

REFERENDUM ON SCOTTISH INDEPENDENCE – A BRIEFING PAPER FOR MEMBERS OF SCOTTISH FINANCIAL ENTERPRISE (SFE) ON THE IMPLICATIONS FOR THE SCOTTISH FINANCIAL SERVICES INDUSTRY

Executive Summary

Many of the most important questions about the consequences of a ‘yes’ vote cannot be answered before it occurs. Uncertainty is extensive and likely to continue for some time after such a vote. Compared with the business environment as it stands, greater cost and complexity are certain. The industry will have to reconfigure to deal with the changed political landscape. Key points are:

- This is a briefing paper, drafted to assist members of SFE in their business planning and risk analysis. Nothing in this paper should be taken to represent the views of any one member on any specific issue.
- SFE is politically neutral and does not have a view on whether Scotland should, or should not, become an independent country.
- The consequences of a ‘yes’ vote cannot be known in any detail before the referendum, nor for some time thereafter.
- The Scottish Government and the UK Government are both *parti pris* and what they say should be treated with caution for business planning purposes.
- A currency union between the rest of the UK and an independent Scotland has been ruled out by the UK authorities; it would be prudent to consider the creation of a new and separate currency as a real possibility. This will be a major undertaking.
- Unilateral use of sterling (‘dollarization’) by an independent Scotland cannot be ruled out at this stage.
- If attempts are made to negotiate a currency union with the rest of the UK, these will have to take account of the expectation that all new Member States of the EU will, on joining, sign up to the principle of Economic and Monetary Union.
- After a ‘yes’ vote, the existing UK market for financial services is likely, over time, to become two separate markets for the purposes of tax and regulation and, therefore, demanding different products and associated business activities.
- International competitiveness will likely be affected by a ‘yes’ vote, as firms based in Scotland deal with increases in cost and complexity that won’t apply to their competitors, either in the rest of the UK or in other countries.
- A new financial regulator, or regulators, will be required for an independent Scotland. The precise nature and cost of these structures cannot be known at this stage.

- **It seems likely that an independent Scotland would be a member state of the EU, after a period of transition (the duration of which is not knowable at this stage) and acceptance by all Member States of whatever terms of membership are agreed through negotiation.**
- **There are strong reasons for expecting that the period of transition, following a ‘yes’ vote, will last a lot longer than 18 months.**

Introduction

This document has been prepared by Scottish Financial Enterprise (“SFE”) to brief its members on the implications for the financial services industry in Scotland of the referendum on Scottish independence and related questions. SFE is politically neutral and works with governments at all levels to promote the interests of Scotland’s financial services industry, its employees and its customers. We have looked closely at the issues arising for our industry from the referendum on Scottish independence and consulted widely in doing so. We have discussed them with our members, in various settings, and with officials in governments and related institutions both within and without the UK; with academics and commentators; and with other business organizations.

Scotland’s financial services industry is very diverse and individual companies are affected differently by the independence question, depending on factors such as the geography of their customer base, the nature of their business and where they are headquartered. So this paper is necessarily focused on points of general interest and application. Not all member companies have the same degree of interest in each of the issues raised in this paper. This paper does not reflect the views of any one member company on any particular issue and it should not be interpreted as attributing views to any member company. It represents our best efforts to gather the information available and to present it to our members in a form that supports their strategic planning.

We have no ideological disposition to favour one outcome of the referendum over another. Our views are impartial and dispassionate and are based on the available facts and evidence.

We do not seek to reproduce or compete with the many contributions to the analysis of the independence question from governments, academia and respected bodies like the David Hume Instituteⁱ, the Royal Society of Edinburghⁱⁱ and the Institute of Chartered Accountants of Scotlandⁱⁱⁱ. The ESRC-funded programme of academic work, ‘The Future of the UK and Scotland’,^{iv} is also an extremely valuable source of informed analysis and guidance on many aspects of the independence debate.

