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Dear Colleagues,

I am writing to further address some of the points that were raised during the course of the debate on the Over the Counter Derivatives (OTC), Central Counterparties (CCPs) and Trade Repositories (Amendment, etc., and Transitional Provision) (EU) Exit) Regulations 2020 on Thursday 18 June, including some questions which I was unable to address in my closing speech.

Several Noble Lords raised questions concerning how Parliament will be able to scrutinise the new powers which will be transferred to HM Treasury and the Bank of England. As I said during the debate, the allocation of powers between HM Treasury and the Bank of England is consistent with their existing responsibilities and Parliament's scrutiny over these responsibilities.

As you know, responsibility for the so called "location policy" has been transferred to HM Treasury. Given the nature of the UK clearing market, we do not foresee a circumstance in which this tool would be used in practice. In the unlikely scenario that it is necessary to use this power, it would be via a negative regulation. Therefore, Parliament would have the ability to scrutinise the legislation in line with the normal legislative processes. The powers transferred to the Bank of England by this instrument are consistent with their existing responsibilities for managing systemic risks in CCPs. I would expect that Parliament will scrutinise the Bank of England's use of these new powers via the usual Select Committee process, which is consistent with how they currently scrutinise the Bank of England's existing responsibilities for UK CCPs.

Several Noble Lords asked related questions about derivatives regulation more generally, and other types of financial instruments. I have answered these questions individually below.

Lord Holmes of Richmond asked whether we will do more after the Transition Period to optimise our regulatory framework for OTC derivatives. Here, I should emphasise that the Government's priority will be to maintain the highest standards of financial stability and market integrity for OTC derivative regulation, and to align with global regulatory best practices.

The EMIR regulation has so far been successful in managing systemic risk in derivatives markets. Any future UK legislation will be guided by international best practice.

Lord Holmes also raised the topic of stablecoin and asked for an update on the Bank of England's current discussions and consultation on Central Bank Digital Currency (CBDC). With regards to stablecoins, such as Facebook's proposed Libra token, HM Treasury is continuing to engage with the G7, G20 and the FSB, looking at how we can build consensus on regulatory approaches to global stablecoin.

At Budget, the government set out its intention to consult on its regulatory response to cryptoassets, including stablecoins. The government has already brought cryptoassets into scope of anti-money laundering legislation.

HM Treasury has also been working to develop its understanding of CBDC, including the opportunities and challenges involved, and the broad set of public policy considerations that relate to CBDC. The Bank of England has published a discussion paper on this topic, and responses were invited from interested parties up until 12 June 2020. HM Treasury will be working with the Bank of England over the coming months to consider appropriate next steps based on these responses and ongoing analysis, bearing in mind the coincidence of the Bank of England's consultation period with the recent crisis.

Baroness McIntosh of Pickering and Baroness Bowles of Berkhamsted raised concerns about the European Union (Withdrawal) Act 2018 and the complexity of the various instruments introduced under it to correct the deficiencies arising from EU regulations. The next phase of the Treasury's Future Regulatory Framework Review will focus on developing a more coherent approach to FS regulation in the UK, exploring how the UK's expert, independent regulators can take the lead on designing and implementing the specific requirements that apply to firms, while ensuring there is appropriate democratic policy input. The aim is to put in place a clearer split of regulatory responsibilities, and a rulebook that is simpler and more straightforward for the industry, and Parliament, to engage with. In the meantime, the National Archives are engaged on a programme of publishing EU law, and UK amendments to it to form retained EU law, for publication on the [legislation.gov.uk](http://legislation.gov.uk) website.

Lord Wei asked about the interaction between this instrument, the historic actions of parts of the financial services industry, and wider concerns around supply chains. Specifically, Lord Wei asked whether these wider considerations could complicate global derivative markets. There is a complex interaction between a derivative product and the wider supply chains from which a derivative derives. However, there is no direct connection between the two, and so I would not expect these wider considerations to complicate derivative markets.

Baroness Kramer raised the subject of changes in the collateralisation of derivative products. There are robust rules and regulations around CCPs' determination of collateral requirements, including measures aimed at ensuring that rapid increases to margin requirements do not cause wider problems in the market, and therefore they monitor and adjust these requirements in accordance with changing market conditions. This has been successful in response to COVID-19.

Finally, several Noble Lords asked more generally how this instrument interacts with our future relationship with the EU. As per the Political Declaration, the UK and EU have committed to assess each other against all existing equivalence regimes, including CCPs. I am unable to comment on the expected outcome of these assessments at this stage, but in that context, I would highlight that this instrument only addresses deficiencies arising from the EU regulation in the UK context; it does not introduce any significant policy changes.

I am also unable to comment on how and to what extent the EU will seek to use the new EMIR 2.2 framework in the future, particularly in relation to UK CCPs. I am aware that the European Commission are currently consulting on their delegated acts, which will make the framework operable once adopted, but we do not know the final detail of their framework at this stage.

I hope you find this letter helpful. I will also place a copy in the House library.

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a series of loops and a long horizontal stroke.

**BARONESS PENN**