

Rt Hon Nicky Morgan MP
Chairman
Treasury Select Committee
House of Commons
London
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Robert Chote
Chairman

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Dear Nicky

RE: European Commission infraction proceedings

Thank you for your letter regarding the potential fiscal risks implied by the Treasury's statement on 9 March regarding European Commission infraction proceedings on the VAT treatment of certain exchange traded commodity derivatives. We have asked the Treasury for any information they can share on the potential exposure and have received the following response:

"As mentioned in HMT's published statement issued on 9 March, the UK Government will consider the Commission's views and will respond in due course. The announcement of infraction proceedings does not have any immediate effect on UK tax law and past and current trading activity under the terminal markets order is unaffected. The matter will be subject to the normal infraction process, which is open to challenge.

At this stage, we would find it difficult to provide a full response to the Committee's questions because there are legal restrictions which prevent us from sharing the contents of the EU Commission's letter. Also, disclosing details of the Commission's case could compromise our legal defence of the infraction.

Because this infraction concerns the tax treatment of traded securities, the FCA has advised HMT that we must take every step to protect this information and minimise the risk of unauthorised disclosure, which could constitute market abuse and be subject to criminal penalties."

Had we known of these infraction proceedings before closing the EFO, we would have cited it as a risk analogous to that mentioned in paragraph 4.207. But we would not have been able to quantify it on the basis of this response.

Best regards, Robert

Robert Chote
Chairman