European Commission - Press release

European Commission adopts equivalence decisions for CCPs and trading venues in ten non-EU jurisdictions

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The European Commission has determined that India, Brazil, New Zealand, Japan Commodities, United Arab Emirates (UAE) and Dubai International Financial Centre (DIFC) have equivalent regulatory regimes for central counterparties (CCPs) to the European Union.

The Commission has also determined that the rules governing certain financial markets in Australia, Canada, Japan and Singapore can be deemed equivalent to those in the EU.

The first set of decisions confirms that non-EU CCPs in India, Brazil, New Zealand, Japan Commodities, UAE and Dubai DIFC meet the EU's regulatory standards. This will contribute to market certainty and cross-border activity, avoiding the fragmentation of markets. These decisions follow previous determinations made for other jurisdictions in October 2014 (Australia, Singapore, Japan and Hong Kong), November 2015 (Canada, Switzerland, South Africa, Mexico and the Republic of Korea) and March 2016 (United States Commodity Futures Trading Commission - CFTC).

Today the Commission has also adopted equivalence decisions in relation to Australia, Canada, Japan and Singapore determining that the rules governing trading venues in those countries can be deemed equivalent to those in the EU. The decisions follow a previous determination of equivalence made in July 2016 for US designated contract markets (DCMs) under the CFTC oversight. The decision will allow EU corporates active in financial markets to apply the same treatment for their transactions on these exchanges as for European ones for the purpose of calculating whether they cross thresholds triggering mandatory clearing under the EMIR regulation.

European Commission Vice-President **Valdis Dombrovskis**, responsible for Financial Stability, Financial Services and Capital Markets Union, said: *"The EU cooperates closely with third countries to protect financial stability while supporting firms to operate across borders in global markets. We carry out a rigorous, case by case assessment of each country, and I am pleased to announce today equivalence decisions for ten jurisdictions. These decisions will contribute to market certainty and avoid fragmentation."*

CCPs are bodies that sit in the middle of derivatives contracts, becoming the buyer to every seller and the seller to every buyer. A CCP's main purpose is to manage the risk of one counterparty defaulting (i.e. not being able to make the required payments when they are due), therefore reducing the overall risk in the system. The G20 has encouraged the use of CCPs since the financial crisis to reduce risk in derivatives trading.The European Commission has recently proposed new EU rules for the recovery and resolution of CCPs to ensure that they can be dealt with effectively when things go wrong. Trading venues in the EU are regulated under the Markets in Financial Instruments Directive (MiFID II).

How does the equivalence assessment work?

Once a CCP from a third country seeks recognition from the European Securities and Markets Authorities (ESMA), the European Commission assesses whether the rules of the authority in the third country achieve the same objectives as the EU, i.e. a robust CCP framework promoting financial stability through a reduction in systemic risk.

This assessment is undertaken in cooperation with the regulators in the country concerned. If a determination of equivalence is made, it is 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).

Equivalence decisions recognising certain third-country financial markets follow a similar approach, whereby the Commission verifies the third-country framework in terms of the comparable regulatory objectives it achieves. The assessment is carried out in close cooperation with relevant third-country authorities. The Commission's decisions also take the form of implementing acts.

Who will be affected and how?

CCPs non-EU countries whose frameworks are equivalent will be able to obtain recognition in the EU. Market participants in the EU will be able to use those CCPs to clear standardised over-the-counter derivative trades as required by EU legislation. CCPs that have been recognised under the EMIR process will also obtain qualifying CCP (QCCP) status across the European Union under the Capital Requirements Regulation (CRR). This means that EU banks' exposures to these CCPs will be subject to a lower risk weighting in calculating their regulatory capital.

For trading venues, trading in derivatives for non-hedging purposes on foreign exchanges, which are not deemed equivalent, is considered as over-the-counter (OTC) trading and therefore counts towards the clearing threshold under EMIR. The breach of the clearing threshold triggers the application of the clearing obligations under EMIR. The adoption of these equivalence decisions allows EU-based non-financial counterparties not to count their non-hedging trading in derivatives on equivalent third-country markets towards the EMIR clearing threshold.

What happens next?

A non-EU CCP wishing to obtain recognition must submit a complete application to the European Securities and Markets Authority (ESMA). ESMA will then process the application in cooperation with the relevant regulators of the CCP that has applied for recognition.

Transactions executed in recognised financial markets are no longer considered OTC under EMIR.

For more information

http://ec.europa.eu/internal_market/financial-markets/derivatives/index_en.htm

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