HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Nicky Morgan
House of Commons
London
SW1A 0AA

7th March 2019

Dear Nicky,

FOLLOW-UP FROM THE COMMONS DEBATE ON 25 FEBRUARY CONCERNING THE DRAFT FINANCIAL SERVICES AND MARKETS ACT 2000 (AMENDMENT) (EU EXIT) REGULATIONS 2019

I am writing following the House of Commons debate on the draft Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019, which took place on 25 February 2019. At that debate, I committed to write to you to address two points you raised with regards to our methods of calculating familiarisation and compliance costs for business in our onshoring impact assessments.

Firstly, you expressed a concern about the use of word counts as the basis for calculating familiarisation costs in our impact assessments. In developing this methodology, HM Treasury has drawn on government better regulation guidance, and consulted with impact assessment experts across government. However, as is normal for any analysis, it is based on a number of assumptions and limitations.

Familiarisation costs, as set out in the impact assessments themselves, are intended to cover only a limited section of the potential costs on a firm – namely, the cost of hiring an external legal expert to read through the legislation and disseminate legal advice to firms' internal EU exit compliance and legal teams. Word count is therefore used to provide an imperfect, but nonetheless reasonable, estimate of this cost. Familiarisation costs do not represent any wider costs of disseminating information throughout the business (where necessary), or costs of further discussions with legal advisers following

the initial legal advice. They also do not include the costs of implementing changes to business processes following familiarisation.

The Treasury has therefore committed to undertaking further analysis of the impact of these instruments at an appropriate point, should they come into effect: either in the event of leaving without a deal, or in the event that they take effect at the end of an implementation period (with appropriate amendments). In this analysis we will look at what further refinements can be made in estimating familiarisation costs on firms.

You also questioned whether HM Treasury could calculate compliance costs by asking firms of different sizes to provide estimates of what their compliance costs would be. HM Treasury has engaged extensively with industry on the potential impact of our legislative programme on firms and has discussed taking this approach. However, the feedback we have received is that, given both the difficulty of separating out the interrelated impacts of all parts of EU Exit legislation and broader negotiation outcomes as well as the heavy burden of preparatory EU Exit work that firms are currently undertaking, it would be challenging for firms to provide quantative assessments of the cost of complying with individual SIs and resources could be better spent elsewhere. Miles Celic, chief executive of TheCityUK, made this point in a letter in November 2018 to Anthony Browne, chair of the Regulatory Policy Committee.

However, as above, Treasury to committed to undertaking further analysis of the impact of these instruments at an appropriate point, should they come into effect and will review our methodology for calculating compliance costs as part of this analysis.

I do hope this letter answers any outstanding questions you had from the debate.

A copy of this letter will be placed in the Library of the House.

With very best regards

John

JOHN GLEN