Supplementary written evidence from Sir John Cunliffe (RFS0012)

1. **Is it correct that the EU has issued 21 equivalence decisions to the US, 15 to Singapore, 13 to Switzerland, yet the UK only has one?**

This is primarily a question for the European Commission (EC) to confirm. The number of equivalence decisions quoted aligns with the information on the Commission's **website** where the latest published information is available as of 10/02/2021. However, we understand that the EU granted a further equivalence decision to the US, Singapore and Switzerland in respect of Article 391 of the Capital Requirements Regulation (CRR) in October 2021.

The EU granted the UK two time-limited equivalence decisions, one for central counterparties (CCPs) and one for central securities depositories (CSDs), the latter of which has now expired. Subsequently, the EU extended the time-limited equivalence decision for UK CCPs until June 2025, and UK CCPs have been recognised by the European Securities and Markets Authority.

For now, the European Commission has indicated that there is no expectation of further equivalence decisions in other areas. The Commission have said that further equivalence decisions would not just consider current regulation in the UK – which largely mirrors the EU – but also future plans. This a standard that we are not aware of them holding any other country to.

Our view continues to be that equivalence should be a technical, judgement and outcomes-based process and that a comprehensive set of mutual decisions is in the best interests of both the UK and the EU. The UK has already unilaterally determined the EU equivalent in a range of areas across the financial services sector (as **announced** by the Chancellor in November 2020).

2. **Does this imbalance create a competitive disadvantage for the UK?**

There are two types of imbalances that are relevant for consideration:

- The imbalance between the UK and the EU's approach to openness (particularly with respect to access arrangements for overseas financial firms); and
- The imbalance arising from the EU's decision to grant equivalence to other jurisdictions (in certain areas) and not to the UK.

As host to a large international financial centre, the UK has a global responsibility to maintain regulation and supervision to the highest international standards. In this context, the Bank has been committed to an approach of 'safe openness'. Being open enhances the efficiency and risk-sharing of the financial system, but it also necessitates the effective management of cross-border risks (via a combination of internationally agreed high prudential standards, close international supervisory cooperation, and a shared assessment of global systemic risks). Where other jurisdictions are not as open, this approach might naturally create some asymmetries between the UK and the other jurisdictions. However, the overall impact of such asymmetries are likely to be fairly limited, including from a competitiveness perspective, given the benefits to firms of operating in a large open financial centre.

While a small number of equivalence provisions provide for market access, others allow firms to benefit from regulatory relief (eg. in the case of capital requirements). In the latter cases, an equivalence decision would not grant UK firms to access the EU. Therefore, the presence of equivalence decisions does not necessarily imply a significant competitive advantage for firms from other jurisdictions versus the UK (in terms of doing business in the EU).

Indeed, of the equivalence decisions granted by the EU to the US, Singapore and Switzerland, the majority are unrelated to trade and market access, and instead relate to, for example, prudential requirements for credit institutions and investment firms.

In terms of facilitating market access, in our view there are two areas where equivalence would be particularly important.

One is MiFIR[1] Article 47, which covers the direct provision of investment banking services across borders. At present, the EU has not found any country equivalent under MiFIR Article 47, so the question of an imbalance does not arise. Note that the UK has not granted the EU equivalence under MiFIR Article 47.

The other is EMIR[2] Article 25, which covers the recognition of third-country central counterparties (CCPs), and for which the UK currently has a time-limited equivalence provision until June 2025 (as described above). The regimes for CCPs in the US, Singapore and Switzerland have been declared equivalent by the EU.

There could of course be exceptions, and an imbalance in equivalence decisions could have some impact on firms' business models. For example, since the end of the transition period, EU firms in scope of the EU Derivative Trading Obligation

[1] Markets in Financial Instruments Regulation.

[2] European Markets Infrastructure Regulation.

(DTO) are no longer able to trade some classes of derivatives on UK trading venues, and UK firms in scope of the UK DTO are no longer able to trade these derivatives on EU trading venues.[3] This has resulted in relocation of some of this trading activity to venues in the United States. Both the UK and the EU have granted equivalence to the US in respect of the DTO.

As noted in **previous written evidence** provided to this Committee, looking further ahead, both the UK and the EU's access arrangements for overseas financial services firms will continue to evolve alongside firms' business models. The UK's open approach, as evidenced by the Government's decisions to provide equivalence to the EU, combined with the UK authorities' commitment to robust prudential standards in line with the best global approaches, will continue to facilitate cross-border activity into and out of the UK.

[3] The FCA are using the Temporary Transitional Power (TTP) to modify the application of UK DTO in specific instances. See **DTO statement** for more information.