FINANCIAL SERVICES (IMPLEMENTATION OF LEGISLATION) BILL

Thank you for your letter dated 19 December 2018 regarding the Financial Services (Implementation of Legislation) Bill, in which you suggest the Government explore some further legislative qualifications for the powers contained in clause 1 of the Bill.

These powers were subject to extensive debate at Second Reading and Committee stages of the Bill, and it was clear from this, and from the concerns raised in your letter, that further assurances were needed regarding their breadth and the likely circumstances of their use. After careful consideration, the Government did not consider it was possible to place the two non-legislative assurances you referred to on a statutory footing in a manner that was legally robust. However, ahead of Report stage, the Government tabled a number of amendments to qualify the powers as originally proposed, which I hope address the concerns underlying the Committee’s suggestions.

The amendments are firstly aimed at clarifying the limitations on the power. Following the recommendation by the Delegated Powers and Regulatory Reform Committee (DPRRC), they remove the ability of Government to make policy adjustments (other than to correct deficiencies) to files that have already been agreed at EU level, but will not be in force by Exit day.
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They also make clear on the face of the Bill that, in relation to files still in negotiation, the ability to make adjustments is strictly limited in scope. These can only be made in order to reflect the UK's new position outside the EU, and only where they do not alter the original legislation in a major way.

Secondly, the amendments also substantially bolster the reporting requirements in the Bill, which was a focus of several amendments at Committee stage. The Treasury will now be compelled to publish a draft statutory instrument, with a report detailing and justifying any proposed changes from the original EU file, at least one month prior before it can be laid under the affirmative procedure.

Further, the Government will be under a duty to publish six-monthly overarching reports, rather than annually. These reports will detail how the Treasury has, and how it intends to, use the power. They will also set out the Government's justification for any proposed changes from the original EU file, providing a table setting out where such changes have been made. There will also be a requirement for the regulators to report annually on their use of any powers sub-delegated to them using the power in this Bill, in line with the requirement in the EU Withdrawal Act.

I hope these amendments provide some assurance as to the proposals in clause 1, and I would again like to thank the Committee for its consideration of the delegated powers in the Bill.

With all good wishes,

[Signature]

The Rt Hon. the Lord Bates
Lords Spokesperson for HM Treasury