

MICHEL BARNIER

Membre de la Commission européenne



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Dear Chairman, *Chère Mary,*

I am writing to you on a matter of significant concern and urgency. European Union banks have approached me about the swap dealer registration process that is underway in the US.

You will be aware that the adoption of these rules has created confusion and legal uncertainty for EU banks which consider that they must register as of the date of final adoption of these rules. However, these rules on the registration of swap dealers are only procedural in nature. Importantly, they neither indicate nor contain the substantive conditions that must be met by an entity that has registered. According to the information at my disposal, these substantive provisions will be part of the rules on 'entity definitions' and 'cross-border application' which are not yet final.

If EU firms were required to register at this juncture, this would introduce significant uncertainty with respect to possible future implications in terms of application of organisational requirements, conduct of business rules and other specific rules that may or may not be required.

Therefore, in order to avoid any possible legal uncertainty and unknown consequences that may arise due to the registration by an EU firm, I would strongly encourage you to delay the swap dealer registration process for EU firms until there is legal clarity about the substantive conditions that such registration will entail. I would suggest that our staff members remain in close contact in order to follow up on this matter, allowing a mutually agreeable solution to be found as rapidly as possible.

Ms Mary SCHAPIRO
Chairman
Securities and Exchange Commission
100F Street, NE
Washington DC 20549
United States of America

By e-mail: SchapiroM@sec.gov

In this context, and mindful of the constructive exchange of views we had last February, it is very important to find a common understanding on how to resolve possible duplicative regulatory requirements as a consequence of the application of the US regulatory regime. I can confirm that we are dealing with this issue in the third country regimes that have been introduced in the Regulation on OTC derivatives (EMIR) and in the legislative proposals amending the Markets in Financial Instruments Directive (MiFID II). Further in-depth discussion and collaboration between our staffs in our regulatory dialogue remains important.

I have sent a corresponding letter to Secretary Geithner and Chairman Gensler.

Thank you again for your personal commitment and constructive attitude to this important matter.

Yours sincerely, *of amiceleant*



Michel BARNIER