



**EUROPEAN COMMISSION**

**PRESS RELEASE**

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## **First 'equivalence' decisions for central counterparty regulatory regimes adopted today**

The European Commission has today adopted its first 'equivalence' decisions for the regulatory regimes of central counterparties (CCPs) in Australia, Hong Kong, Japan and Singapore.

The CCPs in these third country jurisdictions will be able to obtain recognition in the EU, and can therefore be used by market participants to clear standardised OTC derivatives as required by EU legislation, whilst remaining subject solely to the regulation and supervision of their home jurisdiction. Although rules may differ in the detail, international regulators are pursuing the same objectives to promote financial stability by promoting the use of CCPs that are subject to robust prudential requirements. Through the use of deference, as agreed by the G20, regulatory gaps, duplication, conflicts and inconsistencies which can lead to regulatory arbitrage and market fragmentation are limited.

Vice-President Michel Barnier, responsible for Internal Market and Services said: *"Globally agreed reforms of derivatives markets – like all financial services reforms – will only work in international markets if regulators and supervisors rely on each other. Today's decisions show that the EU is willing to defer to the regulatory frameworks of third countries, if they meet the same objectives as EU rules. We have been working in parallel on assessing twelve additional jurisdictions and finalising those assessments is a top priority. This includes the United States: we are in close and continued dialogue with our colleagues at both the SEC and CFTC as we develop our assessments of their respective regimes and discuss their approaches to deference."*

The European Commission begins its assessment for equivalence if a CCP from a third country seeks recognition from the [European Securities and Markets Authorities](#) (ESMA). Equivalence assessments are undertaken using an outcome based approach. This requires that the relevant rules operating in the third country satisfy the same objectives as in the EU, i.e. a robust CCP framework promoting financial stability through a reduction in systemic risk. It does not mean that identical rules are required to be in place in the third country.

This assessment is undertaken in cooperation with the regulators in the third country. If a determination of equivalence is made, it will be given effect through a legally binding implementing act in accordance with Article 25(6) of the European Market Infrastructure Regulation (EMIR) ([Regulation \(EU\) No 648/2012](#)).

### **Background**

A central counterparty (CCP) established outside of the European Union may provide clearing services to EU clearing members and trading venues where it has been recognised in accordance with the conditions set out in Article 25 of EMIR.

CCPs that have been recognised under the EMIR process will also obtain qualifying CCP (QCCP) status across the European Union under [Regulation \(EU\) No 575/2013 \(CRR\)](#). Finally, CCPs that have been recognised under the EMIR process may be used by EU counterparties in order to satisfy their mandatory clearing obligations under EU law.

A non-EU CCP wishing to obtain recognition must apply to the European Securities and Markets Authority (ESMA) and the conditions for recognition that must be checked are:

- the European Commission has adopted a positive equivalence decision with regard to the regulatory framework applicable to CCPs in the third country. This is the primary condition for recognition. The European Commission will assess the requirements applicable to CCPs in the third country. If the requirements achieve the same regulatory outcomes in terms of reduction of systemic risk, the European Commission may determine equivalence.
- the central counterparty in question is authorised and supervised in accordance with the regulatory framework determined to be equivalent under the above condition. ESMA will check this is the case when the CCP applies for recognition.
- the CCP is established or authorised in a third country that is considered as having equivalent systems for anti-money-laundering and combating the financing of terrorism to those of the Union in accordance with the criteria set out in the common understanding between Member States on third-country equivalence under [Directive 2005/60/EC](#) on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.
- cooperation arrangements have been established between ESMA and the relevant third country supervisory authorities covering supervisory arrangements and the sharing/notification of information.

ESMA will initiate this part of the process with the relevant regulators of the CCP that has applied for recognition.

## For more information

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

Contacts :

[Chantal Hughes](#) (+32 2 296 44 50)

[Carmel Dunne](#) (+32 2 299 88 94)

[Audrey Augier](#) (+32 2 297 16 07)

For the public: **Europe Direct** by phone **00 800 6 7 8 9 10 11** or by [e-mail](#)