



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

Lord Kinnoull
Chair, European Union Committee
House of Lords European Union Committee
House of Lords
London
SW1A 0AA

27th January 2020

Dear Charles,

11595/19: COMMUNICATION FROM THE COMMISSION Equivalence in the area of financial services

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Thank you for your letter dated 30 October 2019.

As you note in your letter, the Commission has adopted temporary equivalence decisions for the UK under the European Market Infrastructure Regulation on central counterparties (which was last updated on 23rd December) and the Central Securities Depositories Regulation on central securities depositories. It is worth noting that the Commission has adopted them in order to address financial stability and market integrity concerns in the EU. While these decisions only take effect in a 'no deal' scenario, it is important that both the UK and the EU can continue to benefit from UK CCPs being able to offer their services to EU counterparties in all circumstances.

The financial services text in the revised Political Declaration has not been changed. The UK ambition is for a future relationship with the EU that respects the autonomy of both Parties, while providing confidence and protecting financial stability. We believe that a deep and comprehensive future relationship with the EU remains the best way to further these shared goals, including through arrangements that encourage us to work together constructively to stabilise the current equivalence framework. This will help to ensure strong ties to preserve market integration, financial stability and investor protection.

As set out in the Political Declaration, the UK and EU have committed to start assessing equivalence with respect to each other under existing frameworks as soon as possible after the UK's withdrawal from the UK, endeavouring to conclude these assessments before the end of June 2020. We stand ready to begin this process as soon as possible with the EU, and believe

that there is sufficient time for these assessments to take place. The Government's priority with respect to the Political Declaration commitments on equivalence is to seek equivalence across all the c.40 equivalence regimes which exist in EU legislation.

The Government has had discussions with a number of jurisdictions in order to ensure that there is regulatory continuity of financial services market access arrangements which the UK currently benefits from as a result of being a member of the EU. Before an equivalence decision is made HM Treasury will ensure that there is equivalence of the relevant regulatory and supervisory outcomes in the third country, and furthermore that the decision supports a globally integrated UK financial services sector. After the UK's withdrawal from the EU, the Government will not be required to follow the EU's exercise of equivalence determinations. For example, the UK could make an equivalence decision for a third country when the EU had not. The equivalence process will be one of the key tools to facilitate cross-border financial services activity in the UK and it will be for the Government to decide how to exercise this in the UK's interest.

The procedure for equivalence decisions to come into law is set out in The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019. Following the UK's withdrawal from the EU, the Commission's function for making equivalence decisions in financial services legislation will be transferred to HM Treasury. Technical advice on equivalence decisions will be provided to HM Treasury by the Bank of England, the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA). Equivalence decisions made by HM Treasury will be made by regulations subject to the negative procedure. This Statutory Instrument also provides ministers with a temporary power, for up to twelve months after exit day, to make equivalence directions and exemption directions only for the EU and EEA member states. As with all directions which have already been made under this power HM Treasury will publish any directions that ministers make, lay them before Parliament and make a Written Ministerial Statement to notify Parliament that these directions have been made. After this power expires, and for any countries other than the EU and EEA member states, equivalence decisions made by the Treasury will be made by regulations subject to the negative procedure.

As set out in the Memorandum of Understanding between HM Treasury, the Bank of England and the Financial Conduct Authority, once HM Treasury has laid an instrument to make an equivalence or exemption determination it is the regulators who are responsible for deciding what they may wish to publish regarding the advice given to HM Treasury. As part of the process of making an equivalence or exemption determination we will publish an Explanatory Memorandum, where we will provide a summary of the assessment process which was conducted.

I am copying this letter to Jessica Mulley, Clerk to the Commons European Scrutiny Committee and Les Saunders, DExEU.

With very best regards

John

JOHN GLEN MP

ECONOMIC SECRETARY TO THE TREASURY