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## **MiFID implementation in the UK**

Dear Paul,

Thank you for sending me the FX JSC's response to our consultation document on implementing MiFID in the UK. We have now considered the issues raised in your submission and our response is set out below.

2. In implementing MiFID we are not planning to change article 84 of the Regulated Activities Order (RAO) as it effects foreign exchange forwards. This means that whether or not such transactions are inside the scope of article 84 will continue to depend on whether or not, based on the tests in the article, they are for commercial or investment purposes. In this respect we do not believe that the situation going forward will be significantly different from that set out in Francis Maude's 1988 statement on the regulation of foreign exchange when he said that:

"On the foreign exchange (and bullion) market, forward contracts are generally made solely for commercial purposes by both contracting parties..."

3. This does not mean, however, that MiFID has no application to foreign exchange forwards. It perpetuates the situation under the ISD where the provision of foreign exchange services in connection with the provision of investments services is an ancillary service (previously described as a "non-core service"). But relative to the ISD, there are more provisions under MiFID which apply to ancillary services, such as article 18 in the level 1 text on conflicts of interest.

4. I hope this reply is helpful, and would be willing to discuss this it further with the FX JSC if that would be of assistance. A copy of this letter is going to the FSA, the British Bankers Association and the Wholesale Market Brokers Association.

**Stephen Hanks**  
**Financial Services Strategy Team**



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