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The Rt Hon. the Lord Davies of Oldham  
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*Dear Bryan,*

I am writing to you following the debate on 23 March on the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2017. I welcome the support you offered for the Markets in Financial Instruments Directive (MiFID) II and for the Order, which transposes a key part of the directive into UK law. I promised to write to you on a number of issues.

### **Consultation timing**

First, as you are aware, the government consulted on its transposition of MiFID II in 2015. MiFID II was itself subsequently delayed by one year from 3 January 2017 to 3 January 2018. As a result, the government published its consultation response earlier this year. This document summarises the responses received from stakeholders.

### **Binary options**

Second, in relation to the timing of the Financial Conduct Authority's (FCA) guidance on binary options, the FCA published a discussion paper on its approach on 6 December 2016.

If you need copies of the consultation response and the FCA discussion paper, please let me know.

If the FCA decides to bring forward specific rules following this for the binary options market, we understand they expect to publish a consultation paper later this year, with the intention that these rules will apply from 3 January 2018 when the transfer of regulation from the Gambling Commission to the FCA takes effect.

You also asked what our future plans are for fees in relation to binary options. There are a small number of firms whose only product licenced by the Gambling

Commission is binary options. Therefore once the transfer has taken place, those firms will no longer require a Gambling Commission licence.

As those operators will already have been required to pay the full annual licence fee up front, the government is considering whether any transitional arrangements would be appropriate in relation to the fees already paid. If legislative provisions are required, any such transitional provisions will be included a subsequent statutory instrument. The issue does not arise in the case of firms that also offer other betting products as those will continue to be regulated by the Gambling Commission.

### **Local government**

Third, you asked about the impacts on local government. MiFID II classifies local authorities as retail clients for the purposes of investor protection. However, local authorities are able to request treatment as a professional client subject to meeting certain criteria. As set out in the government's impact assessment, the Treasury does not expect any costs to be accrued from this action.

It is important the right balance is struck between ensuring local authorities, in particular those administering funds of the local government pension scheme, receive the appropriate protections when purchasing complex financial instruments and investment services. It is also important to ensure that those who are sufficiently experienced and knowledgeable can access the right financial products and services for them.

We have worked closely with the FCA to ensure that the right criteria are in place for local authorities. The FCA consulted on this issue on 29 September 2016 and will set out their final rules in a policy statement this summer. FCA officials would be happy to speak to you about this issue and my office can put you in contact if this is helpful.

### **Cost to business**

Finally, you asked about our estimated annual net cost to business. The consultation stage impact assessment published in 2015 assessed these costs to be £105.2 million. Following more detailed analysis, and the conclusion of our consultation, the final stage impact assessment published this year assessed these costs to be £148.5 million. This higher figure represents the government's best estimate of the annual net cost to business.

I am placing a copy of this letter in the House library.

*Warm regards*

*Lucy*

**Baroness Neville-Rolfe DBE CMG**