

# Economic and Financial Affairs, and International Trade (Sub-Committee A)

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ALTERNATIVE INVESTMENT FUND MANAGERS (9494/09, 9495/09)

### **Letter from the Chairman to Lord Myners, Financial Services Secretary, HM Treasury**

Thank you for your Explanatory Memoranda 9495/09, 9589/09 and 9590/09 of 21 May on remuneration recommendations and 9494/09 of 20 May 2009 on proposals for a Directive on

Alternative Investment Fund Managers. These were considered by EU Sub-Committee A on 9 June, where we decided to hold the documents under scrutiny.

We would like to invite you to appear before the Committee to provide information on the Government's opinion on these proposals, given their significant and controversial nature.

*9 June 2009*

## BUDGET: ALLOCATION OF FINANCIAL INTERMEDIATION SERVICES FOR THE ESTABLISHMENT OF THE GROSS NATIONAL INCOME (GNI) (10343/09)

### **Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury**

Thank you for your Explanatory Memorandum 10343/09 on the calculation of Gross National Income for the purpose of own resources. This was considered at the EU Sub-Committee A's meeting of 7 July and we decided to hold the document under scrutiny.

We agree that it would be most appropriate to consider all proposals for changes to the calculation of Gross National Income for the purpose of own resources together as part of the budget review. We also agree with you that there has not been enough data collected to prove satisfactorily the robustness of the data source. Therefore, this proposal should be delayed to allow enough time for the collection of robust data. We would like to request updates on the progress of negotiations towards this end.

*8 July 2009*

### **Letter from Ian Pearson MP to the Chairman**

Thank you for your letter of 8 July advising me of the outcome of the EU Sub-Committee A's consideration, on 7 July, of my Explanatory Memorandum on the use of FISIM for own resources.

Your letter advises that the Sub-Committee agrees that it would be appropriate to consider all proposals for changes to the calculation of GNI for own resources purposes at the same time. The Sub-Committee also felt that there has not yet been enough data collected to test the robustness of the data and that the proposal should be delayed to allow time for this to be tested, and asked for updates on the progress of negotiations.

An initial discussion of the matter was held in Brussels at a meeting of the Own Resources Working Group on Monday 6 July. At that meeting a number of Member States shared the UK's concerns over the timing of this proposal, notably the Netherlands, Germany and Ireland, while a number of other Member States voiced their concerns over the issue of the proposal being retrospective. No conclusions were formed at this meeting although it was suggested to the European Commission that a better time to deal with this would be as part of any change to the Own Resources system resulting from conclusions on the next Financial Perspective, and on the next change to the European System of Accounts, both of which are scheduled for 2014. Further discussions will take place at meetings of the Own Resources Working Group scheduled for 14 September and 16 October. Before the first of these the European Commission has agreed to provide Member States with data on the financial implications of the proposal.

I hope that your Committee will find this update helpful.

*14 July 2009*

### **Letter from the Chairman to Ian Pearson MP**

Thank you for your letter of 14 July on the calculation of Gross National Income for the purpose of own resources (10343/09). This was considered at EU Sub-Committee A's meeting of 13 October and we decided to hold the document under scrutiny.

We are pleased to note that the concerns of the Committee were reflected in your concerns and those of other Member States raised at the meeting of 6 July. We would like to receive updates on the further negotiations of 14 September and 16 October, in particular whether the consideration of the proposal will be postponed until a later date.

*14 October 2009*

### **Letter from Ian Pearson MP to the Chairman**

Thank you for your letter of 14 October and further to my letter of 14 July 2009, I am writing to update you on developments concerning the above proposal.

Since that letter, The European Commission has released figures showing the impact of the proposal on all Member States if it is introduced retrospectively to 1 January 2005 and I attach these figures for your information.

Three meetings of the Own Resources Working Group have also taken place in Brussels to discuss the proposal in detail. Member States are broadly split according to whether they are financial winners or losers. At the latest of these meetings, held on 16 October, a Swedish Presidency compromise proposing retrospection to 1 January 2007, rather than 2005, was discussed but could not be agreed upon. The Presidency has since put forward a further compromise proposal that excludes retrospection and proposes a start date of 1 January 2010, a copy of which is attached.

Although the inclusion of FISIM increases the UK's share of EU GNI, and thus GNI-based contributions, due to the way that the UK abatement is calculated, the increase in the UK's GNI payment is exactly offset, in arrears, by increases in the value of the UK abatement. As a result, in "steady-state" there would be no impact on UK contributions of including FISIM.

The issue of retrospection however, affects the impact of the current proposal on the UK. This is because, after four years, the amount of the UK abatement is considered final, so if FISIM is allocated in 2009 retroactively to 2005, the UK will not see a compensating increase in the value of the abatement for 2005, and would see a substantial increase in its contributions for that year, as the Commission's figures show.

A start date of 1 January 2007 or later would however, eliminate this effect, so that the proposal would have no cost to the UK. I believe therefore that the UK should now be prepared to accept either of the revised proposals that have been tabled.

As the Committee noted earlier, clearly FISIM will have to be taken into account in calculating GNI for the purposes of assessing the own resources liabilities of Member States. Questions concerning the robustness of the data remain, but if revisions to methodology do take place in future, this will be accounted for through adjustments in contributions for earlier years in the same way that other revisions to the GNI data are currently taken into account.

I hope that your Committee will find this update helpful and will now be able to clear this proposal from scrutiny.

*29 October 2009*

Impact of FISIM allocation on EU budget financing (if FISIM allocation for OR purposes is implemented in 2009, with retroactive effect back to 2005)							
	2005	2006	2007	2008	2009	total cumulative effect	
	EUR million						% GNI
BE	-8,7	-0,5	+4,2	-1,3	-1,2	<b>-7,6</b>	-0,002%
BG	-2,2	-2,2	-0,3	-0,1	-0,1	<b>-4,9</b>	-0,014%
CZ	-0,1	+0,6	-0,2	+1,4	+1,4	<b>+3,2</b>	+0,003%
DK	-3,9	-3,6	-4,6	-3,7	-4,0	<b>-19,9</b>	-0,008%
DE	+35,4	+10,9	-28,6	+3,8	+3,5	<b>+25,0</b>	+0,001%
EE	-0,1	+0,4	+0,9	+0,5	+0,5	<b>+2,3</b>	+0,016%
IE	+5,1	+9,0	+10,0	+7,6	+6,8	<b>+38,5</b>	+0,027%
EL	+1,2	+5,4	+4,1	+6,0	+7,2	<b>+23,9</b>	+0,010%
ES	+6,9	+21,2	+35,1	+25,5	+26,2	<b>+114,9</b>	+0,011%
FR	-51,3	-31,5	-19,4	-32,3	-35,7	<b>-170,2</b>	-0,009%
IT	-10,3	+9,2	+7,7	+2,1	+2,4	<b>+11,1</b>	+0,001%
CY	-0,0	-0,4	-0,8	-0,3	-0,3	<b>-2,0</b>	-0,012%
LV	-1,0	-0,6	-0,4	-0,6	-0,8	<b>-3,5</b>	-0,018%
LT	-1,3	-1,2	-1,1	-0,7	-1,2	<b>-5,6</b>	-0,020%
LU	-0,2	+0,2	+0,4	+0,3	+0,3	<b>+1,0</b>	+0,003%
HU	+1,4	+1,3	+2,0	+1,9	+3,0	<b>+9,7</b>	+0,012%
MT	-0,1	-0,1	-0,2	-0,1	-0,1	<b>-0,5</b>	-0,008%
NL	-1,4	+1,8	+4,9	+1,8	+3,2	<b>+10,3</b>	+0,002%
AT	-5,2	-4,7	-4,8	-4,9	-5,4	<b>-25,0</b>	-0,009%
PL	-2,2	+2,9	+8,4	+6,2	+9,2	<b>+24,6</b>	+0,009%
PT	+2,4	+7,1	+8,5	+6,2	+6,7	<b>+30,9</b>	+0,020%
RO	-8,4	-8,4	-6,1	-4,9	-5,2	<b>-33,0</b>	-0,027%
SI	-0,4	+0,2	+0,2	+0,4	+0,4	<b>+0,8</b>	+0,002%
SK	+0,4	+0,7	+0,8	+1,6	+2,2	<b>+5,7</b>	+0,008%
FI	-5,7	-3,8	-3,4	-4,1	-4,8	<b>-21,8</b>	-0,012%
SE	-7,2	-8,2	-9,6	-8,5	-10,1	<b>-43,6</b>	-0,015%
UK	+57,0	-5,8	-7,7	-3,8	-4,0	<b>+35,7</b>	+0,002%

## Notes:

- A positive sign in the above table corresponds to additional own resources payments from the Member States concerned. Inversely, a negative sign corresponds to a reduction in own resources payments.

- FISIM allocation increases the amount of the UK correction of year n (via a decrease of the UK advantage) and modifies its financing in year n+1. For the simplicity of presentation, in the above table, all these impacts are included in the figure for year n.

Yet, these impacts may go back only 3 years, since the amount and financing of the UK correction is then considered final, pursuant to the calculation method of the UK correction. Thus, if the FISIM allocation for OR purposes is implemented in 2009, then the 2005 UK correction financed in 2006 (as well as all previous UK corrections) will remain unchanged, even if the retroactivity of FISIM application goes back to 2005. Consequently, the above figures for 2005 do not include any impact on the 2005 UK correction financed in 2006, but only the impact on 2005 VAT & GNI balances, so that the figure for the UK is substantially positive.

Similarly, if the FISIM allocation for OR purposes is implemented in 2010, then the 2006 UK correction financed in 2007 (as well as all previous UK corrections) will remain unchanged; if the FISIM allocation for OR purposes is implemented in 2011, then the 2007 UK correction financed in 2008 (as well as all previous UK corrections) will remain unchanged; etc.

## BUDGET FOR THE EUROPEAN COMMUNITIES 2010

## Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury

Thank you for your Explanatory Memorandum dated 11 June and for meeting with Sub-Committee A on 30 June. The Sub-Committee have now considered the Preliminary Draft Budget (PDB) and have

cleared the item from scrutiny. As is usual practice, the Committee plan to publish a Report on the Budget by the end of July.

We broadly agree with your position. We support the Government's efforts to ensure that EC expenditure delivers value for money, appropriations are based on realistic spending forecasts and Financial Perspective ceilings are respected.

As the Sub-Committee discussed with you at the meeting last week, the Committee shares your concern that the PDB has insufficient margins to accommodate the European Economic Recovery Plan and unforeseen commitments. We believe that appropriations should be reduced under Heading 1a to increase the margin under the Financial Perspective ceiling.

We support the Commission's attempts to focus the Preliminary Draft Budget on economic recovery as a result of the financial crisis. However, we believe that without fundamental reform of the budget system it is difficult for annual budgets to respond to changing situations, as a significant review of the Budget is carried out only once every seven years. The size of the EC Budget also limits any realistic attempts to stimulate economic recovery through this funding source. We were pleased to hear that you will push for the Budget Review to have an ambitious reforming agenda, looking to create a budgetary system that will be able to react effectively to unexpected events.

We are concerned that in the light of the recession the distribution of the Budget favours agriculture because we believe that greater spending in other areas could better contribute to economic recovery. We agree with you that spending on agriculture under Heading 2 should be reduced.

We would be grateful if you could write to the Committee after 10 July to update us on progress at Budget ECOFIN. We look forward to working with you both on this issue and on other dossiers in the future.

8 July 2009

#### **Letter from the Chairman to Ian Pearson MP**

Thank you for your letter of 24 July on The Council's first reading position on the 2010 EC Budget. We considered this letter at our meeting of 20 October.

We note with approval the changes made to the Preliminary Draft Budget, particularly those in line with the conclusions of our recent report *The EC Budget 2010*. This includes the increase of the margin of Heading 1a under the Financial Perspective ceiling to meet commitments for unforeseen circumstances and the reduction in commitments and appropriations under Heading 2.

We look forward to receiving further updates on negotiations on the 2010 Budget.

23 October 2009

#### **Letter from Ian Pearson MP to the Chairman**

Thank you for your letter of 8 July on the EU Preliminary Draft Budget for 2010. I am writing to update you and the your Committee on the Council's first reading position on the 2010 EC budget, agreed at Budget ECOFIN on 10 July.

I am grateful to the Committee for their careful and considered scrutiny of the 2010 Preliminary Draft Budget (PDB). The evidence session on 30 June was interesting as always and helpful to me in developing my approach to the subsequent Budget ECOFIN. I look forward to the Committee's report later this month.

#### **DRAFT BUDGET 2010**

ECOFIN Budget Council agreed the 2010 Draft Budget (DB2010) unanimously on 10 July. As I outlined in the Explanatory Memorandum of 11 June 2009 on the Commission's Preliminary Draft Budget, the Government's key priorities for negotiations over the DB2010 have been to ensure: payment levels that better reflect implementation capacity, to avoid budgetary surpluses; sufficient margins under the Financial Framework ceilings, not least to contribute to the financing of the remaining €2.4 billion outstanding for the European Economic Recovery Plan; and enhanced value for money, including questioning increases for agriculture and administration.

The DB2010 and the statements agreed alongside it go a considerable way to achieving these objectives, specifically through:

- An overall reduction of €1,795m (£1,530 m<sup>1</sup>), or 1.5%, in payment levels compared to the PDB, to €20,521m (£102,696m). This brings the budget more in line with implementation capacity and anticipated requirements;
- An overall reduction of €613m (£522m), or 0.4%, in commitments compared to the PDB, to €37,944m (£117,542m). This significantly increases the margins under the Financial Framework ceilings;
- A €19m (£101m) decrease in payments and commitments in relation to agricultural market interventions;
- Targeted reductions in administration expenditure based on implementation rates, staff number requirements, and vacancy rates; and
- Targeted reductions to the budgets for regulatory agencies to ensure that these more accurately reflect requirements<sup>2</sup>.

The Annex contains a summary of overall commitment and payment levels in the DB2010 by heading. A heading-by-heading breakdown of DB2010 follows here.

Under *sub-Heading 1a (Competitiveness for growth and employment)*, the DB2010 reduces commitments and payments appropriations by €100m (£85m) and €408m (£348m) respectively, compared to the PDB. The margin under the Financial Framework ceiling for commitments was increased to €218m (£186m). The decreases largely reflect targeted reductions in the following areas:

- a €84m (£72m) reduction in payments in four research cooperation budget lines (covering health; nanosciences, nanotechnologies, materials and new production technologies; and transport, including aeronautics and the Clean Sky Joint Undertaking);
- a €74m (£63m) reduction in payments and commitments for administrative management, management, and staff costs;
- a €40m (£34m) decrease in payments in “financial support for projects of common interest in the trans-European energy network”;
- a €30m (£26m) reduction in payments in the “Ideas” budget line; and
- a reduction of €11m (£9m) in commitment levels for decentralised agencies.

Under *sub-Heading 1b (Cohesion for growth and employment)*, the DB2010 reduces payment appropriations by €293m (£250m) compared to the PDB. There were no changes to commitment appropriations. The margin under the Financial Framework ceiling for commitments therefore remains €12m (£10m). Reductions in payment appropriations were made largely through:

- a decrease of €138m (£118m) for the European Regional Development Fund;
- a decrease of €97m (£83m) for the European Social Fund; and
- a decrease of €58m (£49m) for the completion of 2000-2006 programmes.

Under *Heading 2 (Preservation and management of natural resources)*, the DB2010 reduces commitment and payment appropriations by €63m (£309m) and €491m (£418m) respectively, compared to the PDB. The margin under the Financial Framework ceiling for commitments was increased to €1,473m (£1,255m).

