Commission Delegated Regulation (EU) 2020/1212 of 8 May 2020 amending Delegated Regulation (EU) 2018/1229 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/1212

of 8 May 2020

amending Delegated Regulation (EU) 2018/1229 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline

(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 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012[(1)], and in particular Article 6(5) and Article 7(15) thereof,

Whereas:

(1) Commission Delegated Regulation (EU) 2018/1229[(2)] specifies measures to prevent and address settlement fails, and to encourage settlement discipline. Those measures include monitoring settlement fails and collecting and distributing cash penalties for settlement fails. Delegated Regulation (EU) 2018/1229 also specifies the operational details of the buy-in process.

(2) Stakeholders including CSDs, CCPs, trading venues, investment firms and credit institutions, have indicated that due to new developments, such as the envisaged implementation on 21-22 November 2020 of the penalty mechanism jointly established by CSDs that use a common settlement infrastructure, more time is needed to adapt to the measures specified in Delegated Regulation (EU) 2018/1229. Affected stakeholders have also indicated that more time is needed for the necessary IT system changes, for the development and update of ISO messages, and for market testing and changes to the contractual arrangements between the parties concerned. The European Securities and Markets Authority (ESMA) has considered it appropriate to provide stakeholders with more time to adapt to those measures. The entry into force of Delegated Regulation (EU) 2018/1229 should therefore be deferred.

(3) Delegated Regulation (EU) 2018/1229 should therefore be amended accordingly.

(4) This Regulation is based on the draft regulatory technical standards submitted to the Commission by ESMA.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1212. (See end of Document for details)*

(5) The scope and expected impact of this amendment is limited as it concerns only a brief delay in the date upon which the new settlement discipline regime will be applicable and market participants have already provided their input. ESMA has not conducted any open public consultations. ESMA has nevertheless conducted an analysis of the potential related costs and benefits and has requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[3]. In developing the draft regulatory technical standards, ESMA has also cooperated with the members of the European System of Central Banks. Stakeholders have also contacted the Commission in support of a delay in the entry into force of Commission Delegated Regulation (EU) 2018/1229,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Delegated Regulation (EU) 2018/1229

Article 42 of Delegated Regulation (EU) 2018/1229 is replaced by the following:

Article 42

Entry into force

This Regulation shall enter into force on 1 February 2021.

Article 2

Entry into force and application

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, 8 May 2020.

For the Commission

The President

Ursula VON DER LEYEN