Markets in financial instruments; OTC derivatives, central counterparties and trade repositories

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The Commission presents a report on the exemption for third-country central banks and other entities under Regulation (EU) No 600/2014 of the European Parliament and of the Council on the Markets in Financial Instruments Regulation (MiFIR).

The MiFIR Regulation and the Directive MiFID 2 introduce a market structure which aims to ensure that trading, wherever appropriate, takes place on regulated platforms and that trading is made transparent.

In this framework, MiFIR grants an exemption from pre- and post-trade transparency requirements with regard to non-equity financial instruments that benefits regulated markets, market operators and investment firms. Moreover, MIFIR empowers the Commission to extend the scope of this exemption to third-country central banks where the prerequisite conditions are fulfilled.

Jurisdictions considered: based on an external study carried out for the Commission, the report assesses the treatment of transactions by third-country central banks. It covers the following countries: **Australia, Brazil, Canada, Hong Kong SAR, India, Japan, Mexico, Singapore, the Republic of Korea, Switzerland, Turkey and the United States – and the Bank for International Settlements (BIS)**. According to the IMF, this group of countries covers almost 90% of the global financial system and 80% of global economic activity and includes the majority of the G20 countries and of members of the Financial Stability Board (FSB).

The relevant **criteria** for assessing the jurisdictions should be based on economic indicators, the size and degree of interconnection between countries' financial sector with that of the Union as well as the soundness of the legal environment that prevails in the third-country jurisdiction. Moreover, to be able to be eligible for the assessment on granting the exemption in MiFIR, a jurisdiction must not be included in the list of non-cooperative jurisdictions by the Financial Action Task Force (FATF).

In order to assess whether to grant an exemption to the central banks of third countries, it was necessary to analyse the rules on **regulatory disclosure of central banks transactions and the transparency** of the operational framework.

The Commission concludes the following:

- in light of their market and/or operational transparency frameworks, the above-mentioned jurisdictions have legal frameworks in place which allow for a **sufficient level of transparency**;
- the trading activity in the EU emanating from these jurisdictions is **substantial enough** to justify an extension to these jurisdictions of the exemption from pre- and post-trade transparency requirements;
- it was appropriate to grant the **exemption to the BIS** whose ability to carry out its important public interest functions and to assist the international central banking community should not be prejudiced.

On the basis of the information obtained, the Commission concludes that it is appropriate to grant an exemption from MiFIR pre- and post-trade transparency requirements in accordance with MIFIR to the third-country central banks assessed in the report.

This conclusion is without prejudice to possible changes in the future, having regard to new evidence submitted by central banks in third countries.