These decreases largely reflect targeted reductions in the following areas:

- A €230m (£196m) decrease in payments and commitments for the accounting clearance of previous years’ accounts, with regard to shared management expenditure under the European Agriculture Guidance and Guarantee Fund and the European Agriculture Guarantee Fund;
- A €19m (£101m) decrease in payments and commitments in relation to market interventions; and

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<sup>1</sup> This and subsequent sterling figures calculated at 30 June exchange rate: €1 = £0.8521

<sup>2</sup> Agency requirements were estimated based on a range of criteria, including: establishing the increase of EU administrative expenditure across-the-board at a level near the inflation rate; setting the administrative budget of each agency at a level that took into account their specificities, as well as real and justified needs; carrying out targeted reductions under certain budgetary lines for the agencies, based on 2008 budget outturn and real needs; and increasing the standard flat rate abatement on salaries for most of the agencies, taking into account their current vacancy rate. In line with this, no new posts were accepted, except for new agencies foreseen in 2010 and Frontex.

- A €8m (£84m) decrease in payments for rural development on the basis of anticipated implementation rates.

Under *sub-Heading 3a (Freedom, security and justice)*, the DB2010 reduces commitment and payment appropriations by €6m (£5m) and €8m (£24m) respectively, compared to the PDB. The margin under the Financial Framework ceiling for commitments was increased to €1m (£43m). The decreases largely reflect targeted reductions in the following areas, to bring appropriate levels more into line with anticipated needs and implementation rates:

- a €4m (£3m) reduction in payments for the European Fund for the Integration of Third Country Nationals;
- a reduction of €3m (£3m) in commitments for decentralised agency subsidies.
- a €3m (£3m) reduction in payments for the External Borders Fund;
- a €3m (£3m) reduction in “Prevention of and fight against crime”;
- and a €2m (£2m) reduction in payments and commitments for the European Police Office (Europol).

Under *sub-Heading 3b (Citizenship)*, the DB2010 reduces commitment and payment appropriations by €15m (£13m) and €6m (£22m) respectively, compared to the PDB. The margin under the Financial Framework ceiling for commitments was increased to €34m (£29m). The decreases largely reflect targeted reductions in the following areas, to bring appropriations levels more into line with anticipated needs and implementation rates:

- a reduction of €9m (£8m) and €5m (£4m) in commitments and payments respectively for multimedia actions;
- a €6m (£5m) reduction in payments for “Community action in the field of health”;
- €3m (£3m) in commitments reductions for subsidies to decentralised agencies;
- a €3m (£3m) reduction in payments for the “Europe for Citizens” programme; and
- a €3m (£3m) reduction in payments for the European Centre for Disease Prevention and Control.

Under *Heading 4 (EU as a global player)*, DB2010 reduces commitment and payment appropriations by €9m (£76m) and €08m (£433m) respectively. The margin under the Financial Framework ceiling for commitments was increased to €10m (£264m). The decrease in payments is partly due to the fact that €249m (£212m) for the Emergency Aid Reserve has been removed from DB2010. The commitments level of the Reserve every year is set in the Inter-Institutional Agreement. Appropriate payments are made available for it throughout the year as and when required to respond to emergency needs, and therefore Council considers that payments do not need to be presented in the DB2010.

The remaining reductions largely reflect targeted decreases in the following areas:

- a €50m (£43m) reduction in commitments and a €166m (£141m) reduction in payments for the Instrument for Pre-Accession;
- a €29m (£25m) reduction in payments for the European Instrument for Democracy and Human Rights; and
- reductions of €8m (£7m) and €21m (£18m) in commitments and payments respectively for macro-financial assistance.

Under *Heading 5 (Administration)*, the DB2010 reduces commitment and payment appropriations by €40m (£34m), compared to the PDB. The margin under the Financial Framework ceiling for commitments was increased to €276m (£235m). The reduction in Heading 5 was enabled by:

- establishing the increase across-the-board of EU administrative expenditure at a level near the inflation rate;
- setting the administrative budget of each institution at a level that took into account their specificities as well as real and justified needs;
- carrying out targeted reductions under certain budgetary lines for all the institutions, taking into account budget outturn in 2008 and real needs; and

- increasing the standard flat rate abatement on salaries for most of the institutions, taking into account their current vacancy rate.

During the conciliation meeting with the European Parliament, attended by the Commission, that followed the Council's first reading discussion, a Joint Statement was agreed on the importance of full recruitment in relation to the 2004 and 2007 enlargements posts. The Government supports this statement, which calls for quicker progress in ensuring agreed posts are filled.

The Government will continue to pursue our key objectives in subsequent stages of the 2010 budget process, building on the well-balanced compromise achieved in the DB2010.

*24 July 2009*



## SUMMARY OF COUNCIL'S FIRST READING POSITION

€ million	FF ceiling	PDB 2010		Council's Draft Budget		Difference (3)	
		CA (1)	PA (2)	CA	PA	CA	PA
Heading							
1a Competitiveness for growth and employment - Margin <sup>3</sup>	12,388	12,769 119	10,982	12,170 <sup>4</sup> 218	10,574	-100	-408
1b Cohesion for growth and employment - Margin	49,394	49,382 12	36,382	49,382 12	36,089	0	-293
2 Preservation and management of natural resources Of which: market-related spending and direct aids - Margin	60,113	59,004 43,754 1,109	58,075 43,626	58,640 43,390 1,473	57,583 43,271	-363 -355	-491 -366
3a Freedom, security and justice - Margin	1,025	980 45	720	974 51	692	-6	-28
3b Citizenship - Margin	668	649 19	640	634 34	614	-15	-26
4 European Union as a Global Player - Margin <sup>5</sup>	7,893	7,921 221	7,665	7,583 <sup>6</sup> 310	7,156	-89	-508
5 Administration <sup>7</sup> - Margin <sup>8</sup>	8,008	7,851 230	7,851	7,812 276	7,812	-40	-40
<b>TOTAL (3)</b>		<b>138,564</b>	<b>122,322</b>	<b>137,944</b>	<b>120,521</b>	<b>-613</b>	<b>-1795</b>

i. CA = commitment appropriations

ii. PA = payment appropriations

iii. Due to rounding, figures in difference column may not equal column differences, and sum of rows may not equal the total

<sup>3</sup> The margin for Heading 1 (sub-Heading 1a) does not take into account the appropriations related to the European Globalisation Adjustment Fund (€500m).

<sup>4</sup> The Council's Draft Budget discounts appropriations related to the European Globalisation Adjustment Fund (€500m).

<sup>5</sup> The margin for Heading 4 does not take into account the appropriations related to the Emergency Aid Reserve (€249m), as foreseen in the IIA of May 2006.

<sup>6</sup> The Council's Draft Budget discounts appropriations related to the Emergency Aid Reserve (€249m).

<sup>7</sup> Administration totals shown reflect updated estimates from institutions and may not match those contained in the initial PDB.

<sup>8</sup> For calculating the margin under the ceiling for Heading 5, account is taken of the footnote (1) of the financial framework 2007-2013 for an amount of €78m for the staff contributions to the pension scheme.

<i>£ million</i>	<i>FF ceiling</i>	<i>PDB 2010</i>		<i>Council's Budget Draft</i>		<i>Difference</i>	
<i>Heading</i>		<i>CA (4)</i>	<i>PA (5)</i>	<i>CA</i>	<i>PA</i>	<i>CA</i>	<i>PA</i>
1a Competitiveness for growth and employment - <i>Margin</i> <sup>9</sup>	10,556	10,880 <i>101</i>	9358	10,370 <sup>10</sup> <i>186</i>	9010	-85	-348
1b Cohesion for growth and employment - <i>Margin</i>	42,089	42,078 <i>10</i>	31,001	42,078 <i>10</i>	30,751	0	-250
2 Preservation and management of natural resources Of which: market-related spending and direct aids - <i>Margin</i>	51,222	50,277 <i>37,283</i> <i>945</i>	49,486 <i>37,174</i>	49,967 <i>36,973</i> <i>1255</i>	49,066 <i>36,871</i>	-309 <i>-302</i>	-418 <i>-312</i>
3a Freedom, security and justice - <i>Margin</i>	873	835 <i>38</i>	614	830 <i>43</i>	590	-5	-24
3b Citizenship - <i>Margin</i>	569	553 <i>16</i>	545	540 <i>29</i>	523	-13	-22
4 European Union as a Global Player - <i>Margin</i> <sup>11</sup>	6726	6749 <i>188</i>	6531	6461 <sup>12</sup> <i>264</i>	6098	-76	-433
5 Administration <sup>13</sup> - <i>Margin</i> <sup>14</sup>	6824	6690 <i>196</i>	6690	6657 <i>235</i>	6657	-34	-34
<i>TOTAL (6)</i>		<i>118,070</i>	<i>104,231</i>	<i>117,542</i>	<i>102,696</i>	<i>-522</i>	<i>-1530</i>

i. CA = commitment appropriations

ii. PA = payment appropriations

iii. Due to rounding, figures in difference column may not equal

<sup>9</sup> The margin for Heading 1 (sub-Heading 1a) does not take into account the appropriations related to the European Globalisation Adjustment Fund (£426m).

<sup>10</sup> The Council's Draft Budget discounts appropriations related to the European Globalisation Adjustment Fund (£426m).

<sup>11</sup> The margin for Heading 4 does not take into account the appropriations related to the Emergency Aid Reserve (£212m), as foreseen in the IIA of May 2006.

<sup>12</sup> The Council's Draft Budget discounts appropriations related to the Emergency Aid Reserve (£212m).

<sup>13</sup> Administration totals shown reflect updated estimates from institutions and may not match those contained in the initial PDB.

<sup>14</sup> For calculating the margin under the ceiling for Heading 5, account is taken of the footnote (1) of the financial framework 2007-2013 for an amount of €78m for the staff contributions to the pension scheme.

### **Letter from the Chairman to Ian Pearson MP**

Thank you for your letter of 14 July on the calculation of Gross National Income for the purpose of own resources (10343/09). This was considered at EU Sub-Committee A's meeting of 13 October and we decided to hold the document under scrutiny.

We are pleased to note that the concerns of the Committee were reflected in your concerns and those of other Member States raised at the meeting of 6 July. We would like to receive updates on the further negotiations of 14 September and 16 October, in particular whether the consideration of the proposal will be postponed until a later date.

*14 October 2009*

## **BUDGETARY ASPECTS OF THE LISBON TREATY**

### **Letter from Ian Pearson, Economic Secretary, HM Treasury, to the Chairman**

On 21 August, Baroness Kinnock wrote to you to confirm the Government's intention to keep your Committee updated on preparatory work related to the implementation of the Lisbon Treaty (if ratified by all Member States) and to share any Presidency texts relating to such work on a confidential basis. In line with this approach, I am writing to share with your committee a Presidency note summarising the key issues related to, and the outcome of initial discussions within the Council's budget committee on, the implementation of the budgetary aspects of the Lisbon Treaty.

This note has been considered by Permanent Representatives, who approved the proposed mandate for the Presidency to prepare agreement with the European Parliament on joint declarations relating to: the continuity of the Budget procedure; and transitional measures required to clarify aspects of budgetary procedure pending the adoption of the relevant legal acts and instruments. Permanent Representatives also provided officials in the Council's Budget committee with a mandate to further examine the budgetary aspects of the Lisbon Treaty on which agreement is expected to be reached after the Treaty's entry into force.

The Government's main objective with respect to the implementation of the budgetary aspects of the Lisbon Treaty is to ensure that budget-discipline is maintained. We are content that the approach outlined in the Presidency note is in line with this main objective.

I hope this information is helpful to the Committee. I look forward to continuing to assist your committee in the scrutiny of the budgetary aspects of the Lisbon Treaty and undertake to share any further Presidency texts relating to this matter with your committee. I will submit Explanatory Memoranda on the legislative proposals required by the Lisbon Treaty in this area, expected following the entry into force of the Treaty.

*26 October 2009*

## **CAPITAL REQUIREMENTS DIRECTIVE: AMENDMENTS (13713/08)**

### **Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury**

Thank you for your letter dated 22 April 2009<sup>15</sup> on the Capital Requirement Regulations. Sub-Committee A took note of this letter at its meeting on 5 May 2009.

We would like to request further details concerning the text of the compromise that is likely to be adopted by the European Parliament, particularly in the areas of securitisation and inter-bank exposures. We look forward to receiving your response on this matter.

*8 May 2009*

### **Letter from Lord Myners, Financial Secretary of State, HM Treasury, to Lord Roper**

Thank you for your letter of 8 May 2009 in which you have requested further detail concerning the text of the compromise that is likely to be adopted by the European Parliament, particularly in the areas of securitisation and inter-bank exposures.

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<sup>15</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>

I attach to this letter the text of the final measures adopted by the European Parliament. The European Parliament did not amend the proposals received from the Council.

The securitisation measure aims to improve risk management by making sure that originators and sponsors of credit risk transfer share risks with investors, changing the rules to ensure the originating institution retains an element (5%) of the securitised asset to better align potentially misaligned incentives. It also imposes disclosure and diligence requirements and monitoring requirements on an ongoing basis, in order to achieve greater transparency in what was seen as an opaque market with barriers to effective risk management.

The changes to the inter-bank regime aim to significantly strengthen this regime, intended to ensure financial institutions are not exposed too heavily to any single or connected counterparty. The current regime sets a maximum limit for all exposures from banks to non-banks and all inter-bank exposures over one year, but contains a national discretion on inter-bank exposures for less than a year. The new measure extends the current limit for inter-bank exposures to all exposures regardless of maturity. However, to ensure limits are targeted on institutions that pose a genuine systemic risk, a higher limit is set for smaller banks of €150m.

*15 June 2009*

## COLLECTION OF STATISTICAL INFORMATION BY THE EUROPEAN CENTRAL BANK (2533/98, 14606/08)

### **Letter from Angela Smith MP, Minister for the Third Sector, Cabinet Office, to the Chairman**

Thank you for your letter of 10 February 2009, responding to a letter from my predecessor, Kevin Brennan MP, concerning Explanatory Memorandum 14606/08.

In your letter, you state that Sub-Committee A had decided to continue to hold the document under scrutiny in anticipation of updates on the state of negotiations on the Government's concerns over data security and the clarity of the wording of the document.

I am now in a position to update you.

The Council Working Group on Statistics has met on a number of occasions to work towards meeting the concerns of Member States. UK representatives have taken every opportunity to seek greater clarity of the wording of the document and to solve data security issues.

The Government is now satisfied that these concerns have been met.

On wording, a number of textual changes have been agreed which significantly improve the overall structure and taxonomy of the data flows described within it.

In particular, the position regarding the transmission of confidential data between the ECB and the European Statistical System (ESS) has been clarified, including reassurances that such transfers could take place for statistical purposes only, and by guaranteeing protection from unlawful disclosure. Onward transfers of confidential data must now be authorised by the original collector of the data.

These changes enhance confidentiality by harmonising the protections in both the European System of Central Banks (ESCB) and the ESS. At the same time, an improved mechanism for routine access to data, coupled with the established European Statistics Code of practice which promotes openness and transparency, would result in higher quality statistics and commentary for the public good.

On 20 April 2009, the European Data Protection Supervisor (EDPS), responding to a request from the Czech Presidency, gave his opinion on data security issues.

The EDPS welcomed the amendments to the text which now contain specific reference to the data protection legal framework, highlighting the importance of maximising the close coordination between the EBC Regulation and the established Regulation on European Statistics.

The EDPS did however criticise a number of elements including disagreement with the phrase "information becomes statistical information if it is used for the compilation of statistics, irrespective of the purpose for which it was originally collected" and the need for a clear definition of "statistical information".

