

# Guiding Principles for Future EU-UK Relations: the non-listed real estate investment perspective



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The result of the 23 June 2016 referendum on the United Kingdom's membership of the European Union raises many questions regarding the future relationship between the EU and the UK, and poses a number of important challenges for the members of INREV, the European Association for Investors in Non-Listed Vehicles\*.

The specific conditions of the UK's departure from the EU, the nature of the future relationship that is put in place and the timing and process for these negotiations are of profound importance to the European non-listed real estate investment industry. We are committed to ensuring that the hundreds of billions of euro of institutional investors from around the globe have invested into the European economy through non-listed real estate vehicles is not restricted in the future and, moreover, that the sector can continue to flourish.

## Key Principles for Real Estate Investment

Long-term investors such as pension funds and insurance companies that provide capital, fund managers that invest that capital and European businesses that rely on that investment in real estate for their development all have an interest, wherever they are located, in minimising the disruption of the UK decision. Real estate investment makes a significant contribution to economic stimulation, growth and job creation and helps create vital, liveable cities. Our members urge policymakers to respect the following principles as they pursue this discussion:

- **Avoiding new barriers:** Europe's non-listed real estate sector, as well as its investors, seek a future relationship between the UK and the EU that preserves the flow of professionals, capital and investment between the two. Whether this is through the extension of existing arrangements to the UK or the negotiation of a bespoke regime is a matter to be explored further. But it is critically important that the UK's exit from the EU does not create new barriers to these flows.
- **Maintaining market access:** A legal framework that both provides access to EU markets for long-term investors and fund managers in the UK and that allows those based in an EU member state the same access to the UK market is essential. This framework must cover:
  - the **investment activities** of long-term investors such as pension funds and insurers;
  - the **marketing activities** of fund managers as they raise funds;
  - their **managing activities**, including investing and realising non-listed investments in real estate; and
  - **recruitment and retention** of professionals by all parts of the industry.
- **Protection of legitimate expectations and rights acquired:** European investors and fund managers rely on the current legal framework to carry out their economic activities. For our industry this means in particular directives such as the Alternative Investment Fund Managers Directive (AIFMD) the Market in Financial Instruments Directive (MIFID). Rights already granted to market participants must be protected so that fund managers can continue to manage and market and investors can continue to invest their capital across the European

economy. The principle of the free movement of capital, which prohibits restrictions to the flow of capital between EU member states, now acquires an even greater importance.

- **Transition periods or grandfathering provisions:** It is not in the EU's or the UK's interest to generate a 'cliff edge' effect, which will only cause unnecessary disruption to markets, reduce economic activity and impact on growth and employment. Concerns regarding legal certainty for all stakeholders could be addressed for example through the use of transition periods or grandfathering provisions. At a minimum, a decision could be taken as part of (or in parallel with) the withdrawal negotiations that the "third country passport" foreseen under AIFMD would be available for the UK immediately after Brexit has occurred. The UK has already implemented the relevant legal and regulatory framework and, in light of this, the current UK framework should be deemed compatible.
- **Maintaining the momentum on existing initiatives:** while it is inevitable that significant resources and attention will now have to be devoted to the renegotiation of the UK's relationship with the European Union, this must not be allowed to derail or delay policy initiatives designed to boost private investment and generate growth that are already envisaged. The case for a **Capital Markets Union**, removing barriers to cross-border and long-term investment remains strong. For the non-listed real estate investment industry, the CMU has always been both European *and* global. The imperative to tackle obstacles to cross-border investments and to facilitate the flow of capital within the EU and between the EU and the rest of the world is only strengthened by the UK referendum.
- **A transparent and open process:** It is imperative that investors have the maximum possible certainty about the next steps, both with respect to the activation of Article 50 and the subsequent negotiations. Once Article 50 is triggered a clear **roadmap** should be agreed by the UK and the EU and communicated to stakeholders. This must include clarity regarding the **scope of the negotiations** and provide for appropriate **stakeholder involvement**.

## \* About INREV

INREV is the European Association for Investors in Non-Listed Real Estate Vehicles. Since its launch in 2003, it has grown to almost 400 members from more than 27 different countries. INREV's aim is to improve the accessibility of non-listed real estate funds for institutional investors by promoting greater transparency, professionalism and standards of best practice. INREV is led by institutional investors and supported by other market participants such as fund managers, investment banks, academics, lawyers and other advisors. As a Pan-European body, INREV represents a unique platform for sharing knowledge of the non-listed real estate investment industry.