

MICHEL BARNIER

*Membre de la Commission européenne*

Brussels,

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Dear Chairman,

Thank you for your letter dated 22 November. Your letter raises numerous interpretive and procedural questions with regard to REGULATION (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories (EMIR). I have sought to provide clarity wherever possible in my response. However, only the Court of Justice of the European Union can give an authoritative interpretation of Union legislation.

The Commission has received the comparative technical advice from the European Securities and Markets Authority (ESMA) with respect to the legal and supervisory arrangements of CCPS in six Asia Pacific jurisdictions. These jurisdictions are Australia, Hong Kong, India, Japan, Singapore and South Korea. The Commission is in the process of analysing ESMA's advice. This involves identifying any differences between our respective legal and supervisory arrangements and assessing whether similar regulatory outcomes are nonetheless achieved; namely the reduction of systemic risk in the financial markets. As part of this process, Commission staff has coordinated - and will continue to coordinate - with the relevant Asia Pacific authorities in order to ensure a comprehensive understanding of the practical application of their regulatory regimes. Where the Commission identifies any significant differences in regulatory outcomes, it will engage in a dialogue with the relevant authorities in order to explore potential alternative means of achieving such outcomes, within the confines of our respective legal and regulatory mandates. Further, the Commission understands that ESMA will shortly submit the supporting draft memoranda of understanding to the relevant third country authorities for their review.

The Commission is aware that CCPs in a number of third country jurisdictions (including in the Asia Pacific region) are providing services to subsidiaries of Union Banks that are subject to the fourth Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms (CRR).

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The Commission recognises that the interconnection between the EMIR recognition process and the treatment of CCP exposures under CRR means that such CCPs may seek recognition with ESMA under the EMIR process. The Commission intends to engage in assessments of equivalence for additional third country jurisdictions in the very near future in order to facilitate the recognition of those CCPs, wherever possible. The Commission will carefully assess the timeframe needed to complete these assessments and will consider extending that time period in line with Article 497 of CRR if the Commission deems the relevant criteria to have been fulfilled.

I hope that the information contained in this response provides you with the further clarity sought on the Commission's approach to assessing the legal and supervisory arrangements of third country jurisdictions in respect of CCPs. My staff is obviously at your disposal to discuss this important matter further.

Yours sincerely, *S. Michalek*



Michel BARNIER