



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

European Scrutiny Committee
c/o Sir William Cash MP
House of Commons
London
SW1A 0AA

23 April 2020

Dear Sir William,

RE Trade in financial services under the future UK-EU economic partnership

Thank you for your letter dated 26 March 2020. I am writing to provide further clarity on the Government's position on Equivalence in financial services. Your letter included several questions pertaining to the Government's negotiating objectives for the UK EU future relationship. As I'm sure you can understand, at this early stage of the negotiations, it will not be possible to provide full answers to all of these questions. Nevertheless, I have endeavoured to share as much information as possible at this time and I commit to providing a fuller response in due course, once negotiations have progressed.

You asked to know more about the envisaged nature and role of the "institutional arrangement" on financial services. We are seeking regulatory and supervisory cooperation arrangements, between autonomous regulatory systems, that reflect the level of access between our markets and which establish processes for dialogue on equivalence. The aim of regulatory cooperation is to ensure a structured dialogue between both sides throughout the lifecycle of the regulatory process, as the basis for predictability and stability.

These arrangements should include transparency and appropriate consultation in the process of adoption, suspension and withdrawal of equivalence decisions, information exchange and consultation on regulatory initiatives and other issues of mutual interest, at both political and technical levels.

The future relationship will need to give both sides confidence that the arrangements in place protect and enhance financial stability, market integrity, investor and consumer protection. This would include provisions to stabilise unilateral decisions under existing third country equivalence frameworks through friendly regulatory cooperation and structured processes for the withdrawal of equivalence decisions. The Government wants to ensure that there are clear and

coherent structures in place in the event that equivalence is withdrawn by either party, in order to stabilise equivalence as the basis of market access. The UK would seek to ensure the transparency and stability of an equivalence-based relationship while not compromising its autonomous nature.

To answer your second question, 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 currently exist in EU legislation. Successfully concluding equivalence assessments and delivering comprehensive positive findings will be in the UK and EU's mutual interest and we can see no reason why the UK and EU will not be able to find each other equivalent across all existing equivalence regimes

Your third set of questions relate to the Political Declaration. Our intention is to ensure that at the end of the transition period, on 31st December 2020, both sides have recognised the other's equivalence regimes and put in place the necessary measures to confirm that. Successfully concluding equivalence assessments will be in the UK and EU's mutual interest.

You asked why the Government is attaching importance to the deadline of June 2020 for the conclusions of the EU's equivalence assessments. The UK and the EU have a common interest in establishing an enduring relationship on financial services that is based on mutual trust and cooperation. An important part of this will be the UK and the EU prioritising completing equivalence assessments by June 2020. Meeting the jointly agreed June 2020 date for concluding equivalence assessments will be in the interests of firms across the EU and the UK, and their ability to plan for the future.

You asked for an update on the EU's interpretation of the requirements for "assurance" from CCP supervisors, and any interactions with "comparable compliance". As you know, EMIR 2.2 introduces new supervisory responsibilities for ESMA over third country CCPs. I have previously noted that, depending on its implementation, this aspect of EMIR 2.2 may not be compatible with the G20 principle concerning the ability of regulators in different jurisdictions to defer to each other based on comparable rules. I have also suggested the mechanism of "comparable compliance" could be one possible mechanism to meet this commitment, ensuring CCPs do not face conflicting rules.

The interpretation of the interaction between the supervisory cooperation element of EMIR 2.2 and "comparable compliance" is not yet clearly established. Although ESMA's technical advice on the implementation of "comparable compliance" does not appear to contain any cross-references to supervisory cooperation, it should be noted the European Commission have not yet adopted this advice. Until the Commission have adopted the relevant delegated acts, it is not clear how EMIR 2.2 will function in practice.

I would also like to take this opportunity to make a small clarification. As I said in a previous letter, "assurance" does not necessarily require comprehensive

commitments on enforcement from a third country. In fact, this would not be consistent with the realities of international CCP supervision, or with G20 commitments to deference in derivative markets. This requirement is not my Department's own interpretation of the text. This is just one possible interpretation, albeit a concerning one.

You asked for clarity on whether the upcoming Financial Services Bill is intended to contain clauses allowing the Treasury to implement EU financial services legislation post-transition, analogous to similar provisions the Government sought to introduce in the previous Parliament under the Financial Services (Implementation of Legislation) Bill. The Financial Services Bill will allow the UK to maintain world-leading regulatory standards to support global competitiveness and protect consumers so that they can use financial services products with confidence. Delivering the FS Bill is part of our strategy for maintaining and enhancing the UK's position as an open, global leader in financial services now that we have left the EU. Further detail on the specific content of the Financial Services Bill will be set out in due course.

I am copying this letter for information to Jessica Mulley, Clerk to the Commons European Scrutiny Committee.

A handwritten signature in black ink that reads "John P. Glen" with a stylized flourish underneath.

JOHN GLEN