Background

Scotland's financial services industry, which SFE represents, is one of the country's most important business sectors, as a generator of wealth, a very substantial employer and a competitive player in international markets.

It is a diverse industry that includes savings, loans, insurance, pensions, investment management, asset servicing and professional services. As such, it touches a significant proportion of individuals and organizations across the UK and has been built over a long period of time within the context of a single UK market and the EU single market.

The financial services industry in Scotland contributes around £7 billion to the Scottish economy and employs around 100,000 people directly and a further 100,000 indirectly. Taken as a whole, this is roughly a twelfth of the total Scottish workforce. The principal centres of employment are Edinburgh and Glasgow and there are also significant presences in Aberdeen, Dundee, Perth and Stirling.

SFE is politically neutral and is not offering a view on whether the Scottish people should vote for or against independence. We are, however, offering a considered and impartial view on how a vote in favour of independence would affect the financial services industry as it functions in Scotland today. This document sets out our assessment of the issues raised by the referendum process and the relatively few currently foreseeable outcomes of a 'yes' vote.

We do not address what might happen after a 'no' vote, since the long-running debates about constitutional change will continue within the framework of the UK as it currently stands and the industry can participate in them, as it has done before. That multilateral, evolutionary process will have to be more measured, simply because of its policy context, than anything following a 'yes' vote.

Business planning - context

It is of course feasible that Scotland could become an independent state, within or without the European Union ("EU"), responsibly regulated and conducive to the development and growth of financial services. However, this outcome will be determined by a complex series of post-referendum negotiations with the Member States and institutions of the EU and with authorities in the rest of the UK ("rUK") on a wide range of important issues; the settling of new constitutional arrangements for the efficient governance of an independent Scotland; and, in due course, choices made by the new polity of Scotland. There is currently no way for the financial services industry, or anyone else, to know how these processes will unfold or how

long they will take to do so. A 'yes' vote, it is accepted by all sides of the argument^{vi}, is only the beginning of a process under which the consequences of such a vote can eventually become clear.

From the perspective of those seeking to plan and lead businesses, this is a 'fork in the road' moment. If there is a 'no' vote, the business environment will not be static (it never is) but will change without the immediate supervision of major constitutional change. If there is a 'yes' vote, many important questions, some of them set out below, instantly cease to be hypothetical and become both real and urgent. However, answers to these questions will be no more available in the days and weeks immediately following the referendum than they are now; and it is not possible to know how long it will take to answer them. This means that companies will have to assess the likelihood of each referendum outcome and how their businesses, customers, employees and owners will be affected. They will then have to consider what, if anything, they can do to address the risks and uncertainties that arise.

Our approach

SFE is not expressing a view on whether Scotland 'could' be an independent country, since that is obviously the case; nor on whether it 'should', since that is the referendum question and one that requires careful consideration across a wider range of issues. The narrow questions for a Scottish business organization with no political view are:

- What changes would a 'yes' vote and, in due course, independence, bring?
- How would independence compare with the status quo?
- What are the issues we can usefully highlight to our members now, to assist them in their business planning?

We base our work on what can be known now, not on hypotheses about what might be decided in the new policy context of independence.

Government policy statements

The Scottish Government's paper 'Scotland's Future'^{vii} is the largest in a series it has produced, all seeking to offer guidance on what independence would mean in practice. As has been obvious ever since the referendum process was launched, nobody can know, this side of the referendum, what the consequences of a 'yes' vote will be. This is because the policy context can only be known after negotiations with rUK, the EU and others are concluded; and because decisions can only be taken by a new Scottish polity once it is formed and functioning, presumably after elections to a first parliament in an independent Scotland. The proposals in 'Scotland's Future' and in other papers from the Scottish Government, can therefore only be

viewed as a guide to their negotiating intentions, for the period following a 'yes' vote but preceding a Scottish election in 2016, when they might lose office or regain it with a fresh mandate.