The document has since been redrafted to take full account of the EDPS criticisms.

*14 July 2009*

### **Letter from the Chairman to Angela Smith MP**

Thank you for your letter of 14 July 2009 containing a useful update on the state of negotiations on the Government's concerns over data security and the clarity of the wording in the draft. EU Sub-Committee A considered your letter at its meeting of 13 October, where it was agreed to clear this item from scrutiny.

We are aware that this document was agreed on 18 September. However, this will not be recorded as a scrutiny override, as the United Kingdom abstained from the vote and the document was subject to Qualified Majority Voting. We are pleased to note that you observed the scrutiny reserve resolution in this case.

*14 October 2009*

## **CONSOLIDATED STATEMENT AND AUDIT ON USE OF EU FUNDS IN UK 2007-08**

### **Letter from Ian Pearson MP, Economic Secretary, HM Treasury, to the Chairman**

I have the pleasure of providing you with a copy of the UK Consolidated Statement for 2007-2008, including the Comptroller and Auditor General's (C&AG) audit opinion and report on the statement, which I presented to Parliament today. This follows the commitment made by the Government in November 2006 that, as part of its work to improve the accountability for EU funds across the EU, HM Treasury would prepare an annual Consolidated Statement, audited by the NAO, on the use of EU funds in the UK.

I am pleased that the C&AG's report again gives a positive opinion on regularity, showing that there has been no evidence of material irregularity in the payments made to beneficiaries in the period concerned. However, it places limitations of scope on a number of areas of the Statement, indicating that the consistency of the recording and the accounting of EU funding by UK government bodies needs to be further improved. The Government continues to work to ensure these accounting issues are addressed, and being able to make this type of improvement was a key motivating factor behind producing the Consolidated Statement. The C&AG's audit report notes the improvements made by HMT in its processes for preparing the Consolidated Statement since the 2006/07 Statement and the Government is keen to continue to improve the statement and processes underlying it.

The Government hopes this Statement and the C&AG's audit opinion will be helpful to the European Court of Auditors and the European Commission when they are performing their own audits and controls. We will continue to work to build momentum for similar action by our EU partners.

*15 October 2009*

## **CONTROL OF EXPORTS OF DUAL-USE ITEMS AND TECHNOLOGY (1334/00, 5011/09)**

### **Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury**

Thank you for letter of 18 February 2009<sup>16</sup> on Community General Export Authorisation (CGEA) licences for dual-use items. This was considered by Sub-Committee A at its meeting on 12 May, where we decided to hold the document under scrutiny.

Given the reservations that the Committee has over some of the possible changes to the CGEAs, we would like to request quarterly updates on the progress of negotiations on this subject.

*13 May 2009*

### **Letter from Ian Lucas MP, Minister for Business and Regulatory Reform, to the Chairman**

I am writing in response to your letter of 13 May 2009 to update the Committee on the progress made in negotiations on proposals to increase the number of Community General Export Authorisations (CGEA) available to exporters. An informal update was provided by my officials to the clerk of your Committee in July.

Since the last informal update a further meeting of the Council Working Group on Dual-use goods (the Group responsible for the Dual-Use Regulation) took place on 8 September. The main focus of discussions at that meeting were associated with the country schedules on proposals EU003 (Export

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<sup>16</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>

After Repair/Replacement) and EU004 (Temporary Export for Exhibition or Fair). On EU003 the current proposal is to exclude Belarus but include Malaysia, Singapore, Tunisia and UAE. On EU004 the current proposal is to include French Overseas Territories, Morocco and Tunisia.

Although there has been some progress an agreement on the final text has yet to be made. A copy of the latest position paper prepared by the Presidency on both licences are attached for your information (not attached).

Discussions are to continue at the next meeting of the Council Dual-Use Working Group scheduled for 20 October 2009. To date the Working Group has not considered the other authorisations set out in the Commission proposal.

*12 October 2009*

#### **Letter from the Chairman to Ian Lucas MP**

Thank you for your letter of 12 October updating the Committee on the progress of negotiations on document 5011/09.

EU Sub-Committee A is pleased to note that some progress has been made in the negotiations. We agreed to continue to hold the document under scrutiny in anticipation of further updates on the progress of negotiations.

*28 October 2009*

#### **CUSTOMS: USE OF INFORMATION TECHNOLOGY (CIS CONVENTION) (17483/09)**

#### **Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury to the Chairman**

Further to the Select Committee on the European Union's report of 25 March 2009, I am writing to update you on negotiations on the French initiative to replace the Customs Information System with a Council Decision. Your Committee did not clear the Explanatory Memorandum, pending further information from ongoing negotiations.

The UK broadly supports the initiative but has some reservations as set out in my Explanatory Memorandum of 7 March 2009.

- The legal base referred to in the draft text covers operational cooperation between Member States' competent authorities but not the collection, storage and analysis of information. Amendments have been made to the instrument which provide for the latter, and consequently the UK has asked that the legal base be extended to include Article 30(1) (b) of the Treaty on European Union. The UK has raised this point in discussions and it has been referred to the Council Legal Service.
- The reference in Article 2 in the draft text to Articles 36 and 223 of the Treaty establishing the European Community referred to the original TEC. The UK asked that the references be updated to Articles 30 and 296 of the consolidated TEC. The draft text has been updated accordingly.
- The data protection issues are still being negotiated. The original draft text alluded only to the Council of Europe Convention on the Protection of Individuals with Regard to the Automatic Processing of Personal Data (known as Convention 108) and the Council of Europe Recommendation regulating the use of personal data in the police sector; no account was taken of the Data Protection Framework Decision (DPFD) which was adopted by the JHA Council in November 2008. Following the opinion of the Council Legal Service, changes were made so that the DPFD is fully reflected in the draft text. The Joint Supervisory Authority (JSA) and the European Data Protection Supervisor (EDPS) have also provided opinions on the text and a number of suggestions have been made which will be discussed in the near future. The UK is satisfied that the DPFD has been reflected in the draft text and welcomes the comments from the JSA and EDPS, though at the last negotiations a few Member States questioned the need for the reference to the DPFD as it is only due to be implemented by 27 November 2010. The UK believes that such a reference is necessary as many MS may implement the DPFD before the November 2010 date.

- The original draft text did not refer to the data protection rules governing Europol and Eurojust. This has now been rectified. In addition Europol is not seeking inputting rights to the CIS and both Europol and Eurojust will have read-only access.
- In the draft text (and the existing Convention and Protocol to establish the FIDE database) the input of data into the third pillar FIDE database is mandatory. This is out of alignment with the first pillar version and in principle obliges Member States to enter sensitive data on ongoing investigations. In negotiations the UK has suggested that the mandatory element should be changed to align with the first pillar. The UK has gained the support of most Member States on this issue, but due to the unanimity decision-making arrangements that exist in the third pillar, it is felt that a compromise text that satisfies all MS concerns is the only practical way forward. The UK is participating in a drafting group to produce a compromise text and is hopeful that our concerns will be addressed and the matter will be agreed soon.
- The European Parliament (EP) has been consulted, as per legislative arrangements in the third pillar, and provided its opinion on the original French initiative in March. Their opinion recommended the initiative be rejected, and called on the French Republic to withdraw it. The EP believed the initiative was being ‘rushed through’ by the Council before entry into force of the Lisbon Treaty, thereby limiting the EP’s legislative influence. The EP was also not satisfied that there were adequate data protection safeguards on the data collected and stored on the system, and believed that the EDPS should have been consulted at an earlier date by Council. The Presidency has since met with the EP Rapporteur who produced the opinion and assured him that measures have been taken to address the data protection issues. They also explained to the Rapporteur’s that far from being a totally new initiative, the draft decision actually amends and replaces an existing Convention. As a result, the EP will be consulted on the revised text, and will provide a modified opinion in Autumn 2009.

The UK is confident that our concerns will be addressed, though negotiations are likely to continue for the next few months. We will keep you updated on progress.

*21 May 2009*

#### **Letter from the Chairman to Rt Hon Stephen Timms MP**

Thank you for your letter of 21 May on the Council Decision on the Customs Information Database. EU Sub-Committee A welcomes the progress that has been made in negotiations towards reconciling your initial concerns.

We have decided to hold the document under scrutiny and we would like to receive updates on the progress of further negotiations, particularly on the compromise draft text concerning the alignment of the first and third pillar databases.

We would also like to receive an update on the revised European Parliament opinion on the text, particularly considering their reservations over the initial draft of the Decision.

*24 June 2009*

#### DERIVATIVES MARKETS (11873/09)

#### **Letter from Lord Myners to the Chairman**

Thank you for your letter of 10 September 2009, in which you requested further detail, particularly, the Government’s response to the Commission Communication and an account of the Commission’s public hearing of 25 September 2009.

I attach a copy of the Financial Services Authority and HM Treasury response to the consultation. An account of the public hearing has been provided by the Commission by a combination of videos, a speech transcript and presentation notes. These can be accessed through the Commission’s website below:

[http://ec.europa.eu/internal\\_market/financial-markets/derivatives/index\\_en.htm](http://ec.europa.eu/internal_market/financial-markets/derivatives/index_en.htm)

The Commission has now published its proposals on future policy actions to strengthen the safety of derivatives markets. Your committee will receive an Explanatory Memorandum on these proposals in due course.

*26 October 2009*

## ECONOMIC PARTNERSHIP AGREEMENTS: SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (13314/08, 13386/08)

### **Letter from Gareth Thomas MP, Minister of State, Department for International Development, to the Chairman**

Thank you for your letter of 25 February 2009<sup>17</sup> in relation to the South African Development Community (SADC) Economic Partnership Agreement (EPA) in which you cleared the aforementioned Explanatory Memorandum from Scrutiny.

An update was requested on the progress of discussions following the visit of Trade Commissioner Baroness Ashton to the region in February. This letter sets out the most recent developments in the region.

#### STATE OF PLAY OF THE INTERIM EPA

The visit by Trade Commissioner Ashton to the SADC region in February was positively received. Following the visit, a meeting was held on 9-12 March between senior officials in the region and the Commission, at which agreement was reached on issues including export taxes, infant industry safeguards, quantitative restrictions, free circulation of goods and tariff alignment to preserve the South African Customs Union (SACU).

The Interim EPA was signed on 4 June by Botswana, Lesotho and Swaziland. Mozambique is expected to sign shortly, and Namibia is expected to sign towards the end of 2009.

Following these discussions, the Commission produced two Joint Declarations and an accompanying legal text. The declarations accompany the legal text of the Interim EPA and are intended to give assurances to the SADC signatories that specific modifications will be made to the Agreement. The first declaration sets out the position on tariff alignment, such as that the tariffs under the SADC EPA align with those of the South African Customs Union. Ensuring that tariff regimes are harmonised across the region is critical to regional trade. The second declaration sets out the commitment to regional integration and the region's commitment to concluding the full EPA negotiations.

The new legal texts, to be included in the full EPA, will cover the areas referred to above, where agreement has been reached. This means that the agreed changes detailed in these legal texts do not change the terms of the Interim EPA text, but only become effective once the full EPA is signed.

#### NAMIBIA'S POSITION

Namibia has requested that the legal text detailing changes to be included in the text of the full regional EPA be included as an addendum to the Interim EPA. The Commission has stated that it cannot give such assurances as the interim EPA would have to be re-submitted to the European Council; Namibia has cited this as the main reason for not signing.

While it appears that Namibia will not sign in the short term, the EU is an important market for its agricultural exports (especially beef and grapes). Failure to sign the EPA could ultimately lead to the Commission revoking Namibia's Market Access Regulation, which provides countries that have signed an EPA provisional duty-free, quota-free access to the EU. Discussions are ongoing.

We will continue to support the SADC region in its ambition to sign the full regional EPA and encourage the Commission to be as development focused and transparent as possible in its negotiations with SADC states.

*11 June 2009*

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<sup>17</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>



**Letter from the Chairman to Lord Myners, Financial Secretary, HM Treasury**

Thank you for Explanatory Memorandum 10511/09 on the Commission Communication on the reform of financial supervision. Sub-Committee A considered the proposal at its meeting on 23 June and decided to hold the document under scrutiny.

The Commission Communication describes, in more detail, plans for the revision of the EU financial architecture on which the Committee has already commented on in its report *The future of EU financial regulation and supervision*.

The discussion among finance ministers at the ECOFIN Council on 9 June and 18–19 June has shown that there are different views among Member States on the role and the powers of the three new Supervisory Authorities. We would like to request more information about how the UK Government's concerns over the location of fiscal authority (included in the Council conclusions) can be reconciled with the provision of binding powers to these Authorities. Given that you are providing evidence to the Committee on 14 July on the Alternative Investment Fund Managers (AIFM) Directive, we would be grateful if you could discuss this issue with us at this time.

24 June 2009

**Letter from Lord Myners to the Chairman**

Thank you for the letter dated 24 June. You have requested more information about how the UK's Government's concerns over the location of fiscal authority can be reconciled with the provision of binding powers to the three new supervisory authorities. I can confirm that I will cover these issues in the evidence session scheduled for 14 July.

8 July 2009

**Letter from Lord Myners to the Chairman**

I am writing to keep your Committee informed of my response to the Commons European Scrutiny Committee's report of 21 October. I outline below the information requested on the European Commission's draft legislative proposals on EU financial regulation and supervision.

*Is the government convinced of the proportionality of the proposed measures?*

- The financial crisis has demonstrated the need to raise EU supervisory standards and address home-host issues, for example concerning branches. The Government believes that the new supervisory system will, for example, improve enforcement of rules and raise standards through peer review, and therefore improve the financial stability framework.

*Is the Government satisfied, particularly in the light of the importance of the financial services sector for the UK economy, that the architecture of the proposed new bodies, including their membership, particularly of the Steering Committee of the European Systemic Risk Board, members' voting weights and the relationships of the European Court of Justice to these bodies are acceptable?*

- The Government is satisfied with the composition of the European Systemic Risk Board (ESRB). In particular, the Government has ensured a balanced representation of eurozone and non-eurozone representatives on the ESRB Steering Committee.
- Regarding ESRB voting, the Government is happy with the improved threshold limits. In the three European Supervisory Authorities (ESAs), there are wide-ranging views on voting among Member States, and the Government is currently exploring potential voting mechanisms.

*Does the Minister's use of the qualification "where practicable", in relation to bringing the present proposals into line with what has been agreed by the European Council, mean that the Government is planning to concede points previously won?*

- It is not the Government's intention to go back on the conclusions that finance ministers and heads of Government worked hard to agree at the June ECOFIN and European Council meetings. However, parts of the conclusions do not cover key issues for the UK and do not constitute "points won". Furthermore, arrangements that are workable in practice, and

within existing legal constraints, may diverge slightly. The Government does not want to have a situation where the new bodies are not workable in practice and cannot fulfil the tasks entrusted to them. This would be especially damaging for the European financial services industry. But it does remain a priority for the Government to stick to the spirit of the conclusions. Most importantly, the Government is clear that the final agreement on the package should go no further than what was mandated by the European Council in June.

*What is the purport of the Minister's comment about ensuring "the new bodies operate in a legal way" — what might be illegal about the operations proposed?*

- There are wide-ranging roles proposed for the new bodies. However, these are legally complex and there is significant case law on how European agencies should operate. We need to ensure that the bodies' powers do not have too wide discretion or undermine the roles of the courts. The Government is working with Council Legal Service and other Member States to ensure that the bodies are on a very sound legal footing.

*Are members of the European Economic Area content to be subjected to bodies on which they have no representation?*

- EEA Members are already subject to EU law and are not consulted on this.

