



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Lord Boswell of Aynho
Chair
European Union Committee
Committee Office
House of Lords
London
SW1A 0PW

30th January 2019

Dear Tim,

EMs 12420/17, 12422/17, 12430/17, 12431/17, 12433/17, 12111/18: European System of Financial Supervision Omnibus Proposal

European System of Financial Supervision (39052) (39053) (39055) (39056)

Following my letter dated 7th January 2018, I am writing to update you on the progress of negotiations on the Commission's European System of Financial Supervision (ESFS) proposal.

The proposal was discussed by Finance Minister's at the Economic and Financial Affairs Council last week, where the Romanian Presidency signalled their intention to begin interinstitutional trilogues on the Anti-Money laundering part of the text only. However, a number of Member States used the meeting to argue that General Approach should be sought on the whole file before trilogues. In addition, of the Member States who supported the Presidency's proposal to prioritise AML, a fair number commented that Council was very close to reaching a compromise on the whole dossier at the end of last year, and a couple argued that they would have voted to pass the whole file if it had been put to finance ministers during the meeting. Consequently, the Presidency have scheduled an expert level meeting this week, where they will put a compromise agreement to the Council. If agreement can be reached (which we think is likely) the file will go to the Economic and Financial Affairs Council on 12 February for General Approach.

The Romanian Presidency have not held a working level discussion on the file so far, so the update on the core proposal that I included in my letter on 7 January still stands. As you know the division in Council at the end of December focused on: governance, where some Member States supported retaining the status quo and others supported amending the composition of the Management Board; and funding, where there was disagreement about how much the balancing contribution from the Union General Budget should be. We expect the working level discussion this week to focus on both of these areas and we envisage being able to support Council's position on these issues, given the majority of Member States are aligned with our position.

The articles relating to the supervisory competence of the European Securities and Markets Authority (ESMA), and the treatment of third countries, are unlikely to change from those I detailed in my previous update. This is because the majority of Member States remain supportive of the Austrian Presidency's amendments to limit the transfer of powers from national Competent Authorities to ESMA, and to create a more transparent and technically focused equivalence regime. Furthermore, at the Economic and Financial Affairs Council last week, likeminded Member States made it very clear that they are only willing to discuss parts of the text where there has not been strong agreement in Council so far.

Given the Council text is likely to align with our objectives if General Approach is reached I would be grateful if the Committee find themselves able to grant clearance, or to waive scrutiny on the core proposal, to enable us to vote in support of the agreement. I will write again to update you on the file if negotiations do not proceed as we anticipate.

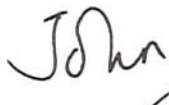
To answer the specific questions you posed in your letter on 25 January, I can confirm that we have considered the affect that the European Banking Authority's increased responsibilities could have on regulated UK firms and individuals, and concluded that they are unlikely to have any significant implications. We therefore do not believe that these aspects of the proposal require changes.

With regards to your question about the possibility of the UK being granted observer status in the AML internal committee, the Implementation Period text that was published in March sets out that the UK may continue to participate in EU agencies and bodies, such as the ESAs, where the presence of the United Kingdom is necessary and is in the interests of the Union, or where the discussion concerns acts addressed to the UK and its citizens. The exact nature of this participation is a matter for further discussion, but regardless of the outcome we do not expect a substantial change to the way that information is exchanged between national supervisors during the implementation period.

Finally, we support the proposed approach to provide additional powers to the EBA and do not believe that there would be value in creating a separate independent AML authority at EU level.

I am copying this letter to Sir William Cash MP, Chair of the House of Commons European Scrutiny Committee; Philip Aylett, Clerk to the Commons Committee; Chris Johnson, Clerk to the Lords Committee; Les Saunders, Department for Exiting the EU; and Barbara Armstrong and Daniel Jones, HM Treasury.

With very best regards



JOHN GLEN MP

ECONOMIC SECRETARY TO THE TREASURY