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United States: Commodity Futures Trading Commission (CFTC)

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**U.S. COMMODITY FUTURES TRADING COMMISSION**

ENSURING THE INTEGRITY OF THE FUTURES &amp; OPTIONS MARKETS

RELEASE: PR6857-14

**February 12, 2014****Statement by the CFTC and the European Commission on progress relating to the implementation of the 2013 Path Forward Statement**

*CFTC Acting Chairman Mark Wetjen and European Commissioner Michel Barnier announce continued progress regarding European Trading Platforms under July 2013's Path Forward Statement.*



**Washington, DC** – Today Acting Chairman Mark Wetjen and European Commissioner Michel Barnier announced that staff of the United States Commodity Futures Trading Commission (CFTC) and staff of the European Commission (EC) have made significant progress towards harmonizing a regulatory framework for CFTC-regulated swap execution facilities (SEFs) and EU-regulated multilateral trading facilities (MTFs), as contemplated under the Path Forward statement issued in July 2013.

“The two commissions have provided confirmation this week that a global race-to-the-top in derivatives regulation is possible,” said Acting Chairman Wetjen. “As the CFTC moves forward with the swap trading mandate in the United States, it must and will continue to work with its counterparts in Europe and elsewhere to meet the G20 commitments and ensure that standardized trading on regulated platforms protects global liquidity formation and provides much-needed pre-trade transparency to market participants.”

Michel Barnier, European Commissioner for the Single Market and services said: “Following the trilogue agreement on MIFID2 last month, this is an important further step in implementing a joined up, consistent global approach to ensure that financial markets work for the benefit of the real economy. In particular this agreement shows how, as G20 commitments move from words to action, regulators can and should work together to ensure that their respective rules interact with each other in the most effective and efficient fashion. This needs to be done without creating regulatory overlaps or loopholes this creating a global level playing field for operators. Today is an important step but far from the final one on the road towards global convergence. We will continue to work closely with the US authorities in implementing the Path Forward agreement.”

The Path Forward statement set out that the CFTC and EC would work together on extending appropriate, time-limited transitional relief to certain MTFs, in the event that the CFTC's trade execution requirement was triggered before March 15, 2014; provided these platforms were subject to, among other things, sufficient pre- and post-trade price transparency requirements, comparable provisions providing for non-discriminatory access by market participants, and appropriate governmental oversight.

Accordingly, CFTC and EC have engaged in further dialogue regarding the treatment of MTFs under the CFTC's regulatory regime, building upon the common objective to rigorously and expeditiously implement the G-20 commitments, particularly with regard to mandatory trading on regulated and organized platforms. As a result, CFTC staff today issued two no-action letters providing relief to certain EU-regulated MTFs.

Subject to certain important conditions that will preserve and incentivize harmonization of key transparency and risk mitigation safeguards, CFTC staff issued a “Conditional No-Action Letter” which provides no-action relief for (1) qualifying MTFs from the SEF registration requirement under section 5h(a)(1) of the Commodity Exchange Act (CEA); (2) parties executing swap transactions on qualifying MTFs from the trade execution mandate under CEA section 2(h)(8); and (3) swap dealers and major swap participants executing swap

transactions on qualifying MTFs from certain requirements under the CFTC's business conduct rules and for which these registrants otherwise would receive or be subject to similar regulatory treatment if executing swap transactions on SEFs. CFTC's staff separately issued a Short-Term No-Action Letter to provide limited relief for all registered MTFs through March 24, 2014, in order to provide sufficient time for MTFs to identify themselves to the CFTC as a condition to the relief and comply with certain other conditions for obtaining relief pursuant to the Conditional No-Action Letter.

The Conditional No-Action Letter's relief would be based on an MTF meeting certain reporting and clearing-related requirements and a number of conditions previously discussed in the Path Forward statement, including having a multilateral trading scheme, a sufficient level of pre-trade and post-trade price transparency, non-discriminatory access by market participants, and an appropriate level of oversight. The MTFs are presently regulated under MIFID and are expected to meet the CFTC requirements under the conditions set out in the Conditional No-Action Letter.

The CFTC's Division of Market Oversight also is currently developing a rulemaking to set out a process under section 5h(g) of the Commodity Exchange Act for foreign-based swap trading platforms to seek appropriate regulatory treatment under U.S. law. That rulemaking is based on authority provided by Congress in the Dodd-Frank Wall Street Reform and Consumer Protection Act and builds upon the framework of the Conditional No-Action Letter. The Conditional No-Action Letter will expire upon the effective date of such rulemaking.

On 14 January an agreement was reached by the European Parliament and the Council on updated rules for markets in financial instruments (MiFID 2). These new rules are a key step towards establishing a safer, more open and more responsible financial system and restoring investor confidence in the wake of the financial crisis. In particular these rules implement a number of the G-20 commitments, such as the introduction of a trading obligation for derivatives ensuring that these instruments are traded on transparent and multilateral venues.

As the Path Forward statement recognized, and continued dialogue and cooperation between CFTC and EC staff has demonstrated, the United States and the European Union have a close working relationship. By coordinating our efforts, we are providing a model for other jurisdictions working to implement all G-20 commitments. In particular, we believe that implementation of the requirement to trade standardized derivatives on organized trading platforms is a critical piece of the global reform effort.

Last Updated: February 12, 2014