*To what extent does the Government agree with the "clarifications" in the City of London Corporation's response to the Commission Communication European financial supervision and to what extent have these points been met in the proposals?*

- The Government has long stressed the distinction between regulation and supervision. It remains clear to us, as was also stated in the ECOFIN and European Council conclusions in June, that day-to-day supervision should remain at the national level, where national authorities are best placed to supervise individual institutions, and to respect national fiscal responsibilities. I agree with the City, however, that "supervisors need to converge their supervisory practices and ensure that like firms are treated similarly". The new ESAs will play a key role here, and we need to ensure that the legislation fulfils this aim.
- The Government believes the EU would benefit from more harmonised and better quality rules. The Chancellor proposed a single rule book in March this year. Therefore I support a strong rulemaking role for the new ESAs, which will be composed of experts in the fields of banking, securities, insurance and pensions.
- Regarding the specification of what sort of "diverging opinions" are covered in the case of "disagreement between national supervisors", the Government is listening to the views of other governments and working to clarify the areas in which the ESAs would be able to settle disagreements.
- On the scope of "Full supervisory powers for some specific entities", this would only apply where the sectoral legislation empowers the authorities to have direct supervisory responsibility over an entity. This will therefore have to be agreed in Council and Parliament on a case-by-case basis in the relevant legislation.
- On the concept of "binding cooperation" between the ESRB and the ESAs, it will be important that the ESAs' expertise feed into the ESRB's risk assessments and that the ESRB has access to all the relevant information it needs to fulfil its tasks.
- Regarding the ESAs' access to information, including in supervisory colleges, it is right for them to have access to appropriate information about firms, so that they can properly fulfil their duties.

*Do the proposals fit in with what is being established at the international level and in third countries with significant financial services sectors?*

- The work of the ESRB will be closely integrated with the global early warning system under the IMF/FSB. The legislation specifies that the ESRB should "coordinate with international institutions, particularly the International Monetary Fund and the Financial Stability Board, as well as

the relevant bodies in third countries on matters related to macro-prudential oversight". More harmonised regulation and higher quality standards were agreed in the G20, and it is only right that the EU ensures it plays its role in that process.

#### **Update on October ECOFIN meeting**

I would also like to take this opportunity to update your committee on the discussion of the legislative proposals at the 20 October ECOFIN. The Swedish Presidency had originally proposed for the Council to agree on general approaches to the Regulation establishing the ESRB and the Council Decision entrusting the ECB with specific tasks concerning the functioning of the ESRB.

The UK Government is aware that the proposals have not yet cleared scrutiny and have therefore maintained a scrutiny reserve in the negotiations. At the October ECOFIN, the Chancellor made it clear to the Presidency and the Council that the UK could not agree to general approaches, that insufficient time had been given to Parliamentary scrutiny and we would not negotiate on this point. He also made clear that we maintained our Parliamentary scrutiny reserve.

Agreement to general approaches is therefore not recorded in the Council conclusions. Instead it states that "without prejudice to ongoing national parliamentary procedures, there is broad agreement on the substance" of the proposals. The Presidency is invited to begin negotiations with the European Parliament on the Regulation. It is also invited to take the necessary steps to initiate the process with the European Parliament on the Council Decision.

The conclusions make clear that final agreement on the complete supervisory package will come to ECOFIN and European Council in December, until which time I will endeavour work with your committee to clear scrutiny.

I hope that your committee finds this information helpful.

*26 October 2009*

#### **Letter from the Chairman to Lord Myners**

Thank you for your Explanatory Memorandum of 15 October on the reform of financial supervision in the European Union. EU Sub-Committee A considered this document on Tuesday 27 October 2009.

We invite you to provide oral evidence to Sub-Committee A on this subject on Tuesday 10 November from 3.00 – 3.45pm. A draft list of questions will be provided in advance of this meeting. This session would be followed by a further session on the Alternative Investment Fund Managers Directive from 3.45 to 4.30pm.

We are aware that the discussion on these proposals is moving at a fast pace. We also note that a "broad agreement" was reached at the ECOFIN Council of 20 December on the European Systemic Risk Board. The progress of negotiations will be a topic which we will discuss on the 10 November.

We have also received your response to our recent report, *The Future of EU Financial Supervision and Regulation* which we noted at our meeting of 27 October 2009.

We have decided to hold this document under scrutiny in anticipation of the forthcoming evidence session.

*28 October 2009*

#### **EUROPEAN GLOBALISATION ADJUSTMENT FUND (5005/09, 8118/09, 12671/09)**

##### **Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury**

Thank you for Explanatory Memorandum 8118/09 dated 20 April 2009 on the mobilisation of the European Globalisation Adjustment Fund, which was cleared in the Chairman's Sift of 27 April 2009. The Committee took note of this letter at its meeting on 5 May 2009.

We would like to ask whether the Government expects any proposals to be made for the support of workers made redundant from the United Kingdom's car manufacturers through the European Globalisation Adjustment Fund. We look forward to receiving your response on this matter.

*7 May 2009*

**Letter from Jonathan Shaw MP, Minister for Disabled People and Minister for the South East,  
DWP to the Chairman**

I am writing to inform you of the outcome of the European Parliament's First Reading of the above proposal. The results of the negotiation have resulted in a compromise amendment being presented to and passed by the European Parliament.

The amended regulation now includes a temporary derogation to the end of 2011 to allow it to be used to help workers who have been displaced by the current economic and financial crisis providing the link can be demonstrably proven. For Member States applying under this derogation the co-financing rate is increased to 65%. For all other applications the co-financing rate will remain at 50%.

The intervention criteria have been amended, reducing the trigger number of redundancies from 1,000 to 500 (to take place over a period of 4 months) in an enterprise including suppliers and downstream producers. In addition, support funded by EGF can now apply over 24 months, increased from twelve months.

Some minor changes have also been made to the method for counting redundancies and the reimbursement of indirect costs.

Subject to the Regulation going through the formal approval process, we expect it to come into force in mid-July and it will cover applications received from 1 May onwards.

*6 June 2009*

**Letter from Ian Pearson MP to Lord Roper**

Thank you for your letter of 7 May following consideration by your committee of the above mentioned Commission proposal and clearance of the Explanatory Memorandum from scrutiny. I am pleased to answer your question about possible applications to the European Globalisation Adjustment Fund (EGF) from the UK to support redundant car workers.

While car manufacturing companies will make their own decisions as to how best organise and deal with the challenges of globalisation and the current economic situation, the Government also has an important role to play in supporting companies and workers in a competitive global environment, especially in these difficult economic times. In January, the Secretary of State for Business, Innovation and Skills announced the Automotive Assistance Programme to enable lending of up to £2.3bn to the sector. Following demand from the automotive sector for support under the "Train to Gain" scheme, the budget of £65m has been increased substantially up to £100m.

The Government believes that the EGF has a useful role to play both in responding to the consequences of globalisation and to the current economic situation, especially in more disadvantaged areas of the EU. It is the Government's position that supporting redundant workers and assisting them to retrain and re-enter the labour market should primarily be the responsibility of Member States, and assistance from the EGF should be to complement rather than replace Member State actions and those of companies.

In England (different arrangements apply in the Devolved Administrations), Regional Development Agencies, with their partners, are responsible for coordinating an immediate response to large redundancies. They are aware of the availability of the EGF and would make the initial decision about whether a bid in relation to car industry or other workers would add value to their response. The European Social Fund (ESF) has already been used to invest in Jobcentre Plus, its Rapid Response Service and Train to Gain, the combination of which have already proved to be effective in helping workers and areas affected by restructuring. The EGF Regulation states that the Fund must not duplicate use of the ESF; but if a bid meeting the application criteria were to come forward, it would receive full consideration. The decision on whether to submit such an application would be taken by DWP ministers in consultation with colleagues in other departments.

*29 July 2009*

**Letter from the Chairman to Ian Pearson MP**

Thank you for your letter of 29 July concerning the possible use of the European Globalisation Adjustment Fund to support redundant British car workers, which we found most useful.

EU Sub-Committee A would like to be kept informed of any such applications should they occur, or if you anticipate that they will occur, in the near future.

*14 October 2009*

### **Letter from Ian Pearson MP to the Chairman**

I am writing to inform you of developments on an issue related to the EC annual budget. The issue in question is the subject of an Explanatory Memorandum dated 17 September, as follows:

- Commission proposal for a Decision of the European Parliament and of the Council on the mobilisation of the European Globalisation Adjustment Fund (EM 12671/09).

This was discussed in the Council's Budget Committee in September. The UK delegate laid down a scrutiny reserve at each stage, and made clear that the earliest the reserve could be lifted would be 14 October, after Parliament returned from Recess.

However, we were informed on 7 October that the Council Secretariat intended to forward the issue for agreement as an "A" point at the Transport Council on 9 October, notwithstanding the UK's scrutiny reserve. The reason for doing so was a wish to secure EP approval of the item at its plenary on 19-22 October. The next EP plenary after that will be in the final week of November, and the Council Secretariat were reluctant to leave the request for funding for EP approval until then. The 9 October Transport Council was the last Council meeting before the EP's October plenary.

It is both unusual, and unfortunate in these circumstances, that there was no other Council meeting scheduled that might have approved the item before the October EP plenary, and after the UK Parliament's Committees had the opportunity to consider it. UK officials made clear to the Council Secretariat in Brussels that it was extremely unsatisfactory for items to be put forward for Council's agreement while still subject to a UK Parliamentary scrutiny reserve.

As discussed by officials with the Clerk of your Committee, the UK formally abstained on the item in question at the Transport Council on 9 October, as the scrutiny reserve remained in place (although I understand your Committee cleared the question from scrutiny today). The item was approved by a qualified majority of the Council.

I am sorry that we found ourselves in this situation last week. I can assure you that we will continue to do everything possible in future to ensure that Parliament is given the proper time needed to conduct its scrutiny of the EC budget.

You may wish to be aware that the UK also abstained at Transport Council on a proposal for a Decision of the European Parliament and of the Council on the mobilisation of the EU Solidarity Fund. This was the subject of an Explanatory Memorandum also dated 17 September, which your Committee cleared on 23 September (EM 12768/09 and 12769/09). The House of Commons European Scrutiny Committee had not yet had the opportunity to scrutinise the documents, so the UK Parliamentary reserve remained in place on this issue.

*16 October 2009*

### **EUROPEAN REGIONAL DEVELOPMENT FUND: ENERGY EFFICIENCY AND RENEWABLE INVESTMENTS IN HOUSING (16543/08, 16548/08, 17022/08)**

#### **Letter from Pat McFadden MP, Minister for Employment and Postal Affairs, Department for Business, Enterprise and Regulatory Reform, to the Chairman**

In my letter to you of 31 January 2009<sup>18</sup>, I noted that I would write to your Committee again when the amendments covered by document nos. 17022/08 had been agreed.

The ERDF Regulation has been amended following its first reading by the European Parliament. The text has not been substantially amended, with the following changes having been made:

- The introduction of a limit on the amount of ERDF that Member States can allocate to energy efficient improvements and the use of renewable energy in housing (a maximum of 4% of their total ERDF allocation)
- The requirement for such spending to be in order to support social cohesion (rather than limited to low-income households as originally proposed)
- An increase in the options whereby project claimants can allocate indirect costs to a project (for example, where a project charges overheads such as electricity or other utilities based on a proportion rather than on a specific amount)

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<sup>18</sup> <http://www.parliament.uk/documents/upload/CwMSubA.pdf>

The amendments are in line with the Government's objectives of simplifying the administration and management of the Structural Funds and increase the options for Member States. It is expected that the Regulation will be agreed as amended in Council mid-May.

9 May 2009

#### **Letter from Pat McFadden MP to the Chairman**

In my letter to you of 31 January 2009, I noted that I would write to your Committee again when the amendments covered by document nos. 16543/08, 16548/08 and 17022/08 had been agreed.

The three regulations have now been published in the Official Journal. The ESF and general provisions regulations have come into force and the ERDF regulation will come into force on 10 June. Copies of the final texts are enclosed [not printed].

I wrote to you on 9 May to outline the amendments to the ERDF regulation, which was not substantively amended. The ESF Regulation is unchanged compared to the original Commission proposal. The only change to the general provisions regulation is a small technical amendment to allow the overheads option to apply to both the ESF and ERDF.

2 June 2009

#### **FINANCIAL MANAGEMENT: SIMPLIFICATION OF CERTAIN REQUIREMENTS FOR FUNDS (12425/09)**

##### **Letter from the Chairman to Kevin Brennan MP, Parliamentary Under Secretary of State and Minister for the Third Sector, Cabinet Office**

Thank you for your Explanatory Memorandum 12425/09, which EU Sub-Committee A considered at its meeting on 20 October 2009.

We support your position that Article 77 should not be amended to remove the need for co-financing of projects in 2009 and 2010, as this is an important part of the financing of projects as part of the Funds. What benefits does the Commission aims to achieve through this amendment?

Would you also provide updates on negotiations in the working groups held since your Explanatory Memorandum. We will hold the document under scrutiny in anticipation of your answer.

23 October 2009

#### **FINANCIAL SERVICES, FINANCIAL REPORTING AND AUDITING (5783/09)**

##### **Letter from Ian Pearson MP, Economic Secretary, HM Treasury to the Chairman**

I write further to your letter dated 23 April 2009<sup>19</sup> on the above Draft Decision clearing the Decision from scrutiny and requesting an update on the final form of the proposals.

COREPER met on 30 April to consider the final compromise version of the dossier. The compromise proposal states that the three Level 3 committees have a choice between receiving action grants and operating grants. It also states that after a comitology procedure with scrutiny, the Commission can select new beneficiaries if they are direct successors to beneficiaries identified in the proposal, or be carrying out the same work as the current beneficiaries and must fulfil their eligibility criteria. A draft Declaration accompanies the draft Decision, in which the Council calls on the Commission, when preparing the Preliminary Draft Budget, to finance this initiative from re-prioritisation. However the European Parliament has decided not to be a signatory to this Declaration.

The proposal now allocates funding away from the accountancy bodies and is now as follows:

	Original proposal	Original proposal	Revised proposal	Revised proposal
	€m	£m	€m	£m
IASCF	15	13.4	12.75	11.38

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<sup>19</sup> <http://www.parliament.uk/documents/upload/CwMSubA.pdf>

EFRAG	12	10.72	11.25	10.05
PIOB	1	0.89	1.0	0.89
Three Level 3 committees	8	7.15	13.5	12.06
	36	32.16	38.5	34.38

The proposal was agreed at COREPER by a qualified majority. The UK did not agree with the proposal and made the following minuted statement at this meeting:

"The Council has agreed to co-finance specific EU wide projects established under Community legislation, but not general funding of the committees' activities. The UK therefore cannot agree to the current proposal which allows for general funding of the level 3 committees, as it is concerned that such funding could undermine the independence of the committees. In addition the UK is unable to accept the comitology provisions which would allow for any future bodies to also be funded under this proposal. These are issues which should be addressed as part of the debate currently taking place on the Larosière proposals."

The proposal went to the European Parliament on 6 May, where it was adopted. I have attached the outcome of the European Parliament's first reading for further information. It will now be voted on at a future meeting of the Council, where the UK will vote against.

*1 June 2009*

#### **Letter from the Chairman to Ian Pearson MP**

Thank you for your letter of 1 June on the funding of Level 3 Committees. Sub-Committee A took note of this document at our meeting of 23 June.

Witnesses to this Committee have told us that the Level 3 Committees require extra funding. However, we agree with your position that funding should not threaten the independence of the Committees. Therefore, action grants are a more appropriate form of funding than operating grants.

