PRESS RELEASE

ESMA consults on market maker and primary dealer exemption for short selling

The European Securities and Markets Authority (ESMA) has published a Consultation Paper on *Exemption for market making activities and primary market operations under the Short Selling Regulation*, which contains draft Guidelines on market making and the application of exemptions for market making activities and primary market operations under the Regulation.

The Guidelines are intended to support the creation of a level-playing field, consistency of market practices and convergence of supervisory practices amongst national securities market regulators across the EEA.

ESMA has previously alerted the market and securities markets regulators, on 30 August 2012, to the opening on 1 September of the notification period for the use of the exemption and indicated that today's consultation paper should be used as the interim benchmark for the notification and application of the exemption.

Steven Maijoor, ESMA Chair, said:

> "These Guidelines are aimed at providing market users and national regulatory authorities with clarity on the criteria to be met in applying for a market making exemption, and the conditions to be used in assessing those applications.

> "The Guidelines will ensure that market participants can continue to operate in the knowledge that the same criteria are being used and applied in a consistent manner by national regulatory authorities across the EEA, thereby ensuring a level playing field for all.

> "Further to what ESMA previously indicated, today's draft Guidelines should be used as the interim benchmark by both participants and regulators in the application and assessment process pending the final publication of the Guidelines."

The draft Guidelines set out and clarify:

- the scope of the exemption for market making activities including the required link between the relevant financial instrument, the trading venue or "equivalent" third country venue and the membership of the notifying entity;

- how the relevant competent authority for notification is defined, in particular for notifying entities from third countries;

- guidelines for the process of notification of the intent to use the exemption and its content, including common templates for notification as well as the approach to processing notifications received by relevant competent authorities and assessing conditions of the exemption; and

- transitional measures relating to the sending of notification of intention to use the exemption for market making activities or as Authorised Primary Dealers as of 1 September 2012.

The closing date for responses is 5 October 2012 and an open hearing on the issue will be held in Paris on 1 October 2012.

Notes for editors

1. [Exemption for market making activities and primary market operations under the Short Selling Regulation](#)

2. ESMA published a [Q&A on the Implementation of the Regulation on short selling and certain aspects of credit default swaps](#) on 12 September 2012.

3. [Regulation on short selling and certain aspects of credit default swaps](#).

4. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA), and the European Systemic Risk Board (ESRB).

5. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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