



2023/2207

17.10.2023

COMMISSION IMPLEMENTING DECISION (EU) 2023/2207

of 13 October 2023

amending Implementing Decision (EU) 2016/2272 on the equivalence of financial markets in Australia in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council to take account of recent developments in the financial markets in Australia

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ⁽¹⁾, and in particular Article 2a(2) thereof,

Whereas:

- (1) In Commission Implementing Decision (EU) 2016/2272 ⁽²⁾, the Commission determined that the financial markets authorised in Australia and set out in the Annex to that Implementing Decision are to be considered equivalent to regulated markets as defined in Article 4(1), point (14), of Directive 2004/39/EC of the European Parliament and of the Council ⁽³⁾, which has been replaced by Directive 2014/65/EU of the European Parliament and of the Council ⁽⁴⁾. That Implementing Decision was based on the assessment by the Commission that the legal and supervisory framework applicable to financial markets in Australia, under the regulatory oversight of the Australian Securities and Investments Commission ('ASIC'), ensures that financial markets comply with the legally binding requirements that are equivalent to those that apply to regulated markets in the Union, and that those financial markets are subject to effective supervision and enforcement on an ongoing basis.
- (2) Since the adoption of Implementing Decision (EU) 2016/2272, an additional financial market established in Australia has obtained authorisation from the ASIC to trade in derivatives. In light of the information received from the ASIC, that additional financial market complies with the legally binding requirements that are equivalent to the requirements for Union regulated markets laid down in Title III of Directive 2014/65/EU and is operating under the ongoing supervision and enforcement of the ASIC. ASIC also informed the Commission that the names of each financial market listed in the Annex to Implementing Decision (EU) 2016/2272 have changed, and requested the Commission to update those names as indicated in their respective Australian market licenses.
- (3) The conditions that led the Commission to adopt Implementing Decision (EU) 2016/2272 are still met. The legally binding requirements for financial markets authorised in Australia are still equivalent to those of the requirements laid down in Title III of Directive 2014/65/EU and those financial markets are still subject to effective supervision and enforcement on an ongoing basis.
- (4) Implementing Decision (EU) 2016/2272 should therefore be amended accordingly.

⁽¹⁾ OJ L 201, 27.7.2012, p. 1.

⁽²⁾ Commission Implementing Decision (EU) 2016/2272 of 15 December 2016 on the equivalence of financial markets in Australia in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 342, 16.12.2016, p. 48).

⁽³⁾ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

⁽⁴⁾ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) (OJ L 173, 12.6.2014, p. 349).

- (5) The Commission should continue to monitor the implementation of the supervisory and enforcement requirements for financial markets established in Australia and the fulfilment of the conditions on the basis of which this Decision has been taken as well as any developments of the requirements for the financial markets in Australia. Such regular review is without prejudice to the possibility of the Commission undertaking a specific review at any time where developments make it necessary for the Commission to reassess this Decision. Such regular or specific reviews could lead to the amendment or repeal of this Decision.
- (6) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision (EU) 2016/2272 is replaced by the text in the Annex to this Decision.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 13 October 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Financial markets authorised in Australia considered equivalent to regulated markets:

- (a) ASX Limited,
 - (b) Australian Securities Exchange Limited trading as ASX 24,
 - (c) Chi-X Australia Pty Ltd trading as Cboe Australia,
 - (d) FEX Global Pty Ltd.
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