



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

Sir William Cash MP
European Union Committee
House of Commons
London
SW1A 0AA

26 July 2019

Dear Sir Bill,

Re: Delay in scrutiny updates on pending EU legislative proposals

Thank you for your letter of 17 July expressing the European Scrutiny Committee's concern about delays in the provision of information on EMIR 2.2 (10363/17 and 10850/17) and on the proposed Directive on credit servicers, credit purchasers and the recovery of collateral (7403/18).

HM Treasury recognises the importance of the Parliamentary scrutiny process and strives to provide updates for the Committee that are timely, helpful and thorough. I would like to apologise for delays within the department and thus our engagement with the Committee, and reassure you that the Treasury recognises the importance of maintaining high standards in meeting the Government's obligations to Parliament.

I would also like to take this opportunity to rectify the delay in providing an update on the Non-Performing Loans Directive, which intends to develop a secondary market in non-performing loans through enabling credit institutions to better deal with loans once they become non-performing. This will be achieved through removing barriers to the transfer of non-performing loans from credit institutions to non-credit institutions, and through harmonising authorisation requirements for credit servicers and credit purchasers.

Previously, the Directive also contained a proposal for an Accelerated Extrajudicial Collateral Enforcement (AECE) mechanism. However, progress on the AECE element of the proposed Directive has been considerably slower than on the parts intended to develop secondary markets in non-performing loans. This is due to Member States raising a number of concerns regarding the functioning of the AECE mechanism: for example, its interaction with existing national processes, applicable law issues, and what role public officials should play in the operation of the mechanism. The Presidency therefore proposed to move forward only with the secondary markets components of the Directive, with work continuing to a slower timetable on the AECE element of the proposal.

As you noted, on 27 March 2019, the Member States in the Council reached an agreement, with the majority of delegations expressing no opposition to splitting the proposal and moving forward with the part of the Directive related to secondary markets. Therefore, the COREPER approved the mandate for negotiations with the European Parliament on the secondary markets part, allowing trilogues to start as soon as the Parliament is ready.

A parallel progress was achieved in the European Parliament where a report limited to a part on secondary markets was submitted for discussion in the European Parliament's Committee

on Economic and Monetary Affairs (ECON) on 11 March 2019. The vote on the report in ECON was scheduled for 1 April 2019. However, it did not take place, and the file will therefore be redirected to the newly elected European Parliament. As a result, we do not expect there to be a vote on a compromise text before the autumn.

HM Treasury has engaged with both the financial regulators and industry to ensure that the proposed Directive on credit servicers would not cause issues for the UK's debt purchasing and servicing regime.

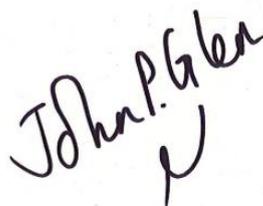
The UK has a well-developed and robustly regulated secondary market in credit agreements. Broadly, we welcome the purpose of the proposed Directive, so long as there are suitably high standards applied across the EU. We are therefore keen to ensure that any harmonised standards do not undermine consumer protection in the UK, but also do not introduce impedimentary burdens. We expect that discussions at trilogues will focus on how far consumer protections should extend, as proposed amendments by the Parliament would likely impose undue burdens.

Questions also remain about how provisions in the Directive will interact with portfolios that contain a mix of performing and non-performing loans, and whether credit purchasers should be required to be regulated. We will work with the new Presidency and European Parliament to ensure that UK concerns are taken into account.

Since my last letter regarding EMIR 2.2 was written, the lawyer-linguist process has now begun and is due to close late August. Therefore, it still remains the case that I do not expect the final adoption of the text until after the summer and the formation of a new Commission. Preliminary estimates remain that the file may not enter the Official Journal of the European Union until the end of October, although I am not aware of a confirmed timetable from the Commission.

I would like to reiterate the Government's strong commitment to the process surrounding parliamentary scrutiny of EU documents. The Committees play an important role in holding the Government to account, and HM Treasury fully recognises the continued value of an effective scrutiny system.

I am copying this letter to Lord Boswell of Aynho, the Chair of the House of Lords European Scrutiny Committee; Foeke Noppert, Clerk to the Commons Committee; Christopher Johnson, Clerk to the Lords Committee; Les Saunders, Department for Exiting the EU; Barbara Armstrong and Aidan Irwin-Singer, HM Treasury.

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

JOHN GLEN