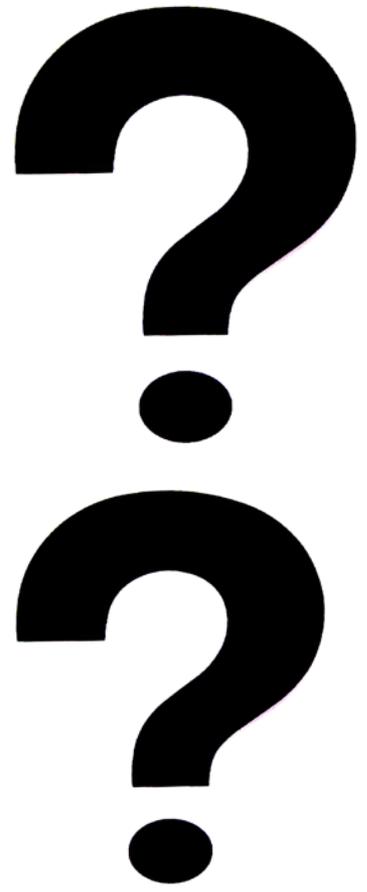


CFPB  
Director  
Richard  
Cordray



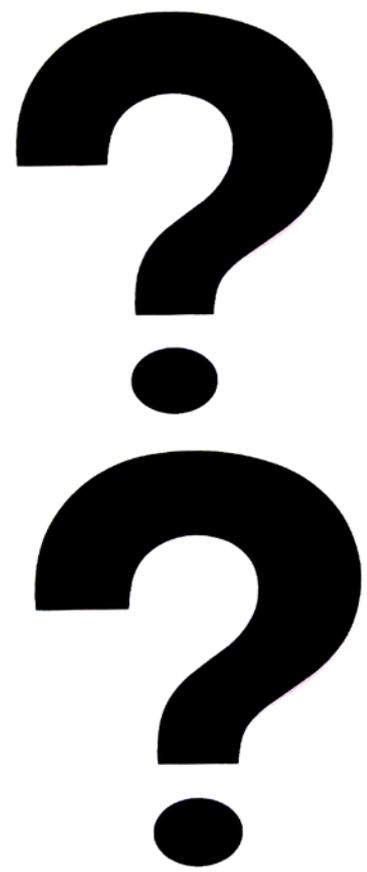
# EXECUTIVE BRANCH OFFICIALS 2017

SEC Chair



Treasury Secretary  
Steven Mnuchin

FRB Chair



CFPB  
Director

CFTC  
Chairman





# FINANCIAL SERVICES IN THE POST DODD-FRANK ERA

## CONTEXT OF U.S. REGULATORY REFORM

A New World Order  
Comes to  
Financial Services  
*FOX News*

Historic Wall Street  
Reform Bill Signed  
*Washington Times*

President Obama  
Signs Most Sweeping  
Wall Street Reform  
Bill Since  
Great Depression  
*New York Daily Times*

- Unprecedented government intervention
- Apprehension about “systemic” risk
- Concern about regulatory gaps and redundancies

# UNPRECEDENTED RULEMAKING ACTIVITY



## THE NEW WORLD ORDER

- Looking at financial services through a new global lens
- Regulators collaborating in some instances and conflicting in others
- Understanding regulatory reform is key
- Institutions must consider whether to influence the direction of reform





# REFORMING THE DODD-FRANK ACT

# KEY AREAS REFORMED BY DODD-FRANK

- Systemic risk
- Bank regulatory structure
- Consumer financial protection
- Private funds
- OTC derivatives
- Investor protection
- Municipal securities
- Risk retention
- Credit rating agencies
- Executive compensation and corporate governance
- Federal insurance regulation

## FINANCIAL CHOICE ACT

- Provide for election to be a strongly capitalized, well managed financial institution.
- End “Too Big to Fail” and Bank Bailouts.
  - Repeal FSOC’s SIFI designation authority
- Reform CFPB
- Accountability from regulators
- Small business growth
- Regulatory relief for Main Street