The Scottish Government's papers are, understandably, designed and presented to garner support for a 'yes' vote. One could not reasonably expect such papers to give guarantees of any kind or say much about the possible downsides of independence and they cannot, therefore, be seen as a balanced or reliable guide to the future after a 'yes' vote.

A substantial part of 'Scotland's Future' is, effectively and rather unusually for a government publication, a manifesto for the Scottish National Party^{viii} ("SNP" – the party in government in Scotland) and, from a business point of view, should be seen as such. It is even more contingent than a 'normal' manifesto, since it depends for its realization not only on the SNP being elected but also on their proposals being compatible with the outcome of a wide range of negotiations with different parties.

The series of papers produced by the UK Government in the 'Scotland Analysis'^{ix} series are, on the other hand, drafted and presented to support the case for preserving the Union and, accordingly, a degree of caution needs to be exercised with them, too. They are different, though, in that they do not claim to give any guide to the policy intentions of the UK Government (except on the question of a currency union between rUK and an independent Scotland^x) and they attempt to give an account of how things currently work and what would have to change if Scotland becomes a separate state from the rest of the UK. They are based on things as they are, not things as they might be, which is probably one reason why they are more detailed and factual than the papers produced by the Scottish Government – it is possible to describe things in detail if you can observe them in real life, obviously.

It is unusual for business to be dealing with governments seeking to prosecute a case in a referendum. Normally, a government would propose a policy change of some kind and then seek views, having based its initial proposals on evidence, political belief, or both. The policy might then be adapted after dialogue and discussion. That is not the situation here. Both governments have a clear view and are not consulting on whether or not it is a correct one. It is hard to imagine any amount of evidence that could persuade Scottish Government Ministers that independence was a bad idea, or UK Ministers that it is a good idea. This leaves those with an open mind in a difficult position. The normal expectations of objectivity in government publications must be revised and one must look more widely for information and guidance.

Having examined the available evidence and confirmed that many important things will remain unknown or uncertain before the referendum vote (and for some time thereafter while negotiations take place, if there is a 'yes' vote), we offer the following analysis of the key issues for our industry.

Currency

There are four broad currency options for an independent Scotland:

- seek early entry to the Eurozone, over an unknowable timetable but with the objective agreed within Scotland and with other Member States, and declared;
- seek a sterling currency union with rUK (the option advocated by the Scottish Government);
- create a new Scottish currency;
- use sterling or another currency on a ‘dollarized’ basis (though this might only be a theoretical possibility, as it would need to be squared with the requirement of EU membership to have a central bank).

All of the options, in strict business terms and putting aside all other considerations, will bring more cost and complexity than the status quo. But if the political decision to become an independent country is taken, one of the options will have to be selected and there will be uncertainties and turbulence during the period of negotiation and implementation.

The first option (**the Euro**) could only be realized in the medium to long term, since it is necessary to demonstrate before joining the Euro that Scotland meets the convergence criteria and that it can do so without a pre-existing currency or central bank of its own, if a separate Scottish currency is not created in the meantime. This is one of the issues currently facing Montenegro^{xi}, which uses the Euro as a dollarized currency, as it negotiates EU membership.

A **currency union with the rest of the UK** is the Scottish Government’s preferred option and the only one they advocate^{xii}. The UK Government has stated clearly that a currency union between an independent Scotland and rUK is not workable and they have gone as far as they can in ruling it out^{xiii}. Their reasoning is set out in advice to Ministers from the UK Treasury’s top civil servant.^{xiv}

At the time of writing, the Scottish Government continues to argue that a currency union with rUK can and should be negotiated^{xv} and it has said that, if rUK is not willing to agree to such a union, an independent Scotland would not accept a share of UK debt^{xvi}. Stability and market confidence are prerequisites for a currency union. These will be hard to secure if any party to such a currency union appears to be participating reluctantly or under any sort of duress. The freely determined political commitment of Eurozone members has, for example, been essential to the retention of market confidence in the currency in recent years. Putting to one side the fact that a currency is a medium of exchange rather

than a financial asset or liability, and therefore not divisible in the same way, the disputatious nature of these early exchanges does not suggest a secure consensus will easily be achieved.

