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Additional Information

Level 1 Regulation
Short Selling Regulation (SSR) Regulation (EU) No 236/2012

Topic
Exemptions: market makers and primary operations

Subject Matter
Equivalence decision for third countries

Question
In order for any non-EEA entity to be able to use the market making activities exemption as defined in the Regulation, the market in its home jurisdiction should be subject to a legal and supervisory regime which is equivalent to the MiFID, MAD and Transparency directive and should be declared “equivalent”. Has such a determination of “equivalence” already taken place? Will non-EEA entities be able to use the exemption for their market making activities

under the Regulation in time for 1 November, 2012?

ESMA Answer

29-01-2013

Original language

[ESMA70-145-408 SSR Q&A, Q&A 12.1]

According to Article 17(2) of the Regulation, the legal and supervisory framework of a third country is considered equivalent when the European Commission has adopted a decision to that effect.

The Commission has not issued any equivalence decision; thus, at this stage, no third country entity can claim the use of the exemption in relation to a third country market.