MiFID II: Commission adopts equivalence decision on Swiss share trading venues

Today’s decision ensures that businesses and markets can continue to operate smoothly and without any market disruptions after 3 January 2018. Going forward, the Commission will closely monitor the impact of today’s decision and consider the broader political context, notably the progress in the negotiation of the institutional agreement with Switzerland. The decision is limited to one year, until 31 December 2018.

Valdis **Dombrovskis**, Vice President for Financial Stability, Financial Services and Capital Markets Union, said: *“With today’s decision, we are ensuring continuity for businesses and markets. Even after 3 January, Swiss operators will continue enjoying access to the EU market, and EU investment firms will be able to trade shares in Switzerland. This equivalence is limited to one year, and can be extended provided there is sufficient progress on a common institutional framework. We will be assessing progress on that by end of next year*.”

The EU’s equivalence system in the area of financial services legislation encourages international regulatory convergence and facilitates financial services flows between the EU and third countries. Equivalence decisions are always based on the specific circumstances of the country concerned and there is no automatic right to equivalence.

Switzerland differs from other jurisdictions which have been recently been granted equivalence in several ways. The scope of the Swiss decision is much greater, as the trading of Swiss shares in the EU – and vice versa – is more widespread than with the other jurisdictions – the US, Hong Kong and Australia – which were recently recognised. For example, every share in the Swiss top 20 index is traded in the EU. Therefore trading in Switzerland will have a bigger and more immediate impact on the integrity of EU financial markets, including in the case of prevention of market abuse.

There are also far closer commercial ties binding the EU and Switzerland, which require a special framework. Today’s decision takes into account General Affairs Council conclusions of February 2014, which stated that no further the market access should be granted to Switzerland until the institutional agreement is in place. It is also in line with the Swiss Federal Government’s intentions, according to which the institutional agreement should be concluded by the end of 2018.

Background

Today’s decision takes the form of a Commission Implementing Act. It received the backing of 27 EU Member States in a consultation on 20 December. It will be published in the Official Journal on 23 December 2017.

The EU has established a comprehensive set of rules on investment services and activities. The Market in Financial Instruments Directive or MiFID II (applicable as of 3 January 2018) aims to reinforce the current European rules on securities markets by:

- ensuring that organised trading takes place on regulated platforms;
- introducing rules on algorithmic and high frequency trading;
- improving the transparency and oversight of financial markets – including derivatives markets – and addressing some shortcomings in commodity derivatives markets;
- enhancing investor protection and improving conduct of business rules as well as conditions for competition in the trading and clearing of financial instruments.

In selecting the third country trading venues that benefit from an equivalence decision, the Commission focussed on whether EU trading in the shares admitted to trading in the relevant third country's regulated markets is of such significance in the EU that the EU's trading obligation is triggered with respect to shares admitted on an exchange in the third country. This is the case for shares admitted on the two Swiss exchanges and, to a lesser extent, for shares admitted in the United States, Hong Kong and Australia, for which equivalence decisions were adopted on 13 December 2017.

For More Information

Commission Implementing Act