



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

Lord Kinnoull
Chairman
European Union Select Committee
House of Lords

11 August 2020

Dear Lord Kinnoull

7049/18: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European Crowdfunding Service Providers (ECSP) for Business

7048/18: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2014/65/EU on markets in financial instruments

Following my letter dated 27 August 2019 I am writing to provide you with an update on this file, given that the final compromise text was published in April. This legislation will not come into force during the transition period and the Government will therefore consider whether similar changes in UK law would enhance the competitiveness of the UK's crowdfunding and (peer-to-peer) P2P lending sectors in our new trading environment, while also ensuring that consumer investors are adequately protected.

Whilst there is no equivalence regime included within the final text, there is a commitment to consider the appropriateness of expanding the scope of the Regulation to third countries under a report to be compiled by the Commission, 24 months after the Regulation comes into force. The Government will review the outcome of that report.

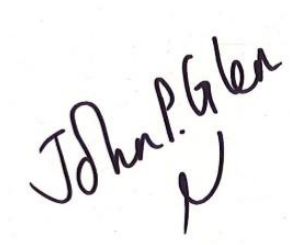
In my previous letter, I outlined some of the main differences between the positions of the Council and European Parliament and expressed a preference for the Council's text. I thought it would be helpful to briefly outline the scope of the final text. The file is a Regulation, applying automatically to all Member States, and to all investment-based crowdfunding platforms and all P2P lending platforms.

There are specific provisions for the 'individual portfolio management of loans' which will apply to these discretionary P2P lending models. As I outlined in my previous letter, 'discretionary' P2P lending models are those where the investors gives the platform a mandate to undertake decisions on their behalf, often by choosing a target rate of return. These will place several requirements on platforms, including: seeking a clear mandate from an investor, which may include mandating the risk category of loans included in their portfolio or the maturity of those loans; and disclosure of information on each investor's individual portfolio.

Development of technical standards in relation to wind-down arrangements (if a platform closes down its operations), complaint handling, conflicts of interest, disclosure, credit risk assessment, 'contingency' funds, and other areas have been

delegated to the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA). This will allow the EU further time for appropriate rules to be developed.

I am writing in similar terms to Sir William Cash, and am copying this letter to the Clerks of both Committees Jessica Mulley (Commons) and Chris Johnson (Lords), to Les Saunders, Cabinet Office, and James Chandler, HM Treasury.

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

JOHN GLEN