## CFPB REFORM

- *PHH Corp. v. CFPB*
- Director is now removable for-cause
- Growing bipartisan support for five-member bipartisan commission
- Continued Republican efforts to subject to appropriations
- Implications from Wells Fargo scandal
- Reforms contained in Financial CHOICE Act

## FSOC AND SIFI DESIGNATIONS



**MetLife**<sup>®</sup>

**AIG**<sup>®</sup>

- District Court opinion rescinded Metlife's SIFI designation based on insufficient cost-benefit analysis
- GE Capital SIFI designation rescinded
- AIG, Prudential are left
- Congressional efforts to repeal or reform

## DOL FIDUCIARY RULE PUSH BACK

- Push for harmonization between investment adviser and broker-dealer standards.
- Chamber of Commerce litigation
- Financial Choice Act provision to repeal and force SEC study on impact on retail investors

# HOUSING FINANCE REFORM

- **115<sup>th</sup> Congress**
  - Comprehensive Housing Reform...
  - CRT legislation
- **114<sup>th</sup> Congress**
  - FY 2016 Appropriations bill prohibited sale of Senior Preferred Shared until 2018
- **113<sup>th</sup> Congress**
  - First steps in government-sponsored enterprise reform process:
  - Senate: Corker-Warner, Johnson-Crapo
    - Replace GSEs with FDIC-modeled government guarantee
    - More robust role for private capital in assuming mortgage credit risk
  - House: PATH Act
    - Eliminates GSEs and government guarantee in mortgage market



# MAJOR FINANCIAL SERVICES ISSUES

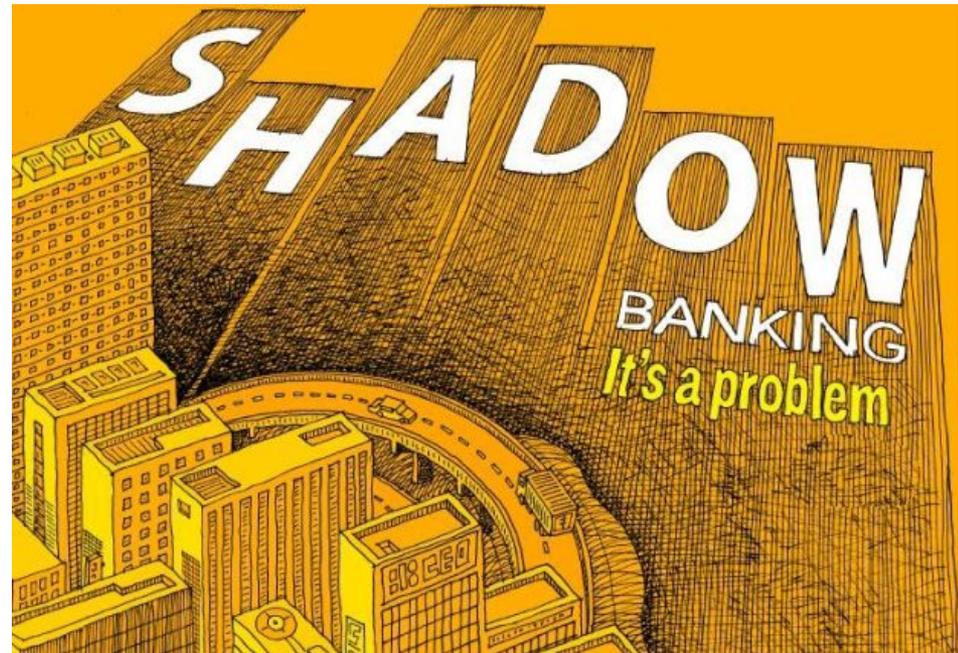
## A LITTLE THING CALLED BREXIT

- *R (Miller) v. Secretary of State for Exiting the European Union*
- Article 50 expected to be triggered in March 2017
- Hard Brexit?



