

# European Scrutiny Committee

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From: Mr William Cash MP

4 June 2014

Maroš Šefčovič

Vice-President of the European Commission

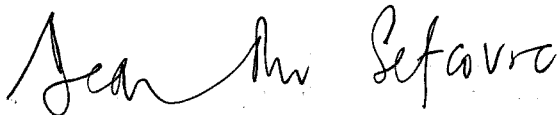
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**Proposed Regulation on indices used as benchmarks in financial instruments and financial contracts: (Financial Benchmarks proposal) COM 2013 (641)**

I write in my capacity as Chairman of the European Scrutiny Committee of the UK House of Commons and in response to your letter of 26 February 2014. We thank you for your letter which responded to the Reasoned Opinion issued by the House of Commons in respect of the Financial Benchmarks proposal. However, I write to tell you that we remain unconvinced by the Commission's subsidiarity justification of the proposal.

In relation to the first limb of the subsidiarity test, the response simply rehearses the Commission's original substantiation set out in the explanatory memorandum and impact assessment rather than address the specific concerns addressed by the House of Commons in paragraph 12 of its Reasoned Opinion. We continue to maintain that for the vast majority of benchmarks, action is better taken at Member State level on the basis that it can be targeted to the particular issues associated with specific benchmarks in each jurisdiction: LIBOR reform in the UK being a good example.

As regards the second limb of the text, we note that the Commission has attempted to address more directly the arguments raised by the House of Commons based on the disadvantages of EU-level action. However, much of the reasoning advanced is based on the Commission's own subjective perception of the proposal being broadly aligned with IOSCO standards, but we continue to question the extent of this alignment, as the proposal is far more prescriptive than the standards. We would add, that of those countries



(and therefore jurisdictions) endorsing IOSCO as part of the G20, none has taken such an excessive approach to reform of benchmarks as the EU. We are also not convinced by the Commission's conclusion that increased compliance costs for administrators and contributors will not deter the continuance of existing benchmarks (or the creation of new ones). More broadly, on the question of the estimation of costs, we still consider that the Commission's Impact Assessment is deficient in not providing some estimate of cost based on the number of individual benchmarks likely to be affected. Finally, we remain concerned about the independence of national statistical authorities as we cannot see how the special features of each authority can be respected and reconciled with the harmonisation objective of the proposal.

We write in the expectation that the points raised by the House and further maintained in this letter will be taken into account by the Commission in the continuing negotiations of the proposal.

I am copying this letter to Lord Boswell and Christopher Johnson in the UK House of Lords; Les Saunders at the UK Cabinet Office; and Deborah Maggs of the UK Home Office.

**CHAIRMAN**