We look forward to further updates on the progress of this document in negotiations.

*24 June 2009*

#### **Letter from Ian Lucas MP, Minister for Business and Regulatory Reform, Department for Business, Innovation and Skills, to the Chairman**

I write further to your letter dated 24 June to Ian Pearson on the above draft decision requesting an update on the progress of this document in negotiations. I am now the Minister responsible.

There were no changes to the document after the European Parliament's first reading decision on 6 May, which was attached to Ian Pearson's letter to you of 1 June.

The draft decision was finally voted on as an "A" item at the meeting of the Council on 27 July 2009. The UK voted against the proposal. Germany abstained, but there was not enough support for the UK's position to block it. The Council addendum to the minutes of the Council, which are released publicly, state that the Council approved the amendment set out in the European Parliament's opinion and adopted the proposed act thus amended. The decision was published in the Official Journal of the European Union on 25 September.

The UK did not agree to the Decision, part of which allows for general funding of the level 3 committees, as it was concerned that such funding could undermine the independence of the committees.

*15 October 2009*

#### **FRAUD: COMBATING FRAUD AND EXCHANGE OF INFORMATION BETWEEN THE EC AND ANDORRA, MONACO, SAN MARINO AND SWITZERLAND**

#### **Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman**

The European Commission has submitted a proposed for the Council to give it a mandate it to open negotiations with Andorra, Monaco, San Marino and Switzerland for Agreements to combat fraud and other illegal activity and to ensure exchange of information in tax matters.

The proposed mandates are expected to be discussed in ECOFIN on 20 October. They will be considered alongside a draft Agreement with Liechtenstein, which was first submitted to ECOFIN in February 2009 (EM 17247/08). This draft Agreement has since been further developed in the context of the rapidly changing environment for tax cooperation and the G20 London Summit of last April that ensured that uncooperative jurisdictions made commitments to meet international standards of transparency and exchange of information.

The proposed mandates are for Agreements that fully reflect international standards. They are for mixed competency Agreements that would be signed jointly by the Commission and the Member States with each of the negotiating partners. As well as ensuring much needed exchange of information with the countries concerned, the resulting Agreements should also help to bring about the end of the "transition period" under the Savings Directive (Directive 2003/48/EEC), which allows certain Member States to apply a withholding tax instead of automatic exchange of information on savings interest, until such time as Andorra, Monaco, San Marino, Switzerland and Liechtenstein have concluded exchange of information agreements with the Community.

The Government welcomes the proposed mandates and would like to see them adopted by ECOFIN with a view to concluding the Agreements with the countries concerned as soon as possible.

We will keep you informed of developments. If the mandates are adopted by the Council we will provide an Explanatory Memorandum on the resulting draft Agreements when these are submitted to the Council.

12 October 2009

#### FRAUD: MEASURES TO CHANGE THE VAT SYSTEM TO FIGHT FRAUD (6859/08)

##### **Letter from the Chairman to the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury**

Thank you for your letter<sup>20</sup> on Explanatory Memorandum 6859/08 about changes to the VAT system to fight fraud. This was considered by EU Sub-Committee A at its meeting on 29 April 2009, at which we took note of the letter.

We would like to ask what figures do the Government have for the value of detected, rather than estimated, MTIC fraud in the United Kingdom? How are estimated levels of fraud arrived at?

7 May 2009

##### **Letter from Rt Hon Stephen Timms MP to the Chairman**

Thank you for your letter of 7 May in which you asked for further information on the level of MTIC fraud in the United Kingdom.

HMRC published its latest estimates for MTIC fraud in the United Kingdom, alongside the Pre-Budget Report 2008, in *Measuring Indirect Tax Gaps – 2008*, a copy of which is in the House of Lords Library. The latest estimate of MTIC fraud levels show that the impact on VAT receipts for 2007/08 was between £0.5bn and £2bn.

You rightly distinguished between fraud estimates and frauds detected. Some forms of tax fraud (e.g. the pre-meditated accrual and non-payment of a tax liability) are very difficult to detect until they have taken place; while it is possible to detect other forms (e.g. false claims for repayment of tax) before the revenue is lost. MTIC fraud can involve both types of fraudulent activity, causing difficulties for the estimation of fraud levels.

As stated in *Measuring Indirect Tax Gaps – 2008*, in arriving at its estimate of MTIC fraud, HMRC uses a predominantly bottom-up approach based on operational data. This necessarily takes as a starting point the frauds that have already been detected. However, as I'm sure you appreciate, the amount of fraud detected is an operationally sensitive figure and, therefore, it is not appropriate to reveal details of the methodology or the amount of fraud detected, as to do so may have a detrimental effect upon HMRC's anti-fraud interventions and compliance activities.

9 July 2009

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<sup>20</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>



## INSURANCE AND REINSURANCE (SOLVENCY II) (11978/07, 6996/08)

### **Letter from Lord Myners, Financial Services Secretary, HM Treasury, to the Chairman**

I am writing to update you on the progress of negotiations with regard to the 'Amended proposal for a Directive of the European Parliament and of the Council on the taking up and pursuit of the business of Insurance and Reinsurance, Solvency II'. On 22 April 2009 the European Parliament voted through a package of amendments which had been agreed with the Council of Ministers, which means that the Directive has now been agreed.

Attached to this letter is an update on the provisions of the directive.

2 June 2009

ANNEX

UPDATE: 'AMENDED PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE TAKING-UP AND PURSUIT OF THE BUSINESS OF INSURANCE AND REINSURANCE (SOLVENCY II)' EM 6996/08 AND 11978/07

#### *Background*

1. This Annex provides an update on the negotiations of the EU Solvency II directive. This directive aims to develop an EU-wide system of prudential regulation for insurers and reinsurers.

#### *Favourable outcome*

2. Favourable agreement has been reached between the Council and the European Parliament on the text of the Solvency II directive. The final directive is a good result for UK, in particular with regards to the treatment of equity risk, which was UK's top remaining negotiating priority in the latter stages of negotiation.

#### *A good outcome for UK on duration approach*

3. The 'duration approach' to equity risk (which had been incorporated into the Council's Common Position of December 2008) reduces the capital charge for equities that are being held to back long-term liabilities. The approach is based on the inaccurate bet that equity markets will always keep increasing in value, and is incompatible with the calibration of the directive (which is that there should be only a 1 in 200 probability of insolvency over 12 months). The UK had serious concerns with the duration approach.
4. Risk to UK policyholders in the final directive has been avoided by firmly limiting the effect of the duration approach to certain restricted business lines which only target policyholders within the Member State (MS) which permits its use.
5. To summarise, the duration approach is now ring-fenced in several ways:
  - it is permitted only for occupational retirement provision business, or retirement benefits provision where there is a specific national tax deduction provided to policyholders in the country where this insurer is based;
  - the duration approach can only be applied where liabilities exceed 12 years;
  - the firm cannot passport the business applying the duration approach to policyholders in another MS;
  - a firm in a MS which does not permit the use of the duration approach cannot reinsure business to a MS which permits the use of the duration approach;
  - any business line applying the duration approach must be clearly ring-fenced from the firm's other business lines, in order to limit the risk of contagion between lines and to limit risk of contagion to the firm as a whole;
  - it is a MS option whether to permit the approach or not.

#### *Group support regime*

6. In order to reach this acceptable outcome for UK on equity risk, the “pure” group support<sup>21</sup> regime has been deleted, with the skeleton of the text remaining (which provides for increased co-operation between supervisors).
7. However, the possibility of “pure” group support has been kept alive by the introduction of a review clause, which would mean that it might be resurrected at some point in the future (once certain conditions have been met such as progress on developing an EU-wide insurance guarantee scheme).
8. With regards to group supervision overall, the directive will introduce a number of improvements, such as the creation of supervisory colleges made up of national supervisors responsible for a group and its subsidiaries, in order to facilitate cooperation, exchange of information and consultation between supervisors.

#### *Additional anti-cyclical ‘dampener’ mechanisms*

9. The current text also incorporates two sensibly crafted anti-cyclical ‘dampener’ mechanisms:
  - firstly, to adjust the capital charge according to prevailing conditions in order to reduce the need for insurers to sell into falling markets in order to protect their solvency position (in turn pushing markets to fall further and faster), and conversely, to increase the capital charge in rising markets, acting as a break in moderating insurers’ risk appetite to buy into equities when the markets are showing signs of overheating;
  - and secondly to allow, in the event of exceptional falls in financial markets, insurers a longer time to recover back to their correct capital levels under certain defined circumstances (and under strict supervision from the supervisor).

#### *A good text overall*

10. In summary, the directive is a good result for the UK. It delivers strong capital requirements by introducing risk sensitive capital requirements, meaning that insurers will be better placed to withstand adverse developments.
11. The dual capital requirement of the ‘MCR’ (Minimum Capital Requirement) and ‘SCR’ (Solvency Capital Requirement) permits for a so-called ‘ladder of supervisory intervention’ – meaning that supervisors will be able to take progressive action to respond to emerging threats, commencing when the SCR (the higher of the two requirements) is breached.
12. Insurers themselves will be required to continue to improve their own risk management. A key feature of this is the introduction of the ‘ORSA’ (Own Risk and Solvency Assessment), which means that firms will need to examine what possible future risks they might be faced with, and how these might affect business plans. It will also be the responsibility of senior management to demonstrate to supervisors that they are sufficiently equipped and organised to be able to identify, measure, manage and mitigate against current and future risks. Insurers will be allowed to use internal models that have passed rigorous approval processes, in order to calculate their capital requirements.
13. The new regime will also require insurers to provide better information to supervisors and the market.
14. Two other highlights are that HM Treasury has ensured that the directive is tailored to the needs of the specific nature of the Lloyds market, and that it does not include defined benefit pension provision in its scope.

#### *Next Steps*

15. Level two negotiations have commenced already. The deadline for implementation of the Directive is 31 October 2012.

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<sup>21</sup> The group support regime allows insurance groups to better manage their economic capital by allowing a parent insurance firm to downstream capital support to its subsidiary in times of stress, rather than having to actually hold capital in both the subsidiary and the parent.

## LISBON: NATIONAL REFORM PROGRAMME 2009

### **Letter from Ian Pearson, Economic Secretary, HM Treasury, to the Chairman**

I am writing to you to announce publication of the UK's National Reform Programme (NRP) 2009.

As part of the EU's Lisbon Strategy for Jobs and Growth, the UK must present to the European Commission by 15 October 2009 its National Reform Programme (NRP) 2009, setting out UK progress on economic reform.

The NRP responds to the recommendations the European Council agreed in March 2009 for the UK on fiscal sustainability and skills and employment, and the Council's points to watch for the UK on housing supply and R&D. The NRP 2009 also reports on UK progress in the areas of the business environment and climate change, energy policy, and sustainable development, which were re-emphasised by the European Council in March 2008 as priority areas over the 2008-10 cycle of the Lisbon Strategy. Reporting is in the context of the current downturn and medium-term reform measures, in line with the European Economic Recovery Plan (EERP). The NRP 2009 does not make any new policy announcements: rather, it reports on the implementation of existing reforms, and looks forward to announced future policies.

The NRP 2009 is complemented by a reporting table as required by the European Commission, which sets out a fuller picture of the main reform measures undertaken by the Government and the devolved Administrations. The UK is at the forefront of economic reform in Europe, and as such it is vital that we met the EU-level NRP publication deadline of 15 October. As last year, publication during recess is the only way to ensure this deadline is met.

Copies of the NRP 2009 document (not printed) will follow by post, the NRP reporting table will be published in electronic form (not printed) alongside the NRP document

## MEDIUM-TERM FINANCIAL ASSISTANCE FOR LATVIA (5223/09)

### **Letter from Ian Pearson MP, Economic Secretary to the Treasury, HM Treasury, to the Chairman**

I am writing to alert you to a forthcoming vote on a Commission proposal for a Council Decision amending the Council Decision 2009-290 of 20 January 2009 providing Community medium-term financial assistance to Latvia. You will recall that the January ECOFIN agreed to provide €3.1bn to Latvia from its medium-term balance of payments facility (EU BoP) as part of a €7.5bn international financial package<sup>22</sup>. On 26 June, the Economic and Financial Committee (EFC) approved the disbursement of the second instalment of EU assistance to Latvia, amounting to €1.2 billion, by the end of July.

In a separate development, as part of the excessive deficit procedure (EDP) under the Stability and Growth Pact, the 7 July ECOFIN adopted (i) a Council Decision on the existence of an excessive deficit in Latvia as it failed the 3% of GDP budget deficit criterion in 2008, and (ii) a Council Recommendation for the correction of the excessive deficit under Article 104(7).

However, an issue of inconsistency between the Council Decision of 20 January granting EU balance of payments (EU BoP) assistance to Latvia and the Council 104(7) Recommendation under the EDP was raised by the legal service of the Council. In particular, the Council Decision of 20 January had set a deadline for correcting the excessive deficit by 2011, while the 104(7) Recommendation set a target date of 2012 in view of the deterioration of the economic situation in the country since January. A separate EM will follow shortly on the Council Recommendation to enter Latvia into the EDP.

To address this problem, the Commission made a proposal for a new Council Decision amending the Council Decision of 20 January to ensure consistency with the Council 104(7) Recommendation addressed to the country. The proposal was finalised on 7 July following consultation with the EFC, and adopted by the Commission on 8 July. The Swedish Presidency is seeking a Council Decision on this proposal at the Budget ECOFIN on 10 July to enable the Commission to disburse the second instalment of the EU loan by the end of July to meet the country's urgent financing need.

The amendments in the proposed Council Decision are aimed at (i) confirming the legal base for the decision, and (ii) linking the time frame and consolidation path for the correction of the budget deficit, as required by the EU BoP conditionality, to the Council 104(7) Recommendations to Latvia adopted under the EDP. The proposed changes do not substantially alter the original decision. There is no change in the amount of the EU assistance; and in practice the only effect the proposed changes would

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<sup>22</sup> See EM5223/09 for details.

have on the original loan conditions is the postponement of the deadline for reducing the budget deficit below 3% by one year to 2012.

The timing and urgency has meant that the Presidency is seeking a Council Decision on 10 July, therefore it is unfortunate that the Government has not been able to alert Parliament until now to the proposal. However, given the urgency of the situation, I believe that it is right for the UK to support this amendment, thus enabling the Commission to provide the much-needed second tranche of EU financial assistance to Latvia. The UK therefore intends to vote in favour of the proposed Council Decision at the Budget ECOFIN of 10 July.

*9 July 2009*

## MEDIUM-TERM FINANCIAL ASSISTANCE FOR ROMANIA (8642/09, 8937/09)

### **Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury**

Thank you for your Explanatory Memoranda 8642/09, COM (2009) 199, 8937/09 and your letter dated 28 April on the medium-term balance-of-payments finance facility. These documents were considered by Sub-Committee A at its meeting on 9 June.

The Sub-Committee recorded the first two items as scrutiny overrides and cleared document 8937/09 from scrutiny. We regret that this override builds upon others that occurred when financial assistance was granted through the balance of payments facility to Latvia and Hungary. Although we agree with you that the UK's agreement to these proposals send a strong message of solidarity to Member States facing difficulties, we would like to emphasise that override should only ever be used as a last resort.

We feel that we could have been informed of the current state of play by the Government at an earlier stage as the loan to Romania was politically agreed at the last European Council meeting. We also observe how rapidly the Commission proposal was approved and how quickly financial assistance was granted to Romania.