If the refusal to accept a historic share of UK debt survives into any negotiation process or, indeed, into any actual government policy in an independent Scotland, this will be noted by potential lenders in the money markets and may lead to increased borrowing costs. It is also clear that outstanding international disputes^{xvii} would complicate or even block EU entry negotiations and it seems likely that such negotiations could only begin once intra-UK disagreements, following a 'yes' vote, had been resolved.

Negotiations over a Scotland/rUK currency union would in any case be needed with EU authorities, since the EU would be expected under this scenario to embrace two currency unions within its borders, and governance arrangements would need to comply with the EU treaties. EU Member States would need to reach political agreement on the question of a Scottish opt-out from EMU, which our conversations with contacts outside the UK suggest would not be straightforward, and a legislative process would need to be agreed and completed. For example, any arrangements would need to satisfy the requirement that all Member States participate in the European System of Central Banks. No member states currently do so on the basis of a shared central bank, nor with a 'dollarized' currency. The Scottish Government's proposals for a currency union are experimental and unprecedented in the EU.

Creating a new currency is a major undertaking. New institutions would be needed, most obviously a central bank; and the new currency would need to find its place in financial markets. Assets would need to be redenominated into the new currency. The relative position of the denomination for Scottish and rUK customer assets in such a scenario is unknown. There would be transition costs and business continuity would be affected. There would also be transaction costs between Scotland and rUK.^{xviii}

'Dollarization' is the term given to the use of another country's currency, with or without that country's permission. It has been mentioned as a possibility on both sides of the debate but the drawbacks are obvious: it is difficult to see how a country without a central bank or control of monetary policy could satisfy the treaty requirements of EU membership^{xix}, though with political will something could perhaps be negotiated; if the long-term objective of Economic and Monetary Union is accepted, it is difficult to see how the criteria^{xx} for joining could be met; there would be no 'lender of last resort' to the banking system; and the ratings agencies are likely to see an absence of control of monetary policy as a negative factor^{xxi}.

If there is a 'yes' vote, some change to Scotland's currency arrangements becomes inescapable. But it will be some time after the vote before we will know the nature of that change. If, against current expectations, there are negotiations over the creation of a sterling currency union, rUK will only be able to form a view on the desirability of that once the nature of the Scottish state and its arrangements for

economic governance are known. The range of factors to be considered and a profound analysis of the issues surrounding currency unions were set out by the Governor of the Bank of England, Mark Carney, in a recent speech^{xxii}.

As long as uncertainty over the future currency arrangements persists, markets and investors will take this into account and price it into their operations. There is no discernible benefit and a possible significant additional cost to our industry and its customers in this happening, compared with the current situation.

Single market for financial services

As with the currency issue, all of the necessary changes to the current UK-wide single market for financial services bring more cost and complexity than the status quo.

Operating from a jurisdiction separate for tax and regulatory purposes from the one in which most of our industry's customers reside, and separate from the one that contains the largest financial centre in the world, is a knowable consequence of independence for our industry. Financial products are constructed to serve customers according to their tax status and in accordance with the regulatory requirements of the jurisdiction within which they are sold and in which they reside. At the moment, the same products can be sold throughout the UK. If Scotland and the UK become separate states, they would eventually also become separate markets for financial services, to a greater or lesser extent depending on how the currency question is resolved^{xxiii}.

The Scottish Government's paper 'Scotland's Future' states that "...as part of the same [EU] single market, firms will, in the main, continue to provide products and services to consumers across Scotland and the UK no matter where they are based."^{xxiv} This is a serious understatement of the nature of the change to the UK market that independence would bring, particularly over time. The EU single market is by no means complete and few financial services, particularly of a retail nature, are sold across borders. The paper from the Treasury 'Scotland Analysis: Financial Services and Banking' addresses these issues in detail.^{xxv}

People in Scotland and rUK would almost certainly, as they do now, purchase financial services from providers regulated by the jurisdiction in which they live. This gives them confidence that consumer protection mechanisms, such as a deposit guarantee scheme, are available to them if needed. People do not, as a rule, buy a pension or a savings plan from providers not regulated in their home jurisdiction, though they may do from a subsidiary or branch of a foreign company that complies accordingly. It is not possible at this stage to know how companies would view the relatively small market for financial services that Scotland would be, once separated from that of the UK.