# STATE-MANAGED CAPITALISM

- Global paradigm shift between capitalism and corporatism
- Search for systemic risk
- “Shadow banking” assault
- FSB, FSOC, Basel



# SUSTAINABILITY

- ESG agenda
- Institutional investors have begun to mobilize
- Potential for increased disclosures
- International dimension



## BANK REGULATION V. CAPITAL MARKETS



- SEC Liquidity Management Rule
- SEC Investment Company Derivatives Rule
- Money market mutual fund reform

The top half of the image features a bokeh effect of out-of-focus lights in various colors (yellow, white, blue, green) against a dark background. A solid orange horizontal bar spans across the middle of the image, containing the title text.

# INTERNATIONAL FINANCIAL SERVICES OUTLOOK



# UK BREXIT LEADERSHIP



Theresa May, Prime Minister



David Davis, Sec. of State for  
Exiting the EU



Liam Fox, Sec. of State for  
International Trade

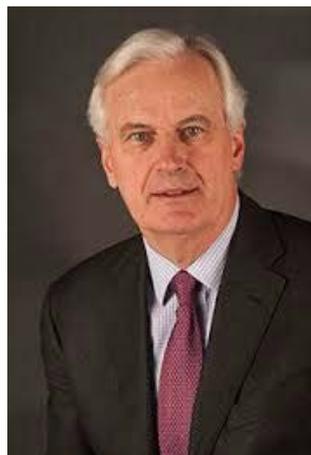


Oliver Robbins, Per. Sec. for  
Exiting the EU

# EU BREXIT LEADERS



European Commission  
President Jean-Claude  
Juncker



Michael Barnier,  
Chief EU Negotiator



Guy Verhofstadt, European Parliament  
Brexit Negotiator



Didier Seeuws,  
Official Negotiator  
for European  
Council

## NEW LEADERSHIP IN THE EU



**European Commission  
Vice-President for the  
Euro, social dialogue, and  
Financial Services Valdis  
Dombrovskis  
(Conservative)**



**European Commission  
President Jean-Claude  
Juncker (Conservative)**



**European Parliament  
Economic and Monetary  
Affairs Committee  
Chair Roberto Gualtieri  
(S&D)**

# FINANCIAL STABILITY BOARD

- Composed of global central bankers, treasury officials (including the Federal Reserve Board and Treasury), and international regulators (IOSCO, IAIS, BCBS, etc.)
- Key areas of focus
  - Systemic risk (G-SIFIs, G-SIBs, G-SIIs, FMIs)
  - Shadow banking (Repo markets, securitization)
  - Recovery and resolution plans
  - Financial benchmarks
- Finalized consultation papers incorporated into domestic law



**Mark Carney, Chair,  
Financial Stability Board,  
and Governor of  
the Bank of England**

# A TORRENT OF LEGISLATIVE AND REGULATORY ACTIVITY SINCE THE CRISIS

- In Europe alone:
  - Markets in Infrastructure Directive / Regulation (“MiFID / MiFIR”)
  - European Market Infrastructure Regulation (“EMIR”)
  - Capital Requirements Directive / Regulation (“CRD IV / CRR”)
  - Alternative Investment Fund Managers Directive (“AIFMD”)
  - Packaged Retail Investment and Insurance Products (“PRIIPs”)
  - Undertakings for Collective Investments in Transferable Securities (“UCITS”)
  - Directives on benchmarking, money market reform, “shadow banking”
- “Rulemaking” continues at FSB, IOSCO, and BCBS

## 2016 – 2017 EU REGULATORY AGENDA

- Consumer protection (including PRIIPs)
- Anti-money laundering
- Securitization, prospectus, retail financial services, insolvency law, EU personal pensions framework... (all CMU initiatives)
- CMU mid-term review
- CCP recovery and resolution
- European Deposit Insurance Scheme (third pillar of Banking Union)
- Corporate tax package (incl. CCCTB)
- Action plan on VAT
- Review of key prudential and markets legislation (CRDIV, EMIR etc)
- Etc.

