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# UK Banks Unfazed By Pending Supreme Court Brexit Decision

By **William Shaw**

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Britain's banking and legal communities are already looking beyond the U.K.'s Supreme Court Tuesday decision on whether the government can bypass Parliament when triggering the formal process for leaving the European Union, a move which will throw four decades of shared laws and regulation into doubt.

If the government loses, which many legal experts expect, it could put the issue before Parliament within days. A Parliamentary debate **could delay Prime Minister Theresa May's plans to activate Article 50** of the Lisbon Treaty by the end of March. May, however, is widely believed to have enough support on both sides of the House of Commons to support the Article 50 process.

Meanwhile, bankers and their lawyers are grappling with their worries over how they will **gain access to the EU's markets beyond 2019**.

"Whatever the Supreme Court's judgment is, it will not reduce the massive level of uncertainty surrounding Brexit's effect on the financial services industry, particularly around changes to regulation of the industry, the availability of capital and the ability of firms to attract and recruit good staff from the EU," said Mark Lucas, corporate and commercial partner at [Barlow Robbins](#).

The Prime Minister announced in a landmark speech on Tuesday that the U.K. would [leave the single market in goods and services while pursuing a transitional deal in an attempt to smooth Britain's departure beyond 2019](#). This wrote the obituary for banks' so-called passporting rights, which for years gave them access to the entire bloc from a London base without meeting local rulebooks. Regulatory lawyers are now consumed by the question of what might replace them, and have limited time for anything else.

**The Supreme Court decision on Tuesday “would only be a relatively minor element in the broader scheme,” said Michael McKee,** financial services partner at [DLA Piper](#). **“Theresa May’s speech is more relevant than the position of the Supreme Court.”**

Roger Matthews, a senior lawyer in [Dechert LLP’s](#) international trade, EU and government relations practice, believes a government defeat at the Supreme Court could briefly [slow down banks' plans to shift some operations elsewhere in the EU](#) to ensure continued access to **the bloc’s big single market in the years ahead**.

**“They may pause for a moment just to sound out whether there is more appetite among MPs to delay giving that parliamentary approval,” Matthews said. “My expectation is there may not be that appetite. But firms may hold off their relocation plans just a few weeks to see.”**

**After Tuesday’s speech,** [HSBC Bank](#) plc chief executive Stuart Gulliver said his bank would move some of its U.K. market operations to France so they can continue to work within the EU rules. Axel Weber, chairman of [UBS AG](#), similarly told the [BBC](#) that about 1,000 of its 5,000 London jobs could migrate into the EU to maintain passporting rights for business in the bloc. [Goldman Sachs CEO Lloyd Blankfein](#) announced similar plans to shift some key operations out of London.

**Next week’s judgment will mark the final word on a historic challenge by investment manager Gina Miller and others to the government’s right to act alone in triggering Article 50.**

At the core of the case lies the **question of whether the government’s royal prerogative powers, which let the executive act alone on decisions like declaring war or making treaties, allow it to reverse the parliamentary vote that took Britain into the EU.**

Miller and her legal team triumphed on Nov. 3 when three top judges at the High Court **dismissed the government’s arguments as “flawed” at a basic level**, before the case was fast-tracked to the Supreme Court. Eleven judges at Britain’s highest court then heard the case over four days in December.

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The Prime Minister is believed to have the votes in Parliament if the court decides against the government on Tuesday. Far more **devastating for the government's Brexit** progress would be if lawmakers turned down the Article 50 plan should they be given a chance by the Supreme Court.

**There would be “complete chaos” if Parliament voted against triggering Article 50, but it is hard to make detailed predictions** about the impact on the financial sector, according to Richard Frase, a partner at Dechert LLP.

**“If the government loses the case this will create a level of uncertainty. But there is plenty of uncertainty around as it is, and the prime minister has taken significant steps to stabilize the position,”** he said.

Frase, former head of litigation at what is now the [Financial Conduct Authority](#), believes the verdict could have an impact on the markets, though this is likely to be temporary.

**“The process of negotiating the exit is the important thing and is unlikely to be done in two years, so there will lots of events like this along the road,”** he said.