

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

7 July 2021

Rt Hon Penny Mordaunt MP
Paymaster General
Cabinet Office
70 Whitehall
London, SW1A 2AS

Proposal for an EU Directive on the resilience of critical entities (COM(20) 829) (41751)

Thank you for [your letter of 21 June 2021](#) in which you respond to some of the questions raised in [our letter of 12 May 2021](#) concerning the legal and policy implications of a proposed EU Directive on the resilience of critical entities.

You state that you “deem the proposed Directive to be out of scope” of the Protocol on Ireland/Northern Ireland while adding that “a formal determination has not yet been made”. There remains in our view considerable uncertainty about the relationship between the proposed Directive and the application of existing, new or amended EU laws under the Protocol on Ireland/Northern Ireland as well as the impact that any changes to EU law may have on UK national critical infrastructure or on UK operators involved in EU supply chains in the sectors covered by the proposal. There is a broader question too about the Government’s approach to weighing the costs and benefits of regulatory alignment and divergence after Brexit which your letter does not address. I would therefore be grateful if you could:

- clarify whether you mean that the Government, or the EU and the UK jointly, have yet to make a formal determination on whether the proposed Directive is within the scope of the Protocol and inform us when such a formal determination has been made;

- inform us of any discussions which take place in the Joint Consultative Working Group on the proposed Directive and its possible application in Northern Ireland under the terms of the Protocol *before* its final adoption by the EU (under Article 15(3) of the Protocol), as well as any discussions which take place within the EU/UK Joint Committee *after* its adoption (under Article 13(4) of the Protocol);
- provide further information on existing cross-border supply chains and other interdependencies between the EU and the UK in the sectors covered by the proposed Directive and their significance;
- explain what assessment you have made of the impact that a divergence in the regulatory approaches taken by the EU and the UK to critical entities providing services which have a vital economic or societal function may have on UK national critical infrastructure or UK operators involved in EU supply chains; and
- indicate what steps the Government is taking to identify, assess, manage and mitigate the impact that divergent regulatory approaches in the EU and the UK may have for businesses operating across the UK.

We ask you to respond by the beginning of September.

I am copying this letter to Simon Hoare MP and Steve Habberley, Chair and Clerk of the Northern Ireland Affairs Committee; William Wragg MP and Gavin Blake, Chair and Clerk of the Public Administration and Constitutional Affairs Committee; the Earl of Kinnoull and Simon Pook, Chair and Clerk of the European Affairs Committee in the House of Lords; and to Les Saunders and Donald Harris in your Department.

CHAIR