Britain’s new player at the sharp end of poker game with Brussels

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Many businesses have been unable to access government-backed pandemic loans because they have failed the “undertaking in difficulty” test. That hurdle was not set by the government, but by Brussels as part of its state aid framework. Intended to prevent large-scale state bailouts, it has blocked hundreds of businesses from receiving a lifeline to survive the coronavirus slump.

Despite having left the European Union on January 31, Britain must adhere to its rules until it has forged a new relationship with the bloc. This restriction on loans has caused frustration in the UK for those scrambling to forge an economic response to the pandemic, exacerbated by perceptions that state aid rules have been applied unequally across the EU. State aid, viewed by some as always having been far more political than legal, is one of the issues that Britain must grasp as part of its Brexit negotiations. There are many others, including market regulation, the use of data and the country’s competitiveness.

It is in that context that Rishi Sunak chose Nikhil Rathi to lead the Financial Conduct Authority. His five-year appointment as head of the City regulator, starting in October, will coincide with an intensive and crucial spell of discussion with Brussels and other international institutions to determine Britain’s future.

The big decisions must be political, but the team around the prime minister will have to find ways to navigate the international and domestic landscape to optimise the UK’s chances. For Mr Rathi, that means deep thinking about how to regulate the markets in a way that does not turn Britain into a centre of light regulation, a magnet for shady practitioners, but which enhances its competitiveness against centres such as New York.

Mr Rathi, of course, will have other important responsibilities, not least supervision of firms, but there is likely to be less focus on domestic issues compared with international efforts. That rebalancing seems to have been a significant factor in choosing Mr Rathi over Chris Woolard, the FCA’s interim boss.

Mr Rathi, 40, has a strikingly relevant CV. He has seen up close how politics operates as private secretary to Tony Blair and Gordon Brown. He worked at the Treasury during the financial crisis and was closely involved in the banking bailouts. He went on to lead the Treasury’s EU and international work on the UK’s financial services interests. Since then he has gained deeper experience of markets, moving to the London Stock Exchange in 2014, running its British business and serving as the group’s international development director.

Clearly, not all the burden of how to reshape the UK’s financial markets will fall on his shoulders. The FCA operates alongside the Prudential Regulation Authority and both answer to the Treasury. The course will have to be set by No 10’s negotiations with Brussels over whether there is an acceptable deal to be struck on equivalence, keeping rules sufficiently similar in return for access to EU markets.

However, as the chancellor made clear yesterday over insurance capital regulations, known as Solvency II, there is clearly an appetite in Boris Johnson's government to shake up the EU rulebook. Barney Reynolds, a partner at Shearman & Sterling, the law firm, has argued that a lot of that opportunity lies in rethinking the Mifid II rules, which permeate financial regulation in this country. Created after the financial crisis to restore faith in institutions ranging from banks to asset managers, critics argue that they are overly complex and are a product of trying to guarantee standards across, at the time, 28 EU members.

Things are going to start getting real in the game of poker with the EU over the lucrative world of financial services. Mr Rathi has already proven himself a capable and trusted operative in government. His skills will be fully put to use now.

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