Customers for Scottish financial services in rUK will have played no part in the decision that Scotland should be an independent country but will find, perhaps unexpectedly from their point of view, that they have become, or are about to become, ‘foreigners’ to their financial services providers. This could raise a number of customer communication issues, particularly in the immediate aftermath of a ‘yes’ vote.

International competitiveness

One of the characteristics of our industry is its size relative to the Scottish economy. This reflects its success in attracting clients and assets from outside Scotland, both from rUK and overseas. SFE’s members rely on being internationally competitive to sustain such high levels of activity. This success has been achieved within the framework of Scotland’s membership of the UK and the UK’s international agreements.

A “yes” vote in the referendum would call into question the basis on which Scottish businesses continued to access such clients and markets until new arrangements could be put in place. Double taxation treaties, for example, would have to be re-examined^{xxvi}. A new double taxation treaty would need to be created between Scotland and rUK. At a minimum this uncertainty is likely to be disruptive in the short term.

Longer term, the implications post-independence, positive or negative, are less clear but it is impossible to envisage circumstances where access will be improved to the rUK market. Independence would also affect the Scottish financial services industry’s association with London, the foremost financial services centre in the world. Different considerations come into play when contemplating moving operations between jurisdictions rather than within the same one and these could influence decisions on the location of operations that primarily serve the rUK market.

Continued access to overseas markets would depend on Scotland’s foreign and trade policies and the new government’s success at negotiating agreements. Sitting within a new member state of the European Union, Scottish financial services companies would certainly not have an improved access to European markets over what they enjoy at the moment.

It has been suggested that an independent Scotland’s competitiveness could be improved if the financial services industry was actually made smaller, notably by Standard and Poor’s in their ‘Key Considerations for Rating an Independent Scotland’^{xxvii}, where they note that the industry would be large in relation to GDP and therefore could represent a contingent liability for the state of Scotland. They suggest that “a large part of this [financial services] activity could be re-domiciled to the U.K”. The notion that the loss of parts of our industry would be seen as a positive step in an independent Scotland illustrates, again, the difficulty of predicting the policy conclusions that might be reached, once decisions are made on the basis that Scotland and rUK are separate political entities with separate interests.

Financial regulation

It is not possible to know exactly what sort of regulatory structure would exist in an independent Scotland. This will depend on currency arrangements and policy judgements about how to organize the new framework. Nor is it possible to know what sort of regulatory approach would be adopted, as this will depend on the views of a parliament and its electors in an independent Scotland, circumscribed as appropriate by international norms and requirements.

It is however possible to know that, under international rules including the EU's regulatory framework, a separate financial regulator for Scotland would be required and that, for most companies, this will be an additional regulator to deal with, since they will still need to be regulated in the rest of the UK, where most of their customers are and will remain. They will also need to comply with rUK regulatory requirements in order to continue business relationships with the City of London and its financial markets.

It is not possible to know how much a Scottish regulator would cost but it is safe to assume that its staff would be counted in the hundreds and its running costs measured in millions of pounds. For example, the Maltese regulator has 200 staff^{xxviii} and the Irish about 600^{xxix}. In the UK, the Financial Conduct Authority alone employs 2800^{xxx} people.

One of the reasons for the success of the UK's financial services industry is its high level of consumer protection, which underpins consumer confidence. The UK's robust regulatory regime, improved following the financial crisis, has a heightened focus on consumer protection. 'Scotland's Future' lacks clarity on competition and consumer protection matters, offering little detail beyond deposit guarantee scheme limits. This is understandable, since the Scottish Government is not in a position to provide reliable knowledge about these matters in an independent Scotland, and is a good illustration of the limits of our knowledge at this stage of the political process.

