

# European Scrutiny Committee

House of Commons London SW1A 0AA

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From: Sir William Cash MP

1 December 2021

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

## **Reform of EU money laundering rules: implications for the UK**

Dear John

We have recently considered a package of measures proposed by the European Commission in June 2021 to strengthen the EU's rules against money laundering.<sup>1</sup> Although, if agreed, the changes proposed would not apply to the UK, they may, nonetheless, impact domestic policy and legislative choices. We would welcome further information on the following matters.

### 1. HMT's review of the UK's anti-money laundering regime

In its [Economic Crime Plan 2019-22](#), the Government recognised that criminals might seek to exploit changes created by the UK's exit from the EU, potentially leading to an increase in fraud and money laundering threats. It gave HMT the task of undertaking a comprehensive review of the effectiveness and scope of the UK's anti-money laundering and counter-terrorist financing (AML/CFT) regulatory and supervisory regime to be completed by June 2022.<sup>2</sup>

### **What progress has been made in HMT's review and how supportive are stakeholders of changes to the current regime?**

### 2. Lord Frost's review of retained EU law

In September 2021, Lord Frost [announced](#) a wider review of the status and content of retained EU law.<sup>3</sup> He has indicated that parts of the regulatory regime

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<sup>1</sup> A [Regulation establishing a new EU Anti-Money Laundering Authority](#); a [Regulation on the prevention of money laundering and terrorist financing](#); a [revised Regulation on transfer of funds](#); and a [sixth money laundering Directive](#).

<sup>2</sup> Action 33 of the Government's Economic Crime Plan 2019-2 (July 2019).

<sup>3</sup> [Lord Frost's Statement](#) to the House of Lords made on 16 September 2021.

for financial services inherited from the EU are “inflexible and overly restrictive” and that more should be done to ensure money laundering regulations do not place a disproportionate burden on businesses.<sup>4</sup>

**How does HMT’s review of the UK’s current AML/CFT regulatory and supervisory regime fit into the Government’s wider review of retained EU law? How does the Government intend to involve Parliament in these reviews? How soon do you expect to make concrete recommendations for changes to retained EU law?**

### 3. Weighing the costs and benefits of divergence

The scope for substantial divergence in the EU and UK regulatory and supervisory regimes to counter money laundering and terrorist financing appears limited as both are members of the Financial Action Task Force (FATF) and are unlikely to depart from FATF standards. Article 653 of the UK/EU Trade and Cooperation Agreement (TCA) requires that the EU and the UK “each maintain a comprehensive regime to combat money laundering and terrorist financing, and regularly review the need to enhance that regime, taking account of the principles and objectives of the FATF Recommendations”. Nonetheless, shortcomings in the EU’s own regime –which the EU’s reform package is intended to address—suggest that even relatively small differences can create a fragmented regulatory landscape which criminals can exploit.

**What approach will the Government take to weighing the costs and benefits of divergence in this area and will its assessments be made public? To what extent does Article 653 TCA limit the Government’s flexibility to deregulate in this area, given that it may be perceived as a weakening of the current anti-money laundering regime? How might divergence affect existing or future equivalence decisions in the financial services sector and the continued participation of UK banks or other financial institutions in the Single Euro Payment Area (SEPA)?**

### 4. Regulatory cooperation

The TCA expressly provides that the UK and EU are free to determine their own approaches to regulation and the level of protection each considers necessary to pursue their public policy objectives.<sup>5</sup> Part Two of the TCA includes a ‘best endeavours’ commitment to implement and apply internationally agreed standards, including those set by FATF,<sup>6</sup> as well as provisions to embed good regulatory practices and regulatory cooperation. The

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<sup>4</sup> [Lord Frost’s letter of 16 September 2021](#) to the Rt Hon. Sir Iain Duncan Smith MP responding to the recommendations made by the Taskforce on Innovation, Growth and Regulatory Reform.

<sup>5</sup> Article 340 TCA, Part Two, Title X on good regulatory practices and regulatory cooperation.

<sup>6</sup> Article 186 TCA.

EU and the UK may agree to engage in regulatory cooperation in areas of common interest, such as money laundering. This would entail even closer information-sharing arrangements and a mutual commitment to considering each other's regulatory approach when preparing new or revising existing rules.<sup>7</sup>

**Is money laundering an area in which the Government would welcome closer regulatory cooperation with the EU? What progress has been made towards the signature of the UK/EU Memorandum of Understanding on Financial Services, and would the forum this Memorandum envisages provide space for discussions on AML/CTF issues?**

I look forward to receiving your response in January 2021.

I am copying this letter to Rt. Hon Mel Stride MP, Chair of the Treasury Committee and Gosia McBride, Clerk of that Committee; to Rt. Hon Yvette Cooper MP, Chair of the Home Affairs Select Committee and Elizabeth Hunt, Clerk of that Committee; to Lord Kinnoull, Chair of the House of Lords EU Select Committee, and to Nick Boorer, Clerk of that Committee; to Maitreya Thakur and James Chandler at your Department; and to Les Saunders in the Cabinet Office.

**CHAIR**

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<sup>7</sup> Article 351 TCA.