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NEWS FROM THE ECB

Security-based swap entities – ECB and SEC sign Memorandum of Understanding

16 August 2021 – The European Central Bank (ECB) and the US Securities and Exchange Commission (SEC) have signed a Memorandum of Understanding (MoU) concerning consultation, co-operation and the exchange of information relating to the supervision and oversight of certain cross-border OTC derivatives entities in connection with the use of substituted compliance. This is to prepare for the registration of ECB-supervised entities as security-based swap dealers or major security-based swap participants operating in the US.

The MoU relates to SEC security-based swap entities that are also EU credit institutions or investment firms supervised by the ECB as significant credit institutions under the single supervisory mechanism (SSM) (covered firms). US regulation requires non-US security-based swap dealers and major security-based swap participants with significant business in the US to register with the SEC by 1 November and 1 December 2021, respectively. The SEC may permit such entities to satisfy certain US requirements by complying with comparable EU and national requirements. To make this possible, the SEC and the relevant supervisory and market authorities need to sign co-operation agreements.

Under Rule 3a71-6 of the US Securities Exchange Act 1934, the SEC has the power to issue an order relating to the financial regulatory system of a member state participating in the SSM determining that an SEC-registered security-based swap dealer or major security-based swap participant may comply with specified EU requirements to satisfy US requirements. Before the SEC can issue the order, it must determine that EU requirements applicable to a covered firm or its activities are comparable to US requirements and have entered into an MoU or other arrangement that addresses supervisory and enforcement co-operation.

The MoU was signed, and came into force, on 16 August 2021. The ECB and the SEC will communicate and exchange information on the security-based swap activities that ECB-supervised entities conduct in the US. This co-operation will provide a basis for relevant euro area entities to minimise duplication of compliance efforts and to focus on compliance with EU requirements, while also ensuring compliance with US requirements.

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Memorandum of Understanding between the United States Securities and Exchange

Commission and the European Central Bank concerning consultation, co-operation and the exchange of information related to the supervision and oversight of certain cross-border over-the-counter derivatives entities in connection with the use of substituted compliance by such entities

Press release

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NEWS FOR THE SINGLE SUPERVISORY MECHANISM (SSM)

SSM Regulation – ECB amending decision on supervisory data reported to national competent authorities published in OJ

24 August 2021 – Decision (EU) 2021/1396 of the European Central Bank (ECB), amending Decision ECB/2014/29 on the provision to the ECB of supervisory data reported to national competent authorities (NCAs) by supervised entities under Commission Implementing Regulation 680/2014, has been published in the Official Journal of the EU (OJ).

The amending decision updates Decision ECB/2014/29 to reflect the adoption of Implementing Regulation (EU) 2021/451 and Implementing Regulation (EU) 2021/453 to ensure that NCAs submit the relevant data to the ECB in a timely manner, for onward submission to the European Banking Authority (EBA). Implementing Regulation (EU) 2021/451 sets new standards in relation to supervisory reporting under the Capital Requirements Regulation ((EU) 575/2013) (CRR) that apply from 28 June 2021. Implementing Regulation (EU) 2021/453 specifies new standards in relation to the specific reporting requirements for market risk that apply under the CRR from 5 October 2021.

The amending decision takes effect on the day it is notified to NCAs of participating EU member states.

Decision (EU) 2021/1396 amending Decision ECB/2014/29 on the provision to the European Central Bank of supervisory data reported to the national competent authorities by the supervised entities pursuant to Commission Implementing Regulations (EU) 680/2014 and (EU) 2016/2070 (ECB/2021/39)

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NEWS FOR THE SINGLE RESOLUTION MECHANISM (SRM)

No relevant items.

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Our European Financial Institutions Group, consisting of ‘Best Friends’ BonelliErede, Bredin Prat, De Brauw Blackstone Westbroek, Hengeler Mueller, Slaughter and May and Uría Menéndez, brings together market-leading lawyers with corporate and financing experience and financial regulatory skills.

We have unrivalled coverage of regulatory developments in the EU, which enables us to provide pure regulatory advice on the interpretation and application of EU directives and regulations. We also have strong connections with the best financial institutions lawyers in the United States, Asia and South America.

Our many years of experience of advising a diverse range of major financial institutions allows us to offer the most incisive advice available.

If you would like to discuss any of the developments in this update, or any other financial regulatory matter, please contact one of the following or your usual EFIG contact.

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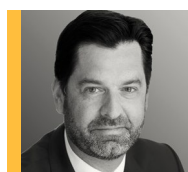
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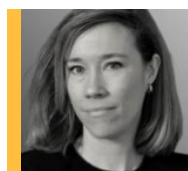
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