EU membership

It is not knowable, ahead of a referendum vote and the subsequent period of negotiation, what the terms of membership for an independent Scotland would be or whether a parliament and its electors in an independent Scotland would support EU membership on any terms. So any view on these matters at this stage can only be based on judgment. Areas of negotiation of critical importance for the Scottish financial services industry would include currency and central bank arrangements; compatibility of intra-UK arrangements with EU single market rules; and how to comply with regulatory and customer protection requirements.

We can see nothing knowable at this stage that would be beneficial for our industry and its customers and would flow from the simple fact that Scotland would be a separate EU member state. While we can know there will be uncertainty during the negotiation process, there is nothing about the fact of Scotland being a separate member state, when compared with the present position, that appears to offer any benefit for our industry or its customers.

The position for the industry outside the EU would be even less clear in this context.

Transition period

A period of uncertainty about the business environment following a referendum vote for independence is inevitable, while negotiations with the EU and rUK take place and new constitutional arrangements are agreed and put in place. The nature and duration of this will not be knowable ahead of the referendum vote, nor for some time afterwards.

The Scottish Government have proposed that some powers should be transferred to the Scottish Parliament quite rapidly after a 'yes' vote, under existing devolution arrangements, in order to allow them to set about creating a new Scottish state. If this process is agreed to by the Westminster Parliament, powers quickly devolved in this way could include those relating to taxation and other matters that directly affect business. This would mean that changes to the operating environment for business could be introduced before independence is actually achieved, whenever that might be.^{xxxix} The likelihood of this happening depends on political motivations and judgements reached at Westminster.

The Scottish Government has suggested that 24 March 2016 would be 'Independence Day', when negotiations are concluded. This looks unlikely^{xxxix}. There is a UK General Election in May 2015. If there is a 'yes' vote, it will be difficult for the UK government to make decisions on the future relationship between rUK and Scotland in the closing months of its mandate and UK political parties may want to make their respective approaches to negotiations with Scotland a campaign issue in the General Election. Even after that Election, the Westminster legislative process grinds slowly, especially on constitutional matters, which have to be discussed on the floor of the whole House of Commons, not in the more nimble Committees.

Negotiations on a possible currency union would have to dovetail with negotiations for Scotland's EU membership, where the majority of other Member States will expect Scotland to accept Economic and Monetary Union as a long-term objective. That is not the same thing as joining the Euro – that comes much later, if at all, when Scotland has shown that it meets the criteria for joining. But it does commit a new member state to joining in the long term, in principle. It might be possible to negotiate an opt-out but that is unlikely to be acceptable to other member states. Some sort of transitional arrangement would have to

be agreed, either based on Scotland creating a new currency or on some sort of derogation while it continues to use sterling. It is not knowable at this stage what sort of democratic endorsement of such negotiated outcomes would be necessary, either in Scotland or in rUK. But referendums on joining a currency union are not uncommon.

Having consulted widely and in particular with those not advancing a case on either side of the independence debate, it looks likely that negotiations will take several years and certainly a lot longer than the 18 months suggested by the Scottish Government. It might be open to the Scottish Government to draw a 'line in the sand' at 18 months, and propose in the interests of avoiding prolonged uncertainty that their mandate has expired if they cannot negotiate and conclude a settlement within that time frame. However, there are no indications that they intend to do so, leaving the timetable open-ended.

During this period of uncertainty, business activity and the need to serve existing customers and pursue new customers will continue - but some of our companies will find that the complexity and uncertainty generated by the need to resolve the questions related to forming a new state will be additional to those they already share with their international competitors. Inevitably, this will diminish our efforts to compete effectively - and our competitors will undoubtedly seek to capitalize on this.

What would be the opportunities of independence for our industry?

