

Brussels, XXX
[...] (2021) XXX draft

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of XXX

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

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

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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 established in the Union by subjecting them to higher own funds requirements during the processes of recognition of existing third-country central counterparties (CCPs), Article 497(1) of Regulation (EU) No 575/2013 established a transitional period during which institutions may treat exposures to those third-country CCPs as exposures to qualifying CCPs.
- (2) For third-country CCPs that submitted their application for recognition in accordance with Article 25(6) of Regulation (EU) No 648/2012 of the European Parliament and of the Council² before 27 June 2019, specifically all third-country CCPs still awaiting recognition by the European Securities and Markets Authority (ESMA), the transitional period is set to expire on 28 June 2021.
- (3) The Commission has not yet adopted decisions in accordance with Article 25(6) of Regulation (EU) No 648/2012 for some of the jurisdictions in which those third-country CCPs are established. Such decisions are a prerequisite for ESMA to recognise third-country CCPs. Since those decisions will not be adopted by 28 June 2021, ESMA will not be able to complete by that date the recognition procedures for the third-country CCPs awaiting recognition.
- (4) If the transitional period is not extended, institutions established in the Union, or their subsidiaries established outside the Union, having exposures to those third-country CCPs, will be required to increase their own funds for those exposures significantly. This could potentially lead to the withdrawal of those institutions as direct participants in those CCPs or, at least temporarily, 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. Therefore, it is necessary to extend the transitional

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).

provision in Article 497(1), point (b)(iii) of Regulation (EU) No 575/2013 by 12 months, until 28 June 2022.

- (5) The extension of the transitional provision would leave time for the Commission to finalise its equivalence assessments in accordance with Article 25(6) of Regulation (EU) No 648/2012 and to adopt equivalence decisions where conditions thereof are met. It would also leave time for ESMA to recognise the third-country CCPs concerned. Where a positive equivalence decision would not be adopted by the Commission, an extension would leave time for institutions to properly prepare for the end of the transitional period provided for in Article 497(1) of Regulation (EU) No 575/2013.
- (6) This Regulation should apply from the first day after the expiry of the existing transitional period.
- (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 transitional period referred to in Article 497(1), point (b)(iii), of Regulation (EU) No 575/2013 is extended until 28 June 2022.

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*.

It shall apply from 29 June 2021.

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

Done at Brussels,

For the Commission
The President
Ursula von der Leyen