However, we believe that Commission's proposal on the balance of payments facility will make the process of granting financial assistance through the scheme more transparent, in particular by clarifying the conditions applied with the use of the facility. With regard to the financial package to Romania, we hope that the conditions on which the assistance was granted have been considered carefully. We had a similar concern with regard to the allocation of financial assistance to Hungary and Latvia.

We understand that this proposal has been subject to both the opinions of the ECB and the European Parliament. We note that in the Explanatory Memorandum accompanying the ECB's document, you expressed support for the ECB's opinion but did not comment on the six specific amendments suggested by the ECB. We would like further explanation of the Government's view on the ECB proposed amendments and clarification on why only two of the ECB's six amendments were accepted in the Council.

On a different point both Lord Myners and Caroline Flint, when they gave evidence to Sub-Committee A and the EU Select Committee respectively, discussed the balance of payment facility as a means to provide financial assistance to non-euro zone Member States. Lord Myners told the Committee that there was no question that any Member State can receive a bail-out under Article 100 TEC. We invite you to take note of the Minister's response in parallel with the European Parliament Resolution on the balances of payments facility dated 21 April, that reads "the European Parliament (...) recalls that Article 100 TEC is applicable to all Member States and invites the Commission to put forward a proposal for a Regulation to define the conditions of implementation of that provision".

We understand that there is pressure at EU level to define the conditions underpinning the use of Article 100 to provide financial assistance to Member States within the eurozone. Discussions at the European Council on 19-20 March made evident that there are financially vulnerable countries among older Member States such as Ireland, Greece. Are the Government aware of any eurozone country requesting Community financial assistance? What measures could be taken and what Treaty article could be used to assist defaulting countries in the eurozone as Member States that have already adopted the euro so do not qualify for medium-term financial assistance balances of payment facility? Our Legal Advisor believes that a respectable case can be made for the use of Article 100 TEC where the need for assistance arises for reasons, other than balance of payments difficulties, relating to the economic situation of a Member State. What is the Government's view on this point?

We look forward to receiving your response.

*19 June 2009*

## Letter to the Chairman, from Ian Pearson MP

Thank you for your letter regarding Explanatory Memoranda 8642/09, COM (2009) 199, 89307/09 on the medium-term balance of payments finance facility.

### EU ASSISTANCE TO ROMANIA

I would like to first thank the Committees for their understanding in the use of scrutiny overrides in cases where financial assistance was being granted, often at very short notice. Given the exceptional circumstances and the urgency of providing rapid support to Member States the UK had to step forward and support these cases of financial assistance as a means to express EU solidarity and safeguard financial stability.

In the specific case of Romania, the IMF and Commission were formally approached on 6 March for balance of payments support. A joint Commission-Presidency statement on 10 March indicated that the authorities were assessing the situation and that the EU stood ready to provide unspecified support to Romania. This was then followed, on 25 March, by a further joint Commission-Presidency statement of 'intention' to provide assistance of up to €5bn from the medium-term balance of payments finance facility, though this statement did not include details regarding the specifics of the loan or its attached conditionality.

As was mentioned in our previous letter the negotiations on the content and detail of proposals are highly sensitive, both in terms of their impact on markets and in the context of parallel negotiations with other donors. However, when the Commission proposals – which confirmed the amount of the EU assistance, and set out the policy conditions and specifics of the loan – were formally released on April 22 an Explanatory Memorandum and accompanying letter was produced on 28 April for communication to the Committees, outlining the full details of the financial assistance. The ECOFIN Council subsequently adopted the Commission proposals on 5 May. In this context I would express our regret at a repeated use of scrutiny override. We will always endeavour to keep the scrutiny committees fully informed on any future cases as soon as possible, and initiate the scrutiny process as soon as relevant documentation is received.

You also ask about the policy conditions attached to the EU loan to Romania. The EU's balance of payments facility comes with economic conditionality that aim to restabilise the balance of payments situation. Furthermore, this assistance has so far always been delivered in conjunction with an IMF programme, and the policy conditions of EU assistance have been consistent with those of the parallel IMF programmes, which given the IMF's expertise and experience in this field increases confidence in the appropriateness of policy conditions. Consideration of the attached conditionality forms an important part of the Government's decision on whether or not to support the granting of financial assistance. In the case of Romania, we judge the conditions to be appropriate under the current circumstances and believe that they will go a long way to address the country's short-term balance of payments problems if fully implemented.

### ECB OPINION ON AMENDMENTS TO EC 332/2002

You asked for further information regarding the ECB's opinion on proposed amendments to EC 332/2002. In its capacity as administrator of the financial assistance available under the EU's medium-term financial assistance facility, the ECB delivered an opinion on the proposed amendment. The ECB delivered several opinions on various aspects of the legal text, two of which were incorporated. The remaining opinions were not adopted at the discretion of the Presidency.

The Government supports the ECB's assertion that the procedure for use of the medium-term financial assistance facility should be fully in line with the Treaty, and on the subsequent clarification of the amendment in line with Article 27 of the Statute of the European System of Central Banks and of the ECB.

The Government does not agree with the ECB's suggested language, which seeks to broaden the definition of "economic policy conditionality" to include those programmes with any ex-ante eligibility criteria, which is present in "new-style International Monetary Fund arrangements", such as the Flexible Credit Line. The Flexible Credit Line is designed to provide financing to countries that meet high-standards of pre-set eligibility criteria. This is intended to provide protection to countries who have put in place the right policies, but who may none-the-less be hit by external events. As such it does not come with economic policy conditionality attached. Coordination between the Community and any Member State seeking access to such instruments is vital for operational purposes, but we do not believe that it is necessary for this process to be set out in the regulation.

The ECB has further suggested an amendment that seeks to reintroduce the use of a "back-up programme" into the regulation as a means to ensure that, by implication, we do not preclude Member

States who are “seriously threatened” with balance of payments problems. The Government agrees that, in line with Treaty Article 119(1), Member States who have not adopted the Euro should be able to seek support if “seriously threatened” with balance of payments problems, however we do not feel that the wording as it currently stands in the proposal excludes them from doing so.

The ECB further suggested an amendment to alter wording in the proposed Recital 2, which would outline that the Memorandum of Understanding between the Community and Member State regarding their financial assistance under the facility should be presented, as opposed to negotiated. The Government believes that where necessary the regulation should be fully in line with the Treaty, but in this particular instance we do not feel that the wording as proposed is problematic.

#### ARTICLE 100

You also asked about the Government’s view on the use of Article 100 (TEC) to support countries facing difficulty. Many countries within the EU, both new and old, are facing the challenges that come with the current economic climate. The Government is not aware at the present time of any euro-zone economies seeking balance of payments support. In addition, as you have noted, the Government has already stated that there is no possibility of a ‘bail out’ under Article 100 of the Treaty on European Community, as Article 103 specifically prohibits other Member States or the Community assuming the obligations of an individual Member State.

You ask about the potential for assistance to be provided under Article 100 TEC, of which Paragraph 2 deals with financial assistance. However, we note that Declaration 6 to the Nice Treaty (Declaration on Article 100 of the Treaty establishing the European Community), states:

“The Conference recalls that decisions regarding financial assistance, such as are provided for in Article 100 and are compatible with the “no bail-out” rule laid down in Article 103, must comply with the 2000-2006 financial perspective, and in particular paragraph 11 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure, and with the corresponding provisions of future interinstitutional agreements and financial perspectives.”

Further, there is reason to believe that Article 100(2) may not provide the necessary powers for an extension of medium-term financial assistance under the Balance of Payments Facility provided for in Regulation 332/2002. Recital 14 of that Regulation states clearly that:

“For the adoption of this Regulation, which provides for the granting of Community loans financed exclusively with funds raised on the capital markets and not by the other Member States, the Treaty provides no powers other than those of Article 308.”

In principle Article 308 could, of course, be used to provide for medium-term financial assistance to euro-zone Member States; however, we note that this would require the unanimous consent of all EU Member States and, moreover, that we are not aware of any such proposals.

*5 July 2009*

#### **Letter from the Chairman to Ian Pearson MP**

Thank you for your response to our letter regarding your Explanatory Memoranda 8642/09, COM (2009) 199, 8937/09 on the medium-term balance of payments finance facility. EU Sub-Committee A considered your letter at its meeting of 14 July.

We acknowledge the reasons you give for the necessity of a scrutiny override on this occasion and thank you for your detailed view on the ECB’s opinion of this dossier. We note your belief that Article 308 could be used to provide financial assistance to eurozone Member States. Would you be open to the use of this Article in this way should a eurozone Member State request financial assistance using the balance of payments facility? We would also like to receive updates on formal requests by Member States for balance of payments support so we can keep abreast of developments in this area.

*15 July 2009*

#### **Letter from Ian Pearson MP to Lord Roper**

Thank you for your letter regarding the balance of payments finance facility. We appreciate the Committee’s understanding in the use of scrutiny overrides in these cases, and will endeavour to inform them as soon as the appropriate documentation becomes available on any formal requests for balance of payments assistance in the EU.

You ask whether the Government would support the use of Article 308 to provide medium-term financial assistance to a euro-zone Member State. Any such request would have to be considered on its

individual merits, taking into account the economic situation and needs of the Member State concerned, as well as the UK's other international policy priorities.

I would reiterate that the Government is not aware of any euro-zone economies seeking such support, or of any proposal by the Commission to allow for its provision. Furthermore, the use of Article 308 requires the unanimous consent of all Member States.

*29 July 2009*

## MICROFINANCE FACILITY FOR EMPLOYMENT AND SOCIAL INCLUSION (11778/09)

### **Letter from the Chairman to Baroness Vadera, Minister of State, Department for Business, Innovation and Skills**

Thank you for your Explanatory Memorandum 11778/09 of 29 July on a European microfinance facility. EU Sub-Committee A considered this at its meeting of 20 October 2009.

We support your position that the proposal is a positive step in ensuring that disadvantaged groups have access to micro-finance, particularly in the context of the current economic climate. Despite the fact that we believe that many of the loans may not be repaid in full, we acknowledge that this is a worthwhile scheme.

We are also concerned over the subsidiarity of the proposal, as a facility offering micro-loans to individuals can operate more effectively at a national rather than EU level. We would be grateful for your response on this point.

In your memorandum you note that "officials will be working to ensure that the proposals... meet the needs of the UK." What are these specific needs and the reasons behind them? We would also like to receive further details on the operation of the Facility once these are available following the consultation.

We are concerned that sophisticated groups may be able to gain access to money through this facility through fraudulent means. Do you accept that this is a risk? What provisions are in place to prevent this from happening?

We agreed to hold the document under scrutiny in anticipation of your reply.

*23 October 2009*

## ORIGIN MARKING FOR PRODUCTS IMPORTED FROM THIRD-COUNTRIES (5091/06)

### **Letter from Gareth Thomas MP, Minister for State, Department for Business, Enterprise and Regulatory Reform, to the Chairman**

Thank you for your letter of 28 April 2009<sup>23</sup>, requesting an update on the progress of this proposal. I am writing to inform you that there has been none and no progress is currently envisaged.

The Commission's proposal to introduce compulsory origin marking of a selected range of imports from some third countries was published in December 2005. The sectors covered are leather goods, footwear, textiles, clothing, ceramics, glassware, jewellery, furniture and brooms with a provision for an unlimited number of sectors to be added.

The proposal originated as a general labelling regime promoted by 2003 Italian Presidency. It made little initial progress against strong opposition from a majority of industry and consumer bodies across Europe. However, because of continued pressure from Italy, the Commission agreed to formally propose a Council Regulation.

This has NOT been formally accepted for negotiation. Technical level discussion confirmed strong MS divisions on the issue and successive Presidencies have declined to pick up the subject. At the same time the Commission has done nothing to address the concerns raised by MS. Recently, Italy has lobbied again for the proposal to be taken up again.

The UK has carried out repeated consultations on this issue with OGDs (opposed without exception) and UK stakeholders. The majority of the latter oppose (e.g. CBI, Consumers Association, BCC, BRC,

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<sup>23</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>

UK textiles and clothing industry, Hallmark Association) but with some supporters (TUC, the ceramics industry – who continually lobby Ministers on this issue, Scottish Textiles and Clothing industry, furniture industry). The UK position remains that the UK has strong reservations about this proposal which the Commission has yet to satisfactorily address.

*1 May 2009*

**Letter from the Chairman to Gareth Thomas MP**

Thank you for your letter of 1 May updating us on the progress of document 5091/06. EU Sub-Committee A considered this at our meeting of 12 May. Given that Italy has begun to lobby for the proposal to be taken up again, we decided to hold the document under scrutiny and would like to request an update if any progress is made on the proposal.

*20 May 2009*

**PACKAGED RETAIL INVESTMENT PRODUCTS (9493/09)**

**Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury**

Thank you for your Explanatory Memorandum of 14 May 2009 on packaged retail investment products. This was considered by EU Sub-Committee A on 9 June and cleared from scrutiny.

We would like to express our broad agreement with the aim to increase transparency and consumer protection relating to PRIPs. However, we also understand your concern that the legislation should avoid being over prescriptive.

We also note that you appear to imply in your comments on subsidiarity that there is room for Member States to implement different regulatory practices concerning PRIPs. Can you confirm whether this is the case and whether you believe this should continue to be the case?

Whilst we are clearing this document from scrutiny we look forward to scrutinising in more detail the Commission proposals on this subject, that you inform us are due to be published by the end of 2009.

*9 June 2009*

**Letter from Sarah McCarthy-Fry, Exchequer Secretary, HM Treasury, to the Chairman**

Thank you for your letter of 9 June 2009, sent to Ian Pearson. This topic is now within my portfolio. I am grateful for the comments relating to the scrutiny of Explanatory Memorandum (EM) 9493/09 on Packaged Retail Investment Products (PRIPs) carried out by EU Sub-Committee A.

We note that this EM has been cleared from scrutiny and that you have requested further information relating to our stance on Member States implementing different regulatory practices relating to PRIPs.

Whilst we broadly agree with the Commission's aims of appropriate transparency and selling practices across Member States we must also acknowledge that not only are the products in question subject to Member State variations but cultural practices and consumer expectations also vary.

Whilst we believe that every Member State should provide a consistent level of consumer protection we also feel that the EU legislation should be broad enough to allow for these cultural differences and consumer expectations to be taken into account and not be so prohibitive as to force compliance with requirements which may have limited, or even detrimental, effect within individual Member States. We believe that this can be achieved by the setting of rules focusing on outcomes at the EU level (for example requiring that firms provide disclosure which gives a clear presentation of all the costs involved in an investment product) without mandating in detail the precise means by which that outcome should be reached. We plan to argue for this approach in discussions with the Commission.

I hope that this response has provided you with the answer to the question raised.

*16 July 2009*

**Letter from Sarah McCarthy-Fry to the Chairman**

Thank you for your response dated 16 July 2009 to our letter regarding your Explanatory Memorandum 9493/09. EU Sub-Committee A considered your letter at its meeting of 13 October.

Thank you for confirming that you believe EU legislation should be broad enough to allow for Member State variations in the products in question, cultural differences and varying consumer expectations. We acknowledge that you do not consider that EU legislation should be so prohibitive as to force



compliance with requirements which may have limited, or even detrimental, effect within individual Member States. We note that the Government trust that their aims can be achieved by ensuring that legislation at an EU level is focused on outcomes without detailing the means by which such outcomes are to be achieved.

We look forward to scrutinising the Commission's proposals on this subject in due course.

*14 October 2009*

#### PASSENGER CAR RELATED TAX (11067/05)

**Letter from Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman**

You wrote on 27 April 2009<sup>24</sup> asking for an update on the progress of the above dossier.