The creation of a new state is almost certain to require investment banking services, to support and manage the issue of bonds, for example. If a new currency is introduced, the management of the process in the capital markets will require investment banking and other services and customers will require foreign exchange facilities they do not need under current arrangements.

Legal and other advisory services will also be required to support customers both during any transition and in the longer term, since there will be institutions to deal with, and jurisdictional boundaries and differences in some areas, that do not currently exist^{xxxiii}.

Longer term opportunities cannot be identified at this stage with any certainty. Hypothetical competitive advantages, like a more efficient and effective regulator, a more attractive tax system or a more dynamic domestic economy, might or might not materialize and they might or might not, over time, bring benefits to our industry and its customers. Equally, it is possible that competitive disadvantages might also come into existence. Whatever the nature of such changes to the competitiveness of the business environment, they would need to be considered alongside the cost and complexity of the industry's reconfiguration to meet the changed market and regulatory environment.

Conclusion

SFE is seeking, on behalf of its members, to produce an informed and balanced view about the impacts of independence on the financial services industry in Scotland. SFE is issuing this document now in order to inform our members' business planning; but also to explain, as objectively as we can, the consequences for our industry that can be known at this stage of the political process and the extent of what cannot be known.

What we know for sure is that there are some major risks and uncertainties, directly affecting the financial services industry in Scotland, and some key issues (including EU membership, currency, regulation and a barrier-free market-place) that, ideally, would be addressed before the referendum to remove the uncertainties and enable businesses to plan how to mitigate the risks. But the political process does not allow this, as has been clear from its inception.

We make no statements about how individual companies might respond to the facts and judgments set out in this document. However, holding a referendum of this kind is not a neutral act, in economic and business terms. It raises major questions and uncertainties, not least about what the outcome of the referendum will be. Decisions on how to deal with these questions and uncertainties are for the boards and managements of companies, taking into account the interests of their customers, employees and owners.

We are happy at any time to discuss these issues with members and to expand on this document in further discussion. The debate over Scottish independence is becoming, at the time of writing, fast-moving and unpredictable. SFE has established a range of contacts that might allow us to help in dealing with specific issues facing members; and we stand ready to do so.

Scottish Financial Enterprise

March 2014

Notes

i <http://www.davidhumeinstitute.com/>

ii <http://www.royalsoced.org.uk/>

iii <http://icas.org.uk/default.aspx>

iv <http://www.esrc.ac.uk/research/major-investments/future-of-uk-and-scotland/>

v “That is the real democratic value of independence - the people of Scotland are in charge. It will no longer be possible for governments to be elected and pursue policies against the wishes of the Scottish people. So other choices can be made, different from those we propose in this guide - but these will be the choices of the Scottish people.” – from the foreword to ‘Scotland’s Future’, by Rt Hon Alex Salmond MSP.

vi “Following a vote for independence on 18 September 2014, Scotland will prepare to become an independent country. There will be negotiations with the rest of the UK, the EU and other international partners.” – from the introduction to ‘Scotland’s Future’.

“As the Scottish Government has said, in the event of a vote in favour of separation Scotland would not leave the UK immediately. Negotiations would begin, and both governments would enter into them in good faith.” - Scotland Analysis: Devolution and the implications of Scottish Independence, published by UK Government, page 7.

vii <http://www.scotland.gov.uk/Publications/2013/11/9348/0>

viii “This guide sets out the gains of independence for Scotland - whichever party is in government - and this Government’s [that is, the current SNP government’s] vision and priorities for action if we are the first government of an independent Scotland.” From the introduction to ‘Scotland’s Future’.

ix <https://www.gov.uk/government/collections/scotland-analysis>

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279454/CM8815_2901849_S_A_SterlingUnion_acc.pdf

xi <http://www.dw.de/montenegros-peculiar-path-to-eu-membership/a-16583842>

xii <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-26183687>

xiii <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-26166794>

xiv

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279460/Sir_Nicholas_Macpherson_-_Scotland_and_a_currency_union.pdf

xv <http://news.scotland.gov.uk/News/Chancellor-s-comments-based-on-incomplete-analysis-946.aspx>

xvi <http://www.ft.com/cms/s/0/64124bfa-97cb-11e3-8dc3-00144feab7de.html#axzz2v05ULVV3>

^{xvii} “There needs to be a renewed effort to overcome bilateral disputes among enlargement countries and with Member States. Bilateral issues need to be addressed by the parties concerned as early as possible and should not hold up the accession process.” European Commission, COM(2013) 700 final, 16 October 2013, page 2 para. 7.