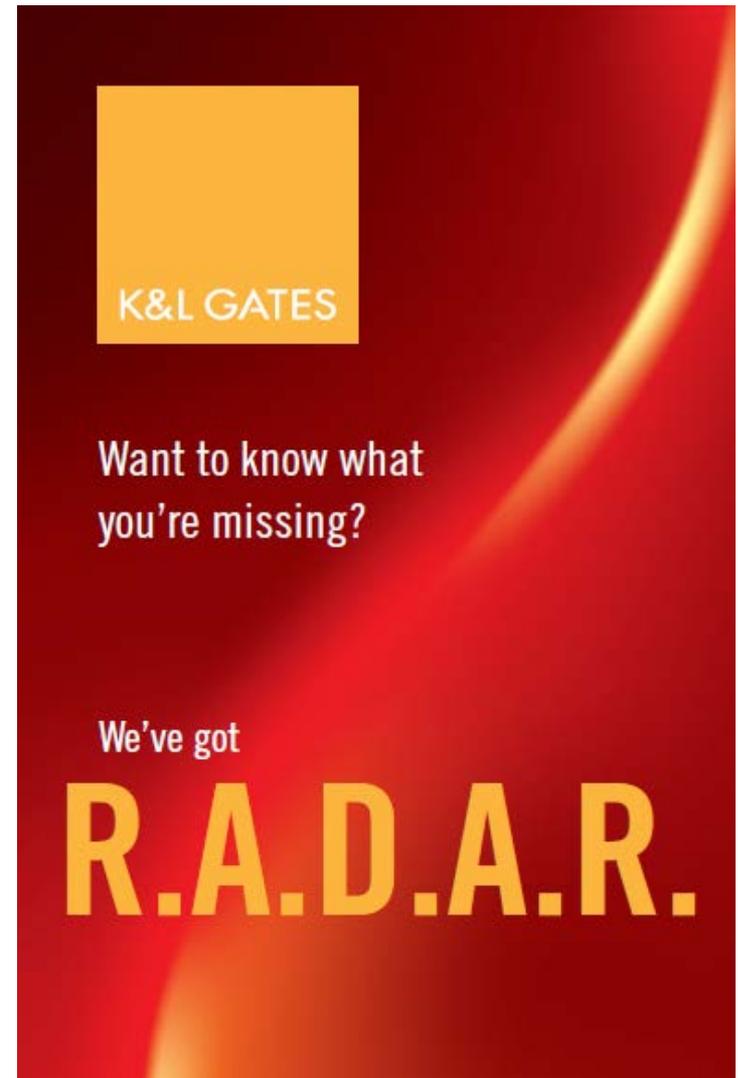
# CAPITAL MARKETS UNION

- Plan by European Commission to:
  - Enlarge and deepen capital markets in Europe
  - Diversify financing sources for the economy...away from bank lending
- Focus areas:
  - Developing further market-based finance in Europe
  - Financing for innovation, start-ups and non-listed companies
  - Lowering barriers to entry to capital markets
  - Investing in long-term infrastructure
  - Fostering retail and institutional investment
  - Leveraging bank capacity
  - Facilitating cross-border investing



NEXT STEPS:  
GLOBAL GOVERNMENT  
ENGAGEMENT

- Captures US and EU financial services regulation
- Weekly updates on notices, comment periods, and agency meetings
- Subscriber access to dedicated website
- Comprehensive resource on regulatory developments



# GOVERNMENT RELATIONS STRATEGY



- No geographic barriers exist for financial services
- Regulators compare foreign regulatory schemes and dialogue on domestic and international financial services regulatory policy
- A coordinated effort is necessary to achieve policy success for multinationals
- Best strategy is worldwide proactive engagement



QUESTIONS?



K&L GATES