Dear David,

Draft Credit Rating Agencies (Amendment, etc.) (EU Exit Regulations) 2019

I am writing in response to your letter of the 9 January 2019. In your letter you noted that the Secondary Legislation Scrutiny Committee had brought the above Regulations to the special attention of the House, and commented on the above associated impact assessment.

This letter expands on the evidence base and assumptions used by HM Treasury in preparing the impact assessment. The impact assessment covers the above Regulations and another eight statutory instruments being laid before Parliament by HM Treasury in preparation for the UK’s departure from the European Union.

HM Treasury has worked at pace to prepare a comprehensive impact assessment whilst also undergoing the necessary scrutiny prior to publication, engaging extensively with the financial regulators (the Financial Conduct Authority and the Bank of England/Prudential Regulation Authority). The impact assessment received a ‘fit for purpose’ rating from the Regulatory Policy Committee on 19 November 2018 and was published shortly thereafter. Unfortunately, this meant that for several debates the impact assessment was not available for reference.

The impact assessment assesses the impact of the changes made by these instruments to fix deficiencies in existing legislation, compared to the UK statute book as it is expected to be prior to the UK leaving the EU. The impact assessment does not consider the broader impact of the UK’s departure from the EU, which will necessarily entail additional costs.
The impact assessment details several instruments because the impact of these provisions on business is best understood when considering them as a package of interlinked reforms. Additionally, the full impact of these instruments is necessarily dependent on the wider circumstances of the UK’s departure from the EU, including other instruments made under the European Union (Withdrawal) Act 2018, amendments to other related legislation, and subsequent action taken by industry, the financial regulators and the European authorities.

The impact assessment states that it has not been possible to undertake a formal consultation with industry on the instruments, and therefore no Consultation Stage Impact Assessment was prepared. However, HM Treasury has engaged extensively with industry throughout the drafting process. Industry stakeholders are supportive of the Treasury’s work to ensure that there will be a functioning financial services regulatory regime at the point where the UK leaves the EU in any scenario, including if no deal is agreed.

These instruments are not intended to make policy changes, but to amend deficiencies in retained EU legislation that arise as a result of the UK leaving the EU. Therefore, the instruments being prepared by HM Treasury in preparation for the UK’s departure from the EU are intended to broadly preserve the status quo.

The impact assessment details the assumptions and limitations of the analysis presented. As these instruments are not intended to make policy changes, but rather amend deficiencies in order to ensure a functioning regulatory regime for financial services once the UK has left the EU, the estimated costs presented in the impact assessment primarily comprise of familiarisation costs. Where additional direct costs to business have been identified, such as changes to IT systems or changes to reporting requirements, these have been indicated and quantified where HM Treasury and the financial regulators have been able to provide this information.

Familiarisation costs have been provided as an indication of the impact of these instruments on business. However, the impact of each instrument will vary depending on the nature of firms affected, the types of activities these firms undertake, and how firms choose to respond to the changes introduced by these instruments. These variations, and the complex interdependencies between these and other related instruments, make it difficult to identify distinct impacts and provide an assessment of what firms will be affected and how. However, despite these limitations we believe the impact assessment provides a good overview of the impact of these instruments.

Without these instruments, the UK financial services sector would face far greater costs and far greater uncertainty due to defective legislation and subsequent risks to financial
stability, and potential disruption to market access. I therefore believe that these instruments deliver significant benefits and ensure there will be robust regulatory oversight of the financial services sector following the UK’s departure from the EU.

I hope this addresses the Committee’s concerns and I am happy to answer further questions. I will deposit this letter in the House Libraries.

with very best regards

[Signature]

JOHN GLEN