There has been no progress since December 2007 when we wrote to your predecessor, Lord Grenfell, with an update of progress made under the Portuguese Presidency. The succeeding Slovenian, French and Czech Presidencies did not take up work on this dossier and there are no indications that the incoming Swedish Presidency intends to pursue it either.

As you will already know, one of the key elements of the Commission proposal was inclusion of a CO2 element in the tax base. However, work on this is of little value since there is nothing to prevent Member States from choosing to base their car taxes on CO2 emissions if they so wish. Given concerns about subsidiarity test as set out in our letter to you of December 2007, we are content for the Presidency not to pursue further work on this dossier.

I hope you find this information helpful.

*2 July 2009*

#### REGULATION OF DERIVATIVES MARKETS (11873/09)

**Letter from the Chairman to Lord Myners, Financial Services Secretary, HM Treasury**

Thank you very much for your Explanatory Memorandum (11873/09) on the Commission's Communication on Derivatives. EU Sub-Committee A considered this at its meeting on 27 October 2009.

EU Sub-Committee A has previously considered the role of Credit Default Swaps in the recent financial crisis and we therefore welcome the fact that the Commission is consulting on this matter before proposing legislation.

We understand that the Commission hosted a hearing on the 25 September on this Communication and we would appreciate an account of it together with the official UK response to the Commission's consultation.

We look forward to receiving the Commission's proposals on this subject, which we will scrutinise in detail.

We will hold this document under scrutiny in anticipation of your reply.

*28 October 2009*

#### REMUNERATION POLICIES: SUPERVISORY REVIEW (12093/09)

**Letter from Lord Myners, Financial Services Secretary, HM Treasury, to the Chairman**

The Commons European Scrutiny Committee has requested further information in relation to EM12093/09 (concerning the draft Directive amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies).

Specifically, the Committee requested an explanation of those areas where the Government is seeking to negotiate adjustments to the current draft Directive and an update on the progress being made in achieving our desired outcomes.

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<sup>24</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>

The draft Directive contains three elements where the Government is seeking material adjustments to the proposals. These are:

- those amendments designed to increase the level of capital banks hold against risks in the trading book;
- those requirements relating to re-securitisations;
- those requirements relating to remuneration policies and practices.

Details of the adjustments we are seeking in each of these areas and our progress in achieving our intended outcomes is set out below.

#### TRADING BOOK CAPITAL

The Explanatory Memorandum sets out the rationale for increasing the level of capital CRD firms should hold against their trading risks. The Government is broadly supportive of the amendments set out in the draft Directive that deliver those increases. However, in several areas the proposals had not been updated to reflect those most recently agreed by the Basel Committee on Banking Supervision (BCBS). The BCBS is the recognised forum for achieving international agreement on regulatory capital requirements.

The most notable divergence was in the treatment of correlation trading positions. For this class of exposure the amended capital treatment was extremely punitive, to the extent that it would effectively close that market. This in turn could potentially have led to a reduction in the availability of credit in the wider economy. The BCBS proposals exempt such exposures from the new requirements for calculating the capital held against securitisation positions, instead allowing firms to use a modelled approach (where certain strict criteria are met). A lower limit is also introduced to prevent capital requirements falling below a given level.

The Government has argued that the BCBS proposals deliver a sufficient and proportionate capital treatment for these positions. Furthermore, international convergence is of vital importance in maintaining the competitive position of the EU. On this basis we sought to have the draft Directive brought into line with the BCBS proposals.

There has been strong support amongst Member States for aligning the Commission proposals with those agreed at the BCBS and the Commission has now published a compromise document closely aligned to the Basel text and incorporating the correlation trading carve-out.

At this stage we foresee our remaining interventions limited to minor technical amendments.

#### RE-SECURITISATIONS

Re-securitisations are by their nature more complex than straight securitisations and in many cases the assumptions regarding the benefits of diversification in the underlying assets have proved to be overly optimistic. Therefore the draft Directive contains proposals comprising a set of capital requirements that are higher than for straight securitisations of the same rating.

The Government is supportive of the need for firms to hold an increased level of capital against re-securitisation positions and considers the increases delivered by the proposals are appropriate.

However, the draft text also introduces the concept of a ‘highly complex’ re-securitisation. For these positions firms will be required to demonstrate to the regulator, on a transaction-by-transaction basis, that they have conducted the requisite due diligence. Until this point those positions would be subject to a penal capital treatment. We do not agree that this provision should be included in the amended Directive for several reasons:

- due diligence requirements introduced in the previous package of amendments to the CRD are already challenging and include specific requirements relating to re-securitisations. Therefore, where adequate due diligence cannot be conducted (due to complexity) those re-securitisations are already subject to penalty provisions;
- mandating that supervisors must approve the due diligence conducted on each and every re-securitisation transaction is too onerous, and an unnecessary interference in how a supervisor manages risk;
- there are inherent difficulties in defining what qualifies as a ‘highly complex’ re-securitisation. Notwithstanding the potential for regulatory arbitrage (i.e. firms specifically structuring deals to fall just outside any definition) it is also challenging to avoid creating a definition that

inadvertently captures less risky exposure. It is more logical to make the distinction based on whether or not a firm is able to conduct the necessary due diligence; and

- the BCBS text does not incorporate the notion of a ‘highly complex’ re-securitisation. The Government has argued that the BCBS proposals deliver a sufficient and proportionate capital treatment for these positions. Furthermore, international convergence is of vital importance in maintaining the competitive position of the EU. On this basis we have sought to have the draft Directive brought into line with the BCBS proposals.

In summary, the new provisions do not result in a treatment that is any more robust than those already introduced, yet it is significantly more onerous for firms and supervisors and potentially introduces uncertainty and ambiguity for firms. The Government position is therefore to seek the removal of any reference to ‘highly complex’ re-securitisations

Notwithstanding our position on the removal of provisions referring to ‘highly complex’ re-securitisations, the recitals of the proposals state that the required due diligence may be impossible to carry out for re-securitisations where the ultimate underlying exposures are leveraged buy-out or project finance and that firms “should not invest in such highly complex re-securitisations”.

I outlined earlier why provisions introduced in the previous package of amendments are sufficient and why no additional reference to highly complex re-securitisations is necessary. Perhaps more importantly, it is completely inappropriate for the Commission to be identifying particular markets, without proper justification, and especially as such identification could prevent further market activity in these sectors. Therefore the Government position is to have the proposals amended such that any reference to leveraged buy-out or project finance in the context described is removed.

At Council working groups there has been almost unanimous agreement with our position on both these matters. However the Commission has not yet acted upon the views expressed by the vast majority of Member States and we will continue to advocate the removal of this section of the proposals.

#### REMUNERATION POLICIES

The Commission proposals on Remuneration set out high-level principles, based on both the EC Recommendation and the principles set out by the Financial Stability Board. As set out in the Impact Assessment, these principles are broadly aligned with those due to be implemented by the FSA at the start of 2010, except that the FSA principles go further in some regards.

As you will be aware, the topic of remuneration is high on the political agenda at present, with the Government pursuing its goals domestically and, at the international level, both within the EU and the G20. The Prime Minister set out the overriding principles that should guide the work on remuneration up to the G20 Pittsburgh summit in a letter co-signed by Angela Merkel and Nicolas Sarkozy. We expect to pursue these principles as set out in the CRD negotiations as well.

I hope this letter contains the further information that you require. I remain happy to offer any further assistance.

*30 September 2009*

#### **Letter from the Chairman to Lord Myners**

Thank you for your Explanatory Memorandum 12093/09, which Sub-Committee A considered at the meeting on 13 October.

We welcome the Commission’s proposal as it addresses the key areas of re-securitisation and remuneration which have been at the root of the recent financial crisis. However, we would like to ask whether there has been any development of your opinion on this proposal in light of the recent G20 meeting in Pittsburgh.

It is also unclear how the proposal addresses the issue pro-cyclicality. Our recent report on the financial crisis concluded that “the Commission should work towards an over counter-cyclical capital regime through further amendments to the Capital Requirements Directive” in conjunction with the work undertaken internationally by Basel Committee to ensure international consistency.

A similar point was made in the conclusion of ECOFIN on 7 July 2009 which stated that “the Council calls on the Commission and the Member States to accelerate their work and make rapid progress on countering the pro-cyclical effects of regulatory standards, e.g. as regards capital requirements and

impaired assets.” Does this proposal make progress toward establishing a counter-cyclical capital regime, and, if so, how?

We also note that the Financial Services Authority is developing a remuneration regime to apply to all UK regulated firms. To what extent has this been influenced by EU legislation, or vice versa? We have decided to continue to hold this document under scrutiny.

*14 October 2009*

#### REVERSE CHARGE MECHANISM: SUPPLIES OF CERTAIN GOODS AND SERVICES SUSCEPTIBLE TO FRAUD (13868/09)

##### **Letter from the Chairman to the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury**

Thank you for your Explanatory Memorandum on document 13868/09. EU Sub-Committee A considered this at its meeting on Tuesday 27 October 2009.

We were a little surprised at the very cautious position you adopted towards this proposal, given that the United Kingdom has an existing VAT reverse charge for mobile phones and computer chips and that the UK may opt-out of this proposal.

We are looking forward to receiving your impact assessment of the proposal upon UK business and further updates on progress of negotiations.

We decided to hold the document under scrutiny in anticipation of your reply.

*28 October 2009*

#### STABILITY AND GROWTH PACT (7308/09)

##### **Letter from the Chairman to Ian Pearson MP, Economic Secretary, HM Treasury**

Thank you for your Explanatory Memoranda on the Council recommendations and decisions on the Stability and Growth Pacts and excessive deficit procedures of various Member States. EU Sub-Committee A considered these documents at our meeting of 9 June. We decided to clear from scrutiny documents 7308-7330/09 and 8325/1/09. We also decided to clear documents 7897-7904/09 from scrutiny.

We decided to hold documents 7955-6/09, which relate to the United Kingdom excessive deficit procedure. Is the difference between the Council recommendation that the UK bring its deficit below 3% by 2013/14 and the Government's projections for the UK's deficit levels to be at 5.4% at this time significant? Do you expect the Council to revise its recommendations in line with the Government predictions?

*9 June 2009*

#### STATE AID SCOREBOARD (8812/09)

##### **Letter from the Chairman to Gareth Thomas MP, Minister of State, Department for Business, Enterprise and Regulatory Reform**

Thank you for your Explanatory Memorandum 8812/09 on the state aid scoreboard. EU Sub-Committee A considered this at its meeting of 2 June 2009.

We believe that it is important that detailed restructuring plans are produced for all institutions that receive state aid. We would also like to express concern over the large number of state aid requests listed, the majority of which have been accepted by the Commission.

We would like to inquire whether a detailed breakdown of the value of individual bank recapitalisation measures are available and would like to inform you of our keen interest in the development of state aid policy over the coming months. We have decided to clear this document from scrutiny.

*5 June 2009*

**Letter from Lord Myners, Financial Services Secretary, HM Treasury, to the Chairman**

I am writing in response to your letter of 5 June 2009 to Gareth Thomas MP, then Minister of State, Department for Business, Innovation and Skills, as I have lead responsibility for the issues you raise pertaining to bank recapitalisation.

The Government is a firm supporter of the state aid rules and has maintained a constructive and cooperative dialogue with the European Commission on the business plans for the recapitalised banks.

A detailed breakdown of the value of individual bank recapitalisation measures is available. These can be found in the UK Financial Investments Limited (UKFI) Annual Report and Accounts 2008/09<sup>25</sup>.

The UKFI Annual Report and Accounts state that the Government invested £20 billion in Royal Bank of Scotland (RBS), comprising £15 billion in ordinary shares and £5 billion in preference shares; £5.5 billion in Lloyds TSB, comprising £4.5 billion in ordinary shares and £1 billion in preference shares; and £11.5 billion in HBOS, comprising £8.5 billion in ordinary shares and £3 billion in preference shares.

The European Commission published restructuring guidelines on 23 July, which explain the Commission's approach to assessing restructuring aid given by Member States to banks. The Government has welcomed this guidance and will continue to work constructively with the Commission on approval of RBS and Lloyds Banking Group's business plans.

In addition to recapitalisation, the UK Government announced an agreement in principle with RBS and Lloyds Banking Group to enter into the asset protection scheme in February and March of this year. We are currently in negotiations with the Commission over state aid approval. A further announcement will be made in due course.

*19 October 2009*

**TAXATION: ADMINISTRATIVE COOPERATION IN THE FIELD OF TAXATION  
(6035/09)**

**Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the  
Chairman**

Thank you for your letter of 18 March about the proposed Administrative Cooperation Directive. I apologise for the delay in replying.

In your letter you refer to a possible contradiction between our concern that an extension of automatic exchange of information under the comitology procedure could impose burdens on industry and our view that an impact assessment is unnecessary. Perhaps I could clarify the position.

The proposal does not itself propose automatic exchange of information for any specific categories of income or capital. It proposes the establishment of a comitology committee with the power to decide which categories of income and capital should be subject to automatic exchange.

In the absence of any proposal that actually lists specific categories, there is no basis on which to carry out an impact assessment. If and when any proposal is made that names specific categories, and if automatic exchange of information in those categories is likely to have a direct impact on industry in terms of significant reporting burdens, then I would share your view that an impact assessment would be necessary.

You also raise a question about the legal base for the proposal, pointing out that tax policy remains subject to national sovereignty and, by implication, unanimity. I fully agree that unanimity is appropriate for this Directive and I am pleased to confirm that legislation under Articles 93 and 94 is subject to unanimity.

*13 July 2009*

**Letter from the Chairman to the Rt Hon Stephen Timms MP**

Thank you for your response dated 13 July 2009 to our letter on Explanatory Memorandum 6035/09. EU Sub-Committee A considered your letter at its meeting of 13 October. It was agreed to hold this proposal under scrutiny.

While considering that the proposal could impose unnecessary burdens on industry, we note your reasons for not providing an impact assessment. We would like nevertheless to be informed of any

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<sup>25</sup> <http://www.ukfi.gov.uk/releases/UKFI%20Annual%20Report%202008-2009.pdf>

work the Government is undertaking to understand the impact of the proposal on the industry and the implications of leaving the automatic exchange of information on specific categories of capital to be determined by a Comitology procedure.

On the legal basis, we assume from your letter that the Government justify the choice of Article 94 on the basis that as tax policy remains subject to national sovereignty it should require unanimity. The Committee's view, as expressed in our previous letter, remains that although tax policy remains subject to national sovereignty, the Directive only deals with administrative arrangements and as such does not impinge on Member States' authority over tax matters and therefore the use of Article 95 requiring qualified majority voting could also be justified. We invite you to take note of the Committee's view on this point as it seems that there was some misunderstanding on this point.

Finally, we note the four month delay in responding to our letter which meant that we were unable to consider your reply before the summer recess. We would appreciate a more prompt response in future. As significant time has passed since the proposal was initially scrutinised, we would like to be informed on progress in the negotiation process under the Swedish Presidency.

*14 October 2009*

#### TAXATION: GAS OIL USED AS MOTOR FUEL (7512/07)

##### **Letter from Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman**

You wrote on 27 April 2009<sup>26</sup> asking for an update on the progress of the above dossier.

The French Presidency undertook some work on this dossier and held a discussion of the proposal at official level in the Council. In an effort to make progress, the French Presidency mooted a compromise which deleted the most contentious elements of the proposal. Their compromise removed the proposals to (i) introduce modest increases to motor fuels duty rates and (ii) align minimum rates on unleaded petrol and diesel. These would instead be tackled under a forthcoming review of the Energy Taxation Directive. Consequently the proposal mainly focussed on increasing flexibility for Member States to decouple their commercial and non-commercial diesel rates in the context of the introduction of a broadly equivalent increase in road user charges.

