



European Securities and  
Markets Authority

**The Chair**

Date: 1 October 2013  
ESMA/2013/1383

**Jonathan Faull  
Director General,  
Internal Market and  
Services  
European Commission  
Rue de Spa 2  
B-1049 Brussels  
Belgium**

**Re: Technical advice on third country regulatory equivalence under EMIR**

Dear Mr Faull,

*Dear Jonathan,*

On 11th October 2012, you sent a formal request for technical advice on the equivalence between certain third country legal and supervisory frameworks and the requirements in EMIR. This request was subsequently amended to revise the list of countries to be considered, to change the scope of ESMA's advice in respect of some countries and to extend the deadlines for ESMA to deliver its technical advice.

As foreseen in my letter dated 2 September 2013, I am pleased to enclose herewith:

- 1) The supplement to the final report on ESMA's technical advice under EMIR on Australia regarding the clearing obligation, reporting obligation, non-financial counterparties and risk mitigation techniques for uncleared trades and trade repositories;
- 2) The final report on ESMA's technical advice under EMIR on Canada regarding the clearing obligation, reporting obligation, non-financial counterparties and risk mitigation techniques for uncleared trades;
- 3) The supplement to the final report on ESMA's technical advice under EMIR on Hong Kong regarding the clearing obligation, reporting obligation, non-financial counterparties and risk mitigation techniques for uncleared trades and Trade Repositories;
- 4) The supplement to the final report on ESMA's technical advice under EMIR on Singapore regarding Trade Repositories;
- 5) The final report on ESMA's technical advice under EMIR on South Korea regarding Central Counterparties;
- 6) The supplement to the final report on ESMA's technical advice under EMIR on Switzerland regarding the clearing obligation, reporting obligation, non-financial counterparties and risk mitigation techniques for uncleared trades;



7) The final report on ESMA's technical advice under EMIR on India regarding Central Counterparties.

Please note that at this stage ESMA is not in a position to perform a conclusive analysis and deliver the above mentioned technical advice for Hong Kong and Switzerland because those countries are still in the process of finalising their regulatory regimes for the clearing obligation, non-financial counterparties and risk mitigation techniques for uncleared trades and trade repositories. For the other jurisdictions listed above, ESMA recommends the European Commission to use conditional equivalence as contemplated in the previous release.

Finally, based on the technical advice produced on September 2nd and the enclosed advice, I now consider that ESMA has fulfilled the European Commission's mandate to date.

We remain at your disposal should you need some more information while preparing the corresponding European Commission decisions. For that purpose, Rodrigo Buenaventura, Head of the Markets Division can be contacted.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'S' followed by a vertical line and a horizontal stroke.

Steven Maijor

Chair

European Securities and Markets Authority

c.c.: S. Bowles, W. Langen, K. Swinburne, L. Domenici, S. Giegold, Council Secretariat, N. Calviño, P. Pearson