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COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of 6.6.2017

on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in Regulations (EU) No 575/2013 and (EU) No 648/2012 of the European Parliament and of the Council

(Text with EEA relevance)

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(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 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012¹, and in particular Article 497(3) thereof,

Whereas:

- (1) In order to avoid disruption to international financial markets and to prevent penalising institutions by subjecting them to higher own funds requirements during the processes of recognition of existing third-country central counterparties (CCPs), Article 497(2) of Regulation (EU) No 575/2013 established a transitional period during which third-country CCPs with which institutions established in the Union clear transactions may be considered qualifying CCPs by those institutions.
- (2) Regulation (EU) No 575/2013 amended Regulation (EU) No 648/2012 of the European Parliament and of the Council² in respect of certain inputs to the calculation of institutions' own funds requirements for exposures to third-country CCPs. Accordingly, Article 89(5a) of Regulation (EU) No 648/2012 requires certain third-country CCPs to report, for a limited period of time, the total amount of initial margin they have received from their clearing members. That transitional period mirrors the one laid down in Article 497(2) of Regulation (EU) No 575/2013.
- (3) Both transitional periods were set to expire on 15 June 2014.
- (4) Article 497(3) of Regulation (EU) No 575/2013 empowers the Commission to adopt an implementing act in order to extend the transitional period for own funds requirements by six months in exceptional circumstances. That extension should also apply in respect of the time limits laid down in Article 89(5a) of Regulation (EU) No 648/2012. Those transitional periods have been extended until 15 June 2017 by Commission Implementing Regulations (EU) No 591/2014³, (EU) No 1317/2014⁴, (EU) 2015/880⁵, (EU) 2015/2326⁶, (EU) 2016/892⁷ and (EU) 2016/2227⁸.

¹ OJ L 176, 27.6.2013, p. 1.

² 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 (OJ L 201, 27.7.2012, p. 1).

³ Commission Implementing Regulation (EU) No 591/2014 of 3 June 2014 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties in Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 165, 4.6.2014, p. 31).

- (5) Of the CCPs established in third countries that have applied for recognition so far, 28 CCPs have already been recognised by the European Securities and Markets Authority. Of those, two CCPs from the United States of America have been recognised after the adoption of Implementing Regulation (EU) 2016/2227 on the basis of Commission Implementing Decision (EU) 2016/377⁹. In addition, following the adoption of Commission Implementing Decisions (EU) 2016/2269¹⁰, (EU) 2016/2275¹¹, (EU) 2016/2276¹², (EU) 2016/2277¹³ and (EU) 2016/2278¹⁴ five CCPs respectively from India, Japan, Brazil, Dubai International Financial Centre and United Arab Emirates have also been recognised. Finally, additional CCPs from India and from New Zealand may be recognised on the basis of Commission Implementing Decisions (EU) 2016/2269 and (EU) 2016/2274¹⁵, respectively. In spite of these developments, the remaining third-country CCPs are still awaiting recognition and the recognition process will not be completed by 15 June 2017. If the transitional period is

⁴ Commission Implementing Regulation (EU) No 1317/2014 of 11 December 2014 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties in Regulations (EU) No 575/2013 and (EU) No 648/2012 of the European Parliament and of the Council (OJ L 355, 12.12.2014, p. 6).

⁵ Commission Implementing Regulation (EU) 2015/880 of 4 June 2015 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in Regulations (EU) No 575/2013 and (EU) No 648/2012 of the European Parliament and of the Council (OJ L 143, 9.6.2015, p. 7).

⁶ Commission Implementing Regulation (EU) 2015/2326 of 11 December 2015 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 328, 12.12.2015, p. 108).

⁷ Commission Implementing Regulation (EU) 2016/892 of 7 June 2016 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 151, 8.6.2016, p. 4).

⁸ Commission Implementing Regulation (EU) 2016/2227 of 9 December 2016 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 336, 10.12.2016, p. 36).

⁹ Commission Implementing Decision (EU) 2016/377 of 15 March 2016 on the equivalence of the regulatory framework of the United States of America for central counterparties that are authorised and supervised by the Commodity Futures Trading Commission to the requirements of Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 70, 16.3.2016, p. 32).

¹⁰ Commission Implementing Decision (EU) 2016/2269 of 15 December 2016 on the equivalence of the regulatory framework for central counterparties in India in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 342, 16.12.2016, p. 38).

¹¹ Commission Implementing Decision (EU) 2016/2275 of 15 December 2016 on the equivalence of the regulatory framework for central counterparties in Japan in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 342, 16.12.2016, p. 57).

¹² Commission Implementing Decision (EU) 2016/2276 of 15 December 2016 on the equivalence of the regulatory framework for central counterparties in Brazil in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 342, 16.12.2016, p. 61).

¹³ Commission Implementing Decision (EU) 2016/2277 of 15 December 2016 on the equivalence of the regulatory framework for central counterparties in the Dubai International Financial Centre in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 342, 16.12.2016, p. 65).

¹⁴ Commission Implementing Decision (EU) 2016/2278 of 15 December 2016 on the equivalence of the regulatory framework for central counterparties in the United Arab Emirates in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 342, 16.12.2016, p. 68).

¹⁵ Commission Implementing Decision (EU) 2016/2274 of 15 December 2016 on the equivalence of the regulatory framework for central counterparties in New Zealand in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council (OJ L 342, 16.12.2016, p. 54).

not extended, institutions established in the Union (or their subsidiaries established outside the Union) having exposures to the remaining third-country CCPs would be required to increase significantly their own funds for those exposures. Even if such increases may only be temporary, they could potentially lead to the withdrawal of those institutions as direct participants in those CCPs or, at least temporary, to the cessation of the provision of clearing services to those institutions' clients and thus cause severe disruption in the markets in which those CCPs operate.

- (6) The need to avoid disruption to markets outside of the Union that led previously to the extension of the transitional period laid down in Article 497(2) of Regulation (EU) No 575/2013 would therefore remain after the expiry of the extension of the transitional period set out in Implementing Regulation (EU) 2016/2227. A further extension of the transitional period should enable institutions established in the Union (or their subsidiaries established outside the Union) to avoid significant increase in the own funds requirements due to the lack of completion of the recognition process for CCPs which provide, in a viable and accessible way, the specific type of clearing services that institutions established in the Union (or their subsidiaries established outside the Union) require. An additional six-month extension of the transitional periods is therefore appropriate.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the European Banking Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The 15-month periods referred to in Article 497(2) of Regulation (EU) No 575/2013 and in the second subparagraph of Article 89(5a) of Regulation (EU) No 648/2012, respectively, as last extended in accordance with Article 1 of Implementing Regulation (EU) 2016/2227, are extended by an additional six months until 15 December 2017.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6.6.2017

For the Commission
The President
Jean-Claude Juncker