

27 September 2012

Mr Jonathan Faull  
Director General  
DG Internal Market and Services  
European Commission  
B-1049 Brussels

**RE: Development of the Short Selling Regulation**

Dear Mr Faull,

As you may recall, the American Chamber of Commerce to the European Union (AmCham EU) has been following the development of the Short Selling Regulation, since the European Commission proposal first emerged in 2010.

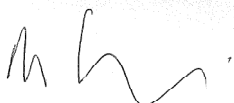
One of our key concerns during the process of both the Level 1 Regulation and the Level 2 technical standards has been to ensure that third country market participants - and particularly those in the United States - continue to be able to trade European Union equities, sovereign debt and sovereign credit default swaps in accordance with the Regulation on third country trading venues, and thereby contribute to the provision of liquidity to those markets.

We are therefore concerned by the current uncertainty over the availability of the exemption for market making activities in third country trading venues. Article 17(2) envisages this exemption being available to firms operating in third country trading venues, provided the European Commission has adopted a decision confirming that the jurisdiction in question has legally binding requirements that are equivalent to those set out in EU law and that there is effective supervision.

As Article 17(5) requires market participants to notify the competent authority of their intention to use the exemption at least 30 days before they do so, there is now a significant risk that those operating in third country venues will not be able to perform their market making function when the Regulation enters into force on 1 November, in contrast to those operating in EU venues.

AmCham EU is therefore keen to see an assurance that a decision under Article 17(2) will be adopted in time to enable entities operating in US trading venues to use the market making exemption in the same manner as those firms operating in venues of EU origin. If such a decision cannot be finalised in the time remaining, then a transitional arrangement should be put in place, to ensure that US firms are not disadvantaged and are able to continue to make markets in those instruments covered by the Regulation.

Yours sincerely,



Michael Collins,  
Chair, Financial Services and Company Law Committee  
American Chamber of Commerce to the European Union (AmCham EU)