



EUROPEAN COMMISSION

Brussels, 24.01.2012
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Dear President,

Let me thank you for the opinion of the Senato della Repubblica on the Proposal for a Regulation on OTC derivatives, central counterparties and trade repositories {COM(2010)484}. I apologise for the undue delay in our response.

The Commission welcomes the support of the Senato della Repubblica for the creation of a European market for post-trading and the obligation to clear standardised OTC derivatives on a CCP and report them to trade repositories.

The opinion invites the Commission to think about the possible consequences, in terms of competition and abuses, of concentrating data in trade repositories. The Commission notes that the market structure is still unfolding: a number of trade repositories have recently started operation and others are in the process of being established. I would like to assure you that the Commission is carefully monitoring market developments in this field.

The opinion also notes that the clearing threshold could be used to circumvent the clearing obligation. The Commission agrees that it is essential that the Regulation does not create any loopholes and is defending this position in the ongoing legislative negotiations.

The Commission also takes note of the Senato della Repubblica's concern as regards the matter that certain aspects of the Regulation shall be adopted at a later stage, by means of delegated acts. Whilst understanding this concern, the Commission would like to emphasise that due to the technical complexity of certain issues relating to central clearing and the threshold for non-financial counterparties, as well as the need for flexibility in order to allow adjustments to market developments, the Commission believes that the proposed areas for delegated acts are justified and appropriate, whilst underlining that the final decision remains with the European Parliament and Council.

Mr Renato Schifani
President
Senate of the Republic of Italy
Piazza Madama
I - 00186 ROMA

The opinion also indicates that, due to the potential impact on non financial-counterparties, the proposed Regulation should be more specific on how frequently the threshold should be reviewed. The latest compromise text of the Council clarifies that ESMA shall periodically review the threshold and present the necessary implementing standards to the Commission every six months. I trust it addresses your concern.

Finally, the opinion notes that the content and format of derivative contracts should be specifically regulated in order to facilitate the assessment of systemic risk. The Commission supports increased standardisation of OTC derivatives both in terms of contractual terms and operational processes. The proposed Regulation would require financial institutions and non-financial institutions above a certain threshold to measure, monitor and mitigate operational and credit risk, including confirming the terms of OTC derivatives contract electronically where possible. This should encourage standardisation of operational processes. In addition, the Capital Requirement Directive allows banks and investment firms to benefit from a lower risk weight if they clear a derivative contract on a CCP rather than bilaterally. This will encourage firms to use products that are sufficiently standardised to be cleared on a CCP.

I look forward to continuing our dialogue on these important issues.

Yours faithfully,

*Maroš Šefčovič
Vice-President*