Following a rather negative reaction from most Member States, the French Presidency and succeeding Presidencies have not undertaken any further work on this dossier and we expect it will be subsumed within the forthcoming review of the Energy Taxation Directive.

I hope you find this information helpful.

*2 July 2009*

#### TAXATION: MUTUAL ASSISTANCE FOR THE RECOVERY OF CLAIMS RELATING TO TAXES, DUTIES AND OTHER MEASURES (6147/09)

##### **Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman**

Thank you for your letter of 18 March<sup>27</sup> about the proposed Recovery Directive. I apologise for the delay in replying.

You ask about the impact of the proposal on local authorities. This is an aspect of the Directive that we will need to consider carefully before it is agreed. My officials are in discussion with the Communities and Local Government Department (CLG) about how local authority involvement in mutual assistance under the Directive would work in practice. CLG will consult the English local authorities as discussions proceed. Likewise we will be consulting the devolved administrations in respect of local authorities in other parts of the United Kingdom.

You also ask about recovery rates. The apparent low rate of recovery in relation to requests for assistance is a key motivation for the Commission proposal. However, we cannot say with any certainty what level of improvement might be expected. We are uncertain as to the precise basis on which the Commission has produced its figure of a 5 per cent recovery rate and it is difficult to make comparisons between Member States whose domestic powers of recovery, on which the ability to process requests depends, vary considerably

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<sup>26</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>

<sup>27</sup> <http://www.parliament.uk/documents/upload/CwMSubA.pdf>

In your letter you asked to be kept up to date on the progress of negotiations. Discussions have been taking place at working group level under the Czech Presidency and steady progress has been made in analysing the proposed text. The Commission, in its Communication on good governance in tax matters (9281/09) encouraged the Council to adopt the proposal as soon as possible. ECOFIN, in its conclusions of 9 June, welcomed the proposed Directive and expressed its readiness to take forward work on this and other areas of good governance in tax matters under the Swedish Presidency, inviting the Presidency to report back in the autumn.

*13 July 2009*

#### **Letter from the Chairman to the Rt Hon Stephen Timms MP**

Thank you for your response to our letter on Explanatory Memorandum 6147/09 dated 13 July 2009. EU Sub-Committee A considered your letter at its meeting of 13 October. It was agreed to hold this proposal under scrutiny.

We note that your officials are in discussion with the Communities and Local Government Department (CLG) about how local authority involvement on mutual assistance under the proposed Directive would work in practice. We would like to be informed of the impact of the proposal on local authorities as this becomes clear from the discussions between the Government and CLG consultation.

We regret the lack of a precise figure on the recovery rate in the United Kingdom as we hope that this Directive will raise the recovery ratio by simplifying administrative procedures. As the Directive is expected to be debated at the Council in November, we would also like to receive further detail on progress on the Proposal under the Swedish Presidency.

We note the four month delay in responding to our letter which meant that we were unable to consider your reply before the summer recess. We would appreciate a more prompt response in future.

*14 October 2009*

### **TAXATION: PROMOTING GOOD GOVERNANCE IN TAX MATTERS (9281/09)**

#### **Letter from the Chairman to the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury**

Thank you for your Explanatory Memorandum 9281/09 on the Commission's Communication on good governance in tax matters. Sub-Committee A considered this at our meeting of 9 June and agreed to clear the proposal from scrutiny.

The Committee is very interested in the debate on good governance and tax transparency. We would be grateful if you would keep us informed of the results of discussions on this subject at the June ECOFIN.

*9 June 2009*

#### **Letter from the Rt Hon Stephen Timms MP to the Chairman**

Further to your letter of 9 June 2009, I write to provide an update on the outcome of the discussions on this matter at the June ECOFIN.

Based on the Commission's 28 April communication, ECOFIN adopted Council conclusions on further work relating to good governance in taxation. The conclusions encourage further work in relation to legislative proposals on the savings taxation directive, the administrative cooperation directive and the recovery directive, and urge the Commission to swiftly present the results of negotiations on an anti-fraud agreement with Liechtenstein.

The UK is content with the conclusions, which represent a positive step forward on the three individual directives and on the wider good governance agenda, with its close links to the G20. The incoming Swedish Presidency will report to the Council in autumn on progress made.

I hope you find this information helpful.

*29 June 2009*

## VAT: DRAFT DIRECTIVE AMENDING VAT DIRECTIVE (14942/07)

### **Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman**

My predecessor sent your Committee an Explanatory Memorandum on 27 November 2007 about a legislative proposal to amend the VAT Directive in four specific areas. These amendments concerned: the VAT scheme applicable to the supply of natural gas, electricity, heat and refrigeration; the tax treatment of EU joint undertakings (e.g. bodies set up for Community research and development); consequential changes on the accession of Bulgaria and Romania; and the right to deduct input VAT on immovable property used for mixed business/non-business purposes.

Although your Committee kindly cleared the Explanatory Memorandum from scrutiny, I thought it might be useful to provide you with an update. In particular, you may recall that the Government had concerns about one of the proposed amendments. It was supposedly intended to clarify the tax status of joint undertakings and other bodies set up for Community research and development under Article 171 of the EC Treaty. However, the precise impact of the proposal as drafted was unclear, as it appeared to extend an existing VAT exemption to them. In the event, it transpired that the Commission's aim here was not to extend the exemption at all, but merely to clarify the current treatment for Community bodies covered by the Protocol of Privileges and Immunities. This would include some joint undertakings and other bodies set up for Community research and development under Article 171 of the EC Treaty, but only where they qualify as Community bodies and are covered by the Protocol of Privileges and Immunities. This is now made very clear in the legal text itself.

More generally, the technical discussions on this draft VAT Directive are almost concluded. The Czech Presidency intends taking this to ECOFIN on 9 June for adoption. Given the clarification on the joint undertakings aspect, the Government is now content to support these proposals at ECOFIN.

An Impact Assessment was not sent to you with the original Explanatory Memorandum. I have therefore included one now.

*18 May 2009*

## VAT FRAUD IN THE EUROPEAN UNION (16774/08, 12886/09)

### **Letter from the Rt Hon Stephen Timms, Financial Secretary, HM Treasury, to the Chairman**

Following submission of the above Explanatory Memorandum dated 16 December 2008, and further correspondence, your Committee decided not to clear the document from scrutiny but asked for further updates on negotiations. I am writing to provide that update and to request clearance for part of the proposal.

As you are aware, the proposed Directive has two elements: changes to combat evasion linked to exemption of certain imports under Customs Procedure Code 42 (CPC 42); and the introduction of an explicit power to apply Joint and Several Liability (JSL) cross border. Whilst resolution of the JSL part of the proposal remains some way off, progress has been made on CPC 42. The Presidency has concluded that this should be taken forward in its own right for agreement at ECOFIN shortly, allowing further discussion of JSL to a slower timetable. The Government would like to be a position to agree to the Directive at the June ECOFIN which is when we anticipate the Presidency will try to confirm agreement.

CPC 42 exempts goods imported from outside the Community from payment of VAT in the Member State of entry if they are destined for another Member State. Relief is available on condition the VAT is declared and paid in the Member State of destination. As the Explanatory Memorandum explained, we agree with action to tackle abuse of CPC 42. Our concern was that the changes were helpful but that they were of limited impact and imposed additional burdens on business.

There have been few changes to this part of the original proposal. The revised text clarifies that the exemption from VAT on importation is only available if the importer supplies the Member State of importation with the VAT number of those involved in the import and in receiving the onward supply. However it now makes it clear that this is a minimum requirement, allowing Member States to introduce their own further conditions if appropriate.

In addition, the importer will not now automatically have to provide proof of the future onward supply as Member States can opt to only require provision of that evidence on request.



The amendments made in negotiations, specifically the option to allow provision of evidence on request, mean that business in the UK will now be protected from additional requirements to submit paperwork. The evidence required, however, will still change from the current details of the actual transport for the onward supply, to other commercial records of the intended onward supply – for example orders or details of transport arrangements.

During negotiations, the Commission's VAT Unit have indicated that they view this clarification of the CPC exemption as the first step in changes, with accordingly limited ambition. They see subsequent steps to improve the EU level system as lying with their Customs Unit colleagues.

Negotiations on this element are not yet concluded. Most Member States had problems with the original text, although no consensus on an alternative approach has yet emerged. The group will continue their discussions and UK officials will work to ensure that the emerging compromise is effective against fraud and respects the principles of legal certainty and proportionality. I will write again to update you when the position is clearer.

I hope you find this information helpful and that it allows you to consider whether scrutiny clearance can be given for the Directive dealing with the changes to CPC 42. I am aware that an Impact Assessment has yet to be produced for this part of the original proposal. However, our view, given the outcome of the negotiations with regard to burdens on business and the limited changes to existing practices that the text would entail, is that an Impact Assessment should not now be necessary. We still intend, however, to produce an assessment for the JSL part of the proposal.

*11 May 2009*

#### **Letter from the Chairman to the Rt Hon Stephen Timms MP**

Thank you for your letter of 11 May 2009 on the amendments to Directive 2006/112/EC. EU Sub-Committee A considered this document at our meeting of 19 May 2009.

We agree that your proposal to go ahead with the negotiations on exemptions from VAT at a faster pace than on Joint and Several Liability proposals is sensible. Therefore, under Article 3 (b) of the Scrutiny Reserve Resolution, we are happy for you to give agreement to this specific proposal at Council.

We decided to continue to hold the document under scrutiny given the reservations expressed over the Joint and Several Liability Proposals. We would like to request updates on the progress of negotiations on this document.

*20 May 2009*

#### **Letter from the Rt Hon Stephen Timms MP to the Chairman**

I have today introduced legislation to remove VAT from supplies of emissions allowances (also known as carbon credits) traded within the UK, in order to prevent the risk of VAT fraud.

This fraud threat became apparent after fraudulent trading on the Bluenext exchange prompted the French government to remove VAT from supplies of emissions allowances in France. The Government of the Netherlands has also made VAT changes in respect of emissions allowances trading.

Today's action will have the effect of instantly closing down the fraud opportunity, without placing any new tax burden on legitimate businesses or incurring any substantial cost to the taxpayer. The operation of the Emissions Trading Scheme will be unaffected.

The UK Government is actively engaged in discussions with the European Commission on establishing an EU-wide solution to this threat, and has sought a derogation from EU law to cover this short-term action. However, HMRC's intelligence indicates that there now exists a substantiated and increasing risk of the UK becoming a major target for the fraudsters during the next few months. This risk assessment is informed by HMRC's experience in recent years of VAT Missing Trader Intra-Community (MTIC) fraud in mobile telephones and computer chips.

We have seen how quickly frauds of this kind can escalate and how effective decisive action can be in tackling them. That is why we have chosen to act now to close down these frauds and protect the public finances.

*30 July 2009*

#### **Letter from the Chairman to the Rt Hon Stephen Timms MP**

Thank you for your Explanatory Memorandum on the proposal on administrative cooperation and combating VAT fraud which was considered by Sub-Committee A at its meeting of 20 October 2009.

We welcome the Commission's proposals as it represents a further step in the fight against VAT fraud which needs an EU response to be tackled effectively.

We are aware that the abuse of 'inactive' VAT identification numbers is a well-known phenomenon and we understand from the Commission's view that by establishing common standards for registration and deregistration of taxable persons that it should become impossible for potential fraudsters to obtain or abuse a VAT identification number. Upon these considerations these provisions appear to be justified. We would therefore be grateful if you could elaborate further your concerns related to common standards which you allude to in your memorandum.

We recognise that of one of the most novel elements of the proposal is the establishment of Eurofisc. What is your view on this new body? Have other Member States expressed subsidiarity concerns over the establishment of this new body? How do you see the use of comitology to some new elements of the proposal?

Finally, we note that consideration of this proposal is still at a very early stage, and that you have not entirely developed your negotiating position. We would be grateful if you could update us as you develop your negotiating position on this regulation. We will hold the Proposal under scrutiny.

*23 October 2009*

#### VAT GROUPING (11734/09)

##### **Letter from the Chairman to the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury**

Thank you for your Explanatory Memorandum 11734/09 of 20 July on VAT grouping. EU Sub-Committee A considered this at its meeting of 20 October 2009.

We agree that, where possible, regulation should avoid imposing unnecessary burdens on business. What has been the reaction of other Member States to the Commission Communication?

We agreed to hold the document under scrutiny in anticipation of your reply.

*23 October 2009*

#### VAT: POSTAL SERVICES (11338/04)

##### **Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman**

Further to your letter of 27 April 2009<sup>28</sup>, I write to provide you with an update on progress on this particular legislative measure.

As you know, the agenda for discussion of proposed legislation is set by the EU Presidency. As a result, the proposed Directive, which seeks to apply a reduced VAT rate to standard postal services, has not been discussed in the Council of Ministers since July 2004.

There have however, been several developments as regards this VAT exemption which may provoke renewed interest. For example:

1. The European Court of Justice (ECJ) recently released its decision in the matter of TNT Post (C-357/07). This case was referred to the ECJ as part of an application for judicial review, whereby the UK's present application of the VAT exemption for various 'public' postal services provided by the Royal Mail was challenged. The guidance of the ECJ will now be applied by the High Court of Justice (Administrative Branch). We are awaiting this decision.
2. Various infraction proceedings against Member States, including the UK and Sweden, were stood over pending the outcome of the TNT case. These actions may be pursued if the European Commission considers that the guidance of the ECJ in that case, does not fully cover its concerns.
3. The European Commission's commentary on the effectiveness of the Postal Services Directives published in January 2009, identified a need for a pan-EU approach to the VAT treatment of postal services and has provoked renewed interest in this VAT exemption.

I will update you if there is any progress of this measure under the Swedish Presidency.

I hope you find this information helpful.

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<sup>28</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>

2 July 2009

## VAT: TREATMENT OF INSURANCE AND FINANCIAL SERVICES (16209/07)

### **Letter from the Rt Hon Stephen Timms MP, Financial Secretary, HM Treasury, to the Chairman**

Further to your letter of 27 April 2009<sup>29</sup>, I write to provide you with an update on progress on this particular legislative measure.

This measure comprises a legislative Proposal to amend the principal VAT Directive (2006/112/EC) and a legislative Proposal for a Council Regulation. The proposed amendments to the Directive contain modernised legal text outlining the borderline of the financial and insurance services VAT exemption and suggestions for some structural changes to this VAT exemption. The proposed Regulation aims to ensure uniform interpretation of the Directive text. Both proposals have progressed under the Slovenian, French and Czech Presidencies.

There is widespread agreement among Member States that the VAT rules should be modernised. However, much work has yet to be done to find a text that accurately reflects developments in the financial and insurance sectors, whilst maintaining the correct boundaries for VAT exemption.

Member States remain divided on ideas for structural changes (the amendments to the option to tax and cost sharing rules). Little progress has been made, as there is a need for further in-depth technical discussion.

The proposed Regulation has been significantly reworked to align it with the Directive text. This has produced meaningful discussion allowing Member States to set examples of the scope of the VAT exemption. However, this work is still at a very early stage and nothing yet has been substantially agreed.

I hope that you have found this information helpful.

2 July 2009

### **Letter from the Chairman to Rt Hon Stephen Timms MP**

Thank you for your letters of 2 July 2009 on the progress of the above dossiers. EU Sub-Committee A considered these letters at its meeting on 14 July 2009.

The Sub-Committee would like to request further updates on the progress of negotiations when and if progress is made, and will continue to hold the documents under scrutiny.

15 July 2009

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<sup>29</sup> <http://www.parliament.uk/documents/upload/CwMSubAcompleted.pdf>