



European Securities and
Markets Authority

Supplement to the Final report

Technical advice on third country regulatory equivalence under EMIR – Switzerland



1. The European Commission mandated ESMA on 11 October 2012 to provide it with technical advice on the equivalence between the Swiss regulatory regime and different aspects of the EU regulatory regime under Regulation (EC) No. 648/2012 of the European Parliament and the Council on OTC derivatives, central counterparties (CCPs) and trade repositories (TRs)¹. The mandate was subsequently reviewed to postpone the deadline to provide the advice and to change its scope in relation to certain jurisdictions.
2. These specific areas concern 1) the recognition of third country CCPs; and 2) the identification of potentially duplicative or conflicting requirements regarding the clearing obligation, non-financial counterparties and risk-mitigation techniques for OTC derivative contracts not cleared by a CCP.
3. ESMA's advice to the European Commission in respect of the equivalence between the Swiss regulatory regime and the EU regulatory regime under EMIR in respect of the recognition of third country CCPs was delivered in the September Final report (ESMA/2013/1159 of 1 September 2013).
4. This supplement to the final report relates to the identification of potentially duplicative or conflicting requirements regarding the clearing obligation, non-financial counterparties and risk-mitigation techniques for OTC derivative contracts not cleared by a CCP.
5. **Given that Switzerland is still in the process of finalising its regulatory regime for the clearing obligation, non-financial counterparties and risk mitigation techniques for uncleared trades, to date ESMA is not in a position to perform a conclusive analysis and deliver a technical advice on this topic. ESMA stands ready to receive a new mandate from the Commission in order to provide a technical advice when progress will have been made for the adoption of the Swiss regulatory regime.**

¹ Hereafter the Regulation or EMIR.