HOUSE OF LORDS
European Union Committee

House of Lords
London
SW1A 0PW

Tel: 020 7219 3616
Fax: 020 7219 6715
euclords@parliament.uk
www.parliament.uk/lords

John Glen MP
Economic Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London, SW1A 2HQ

30 October 2019

Dear John,

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

11595/19 ADD1: ANNEX to COMMUNICATION FROM THE COMMISSION Equivalence in the area of financial services

Thank you for your Explanatory Memorandum dated 30 August 2019, which was considered by the EU Financial Affairs Sub-Committee on 30 October 2019.

We are disappointed that the Government did not provide more information regarding its position on the Commission's views on equivalence, as articulated in this Communication, as they will have clear implications for any future negotiations with the EU in the area of financial services.

The Communication refers to the temporary equivalence decisions that have been adopted for UK central counterparties and central securities depositories in the event of a 'no deal' Brexit. What is the Government's view of these decisions? Does it believe that their timelines for expiration are appropriate? Are there any other areas that the Government believes should also be covered by an equivalence decision in a 'no deal' scenario?

The Political Declaration notes that each side should start assessing equivalence with respect to the other as soon as possible after the UK's withdrawal from the EU, "endeavouring to conclude these assessments before the end of June 2020." Does the Government believe that, following the extensions to the Article 50 period, there is sufficient time for these assessments to take place? What would the Government's priorities be with respect to these equivalence decisions?

You note in your Explanatory Memorandum that, through the onshoring process, the UK will adopt the EU's equivalence framework after Brexit, as well as the equivalence decisions that will have been made by the Commission. What discussions has the Government had with other third countries to ensure that the UK continues to benefit from any market access in financial services that it currently has as an EU Member State? Would the Government consider withholding any equivalence decisions, either for the EU or for any other third countries, if reciprocal arrangements are not in place for the UK?

The Commission has decided to withdraw equivalence decisions that were previously in place and recently allowed a temporary decision to expire. After the UK's withdrawal from the EU, are there any specific areas where the Government might diverge from the EU's exercise of equivalence determinations, such as for Swiss share trading venues?

Parliament plays an important role in holding Government to account for its decisions. In this spirit, what procedure will the Government adopt in giving legal effect to equivalence decisions, and what role will Parliament, and parliamentary committees, play?

The Government has recently agreed a memorandum of understanding with the regulators on equivalence and exemption determinations after Brexit, which notes that "the regulators are responsible for determining whether to publish a summary of their advice, as well as any materials they deem necessary in support of it." Given the importance that the regulators' advice will have in making equivalence decisions, we believe that a summary of this advice should be published for all determinations that are laid before Parliament.

We retain the items under scrutiny and look forward to your response in the standard 10 working days.

I am copying this letter to Sir William Cash MP, Chair of the Commons European Scrutiny Committee; Jessica Mulley, Clerk to the Commons European Scrutiny Committee; Les Saunders, DExEU; and Aidan Irwin-Singer, Departmental Scrutiny Coordinator, HM Treasury.

Charles Kinnoull

Lord Kinnoull
Chair of the European Union Committee