^{xviii} <http://news.scotland.gov.uk/imagelibrary/downloadmedia.ashx?MediaDetailsID=1731&SizeId=-1>

^{xix} “Each Member State shall ensure that its national legislation including the statutes of its national central bank is compatible with the Treaties and the Statute of the ESCB and of the ECB” – Article 131 of the Treaty on the Functioning of the European Union

^{xx} https://www.ecb.europa.eu/ecb/educational/facts/euint/html/ei_005.en.html

^{xxi} http://www.standardandpoors.com/spf/ratings/How_We_Rate_Sovereigns_3_13_12.pdf

^{xxii} <http://www.bankofengland.co.uk/publications/Documents/speeches/2014/speech706.pdf>

^{xxiii} In the sense that, if there is a currency union, some shared approach to prudential regulation and bank supervision would be necessary. This would entail some shared institutions, assuming that arrangement meets EU obligations, which in turn would mean a different institutional architecture to that needed to oversee a separate currency. Most obviously, a central bank would be required for the latter. If sterling is used on a ‘dollarized’ basis, the primary purpose of the central bank becomes liquidity management and the regulatory framework would be different again.

^{xxiv} ‘Scotland’s Future’, page 112

^{xxv}

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200491/scotland_analysis_financial_services_and_banking_200513.pdf

^{xxvi} “Following a vote for independence, the Scottish Government will [sic] seek a double taxation agreement with the Westminster government. It will [sic] be in the interests of both Scotland and the rest of the UK to ensure that cross-border tax affairs for companies operating in both jurisdictions are as fair and simple as possible.” [“An independent Scotland will \[sic\] signal its intention to adhere to all international tax treaties in force between the UK and third party states, so that these treaties can continue in force between Scotland and that state. This was what happened, for example, when the Czech Republic and Slovakia adopted the double taxation agreement between the United Kingdom and Czechoslovakia in 1993.”](#) ‘Scotland’s Future’, page 387.

“Good and clearly established relationships with overseas tax jurisdictions are key to business and economic competitiveness, through the operation of the Double Tax Treaty network as well as cooperation agreements. It is likely these would need to be established and maintained for a devolved tax system as well. Changes to tax systems do not necessarily cause the principles in Double Tax Treaties to fail, but what is the position of any change in the tax authority at the same time? Would any devolved or independent negotiating position be seen as weaker, being from a smaller and newer tax authority? A clear position on how any tax system changes would impact on business competitiveness in this area is an early requirement.” from ‘Scotland’s Tax Future, published by the Institute of Chartered Accountants in Scotland, 13 December 2013, page 12.

^{xxvii}

https://www.globalcreditportal.com/ratingsdirect/renderArticle.do?articleId=1264946&SctArtId=217545&from=CM&ns_code=LIME

^{xxviii} <http://www.mfsa.com.mt/pages/viewcontent.aspx?id=136>

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<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2013100300053#WRG00700>

xxx <http://www.ftadviser.com/2013/03/25/regulation/regulators/fca-to-spend-of-current-fsa-budget-next-year-sg5uGyX7baP5Mh6az7O0KK/article.html>

xxxi 'Scotland's Future', page 52.

xxxii <http://ukconstitutionallaw.org/2014/01/14/nick-barber-after-the-vote/>

xxxiii <http://www.businessforscotland.co.uk/scottish-independence-opportunities-for-the-legal-profession/>