# Commission Delegated Regulation (EU) 2019/460 of 30 January 2019 amending Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to the list of exempted entities (Text with EEA relevance)

## COMMISSION DELEGATED REGULATION (EU) 2019/460

of 30 January 2019

amending Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to the list of exempted entities

(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 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories[(1)], and in particular Article 1(6) thereof,

Whereas:

(1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to and in the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.

(2) The withdrawal agreement as agreed between the negotiators contains arrangements for the application of provisions of Union law to and in the United Kingdom beyond the date the Treaties cease to apply to the United Kingdom. If that agreement enters into force, Regulation (EU) No 648/2012, including the exemption provided for in Article 1(4)(a) of that Regulation, will apply to and in the United Kingdom during the transition period in accordance with that agreement and will cease to apply at the end of that period.

(3) The withdrawal of the United Kingdom from the Union would, in the absence of any special provisions, have the effect that the exemption for the members of the European System of Central Banks (ESCB) and other Member States' bodies performing similar functions and other Union public bodies charged with or intervening in the management of the public debt in Article 1(4)(a) of Regulation (EU) No 648/2012 will no longer apply to the United Kingdom central bank or other public bodies charged with or intervening in the management of the public debt.

(4) The Commission has carried out an assessment of the international treatment of central banks and the public bodies charged with or intervening in the management of the public debt under the laws to be applicable in the United Kingdom after its withdrawal from the Union and has presented its conclusions to the European Parliament and the Council. In

particular, the Commission conducted a comparative analysis of that treatment as well as of the risk-management standards applicable to the derivative transactions entered into by those bodies and by central banks in the United Kingdom.

(5) The Commission concluded in its assessment that the United Kingdom central bank and public bodies charged with or intervening in the management of the public debt should be exempted from the clearing and reporting requirements and the requirement to apply risk-mitigation techniques to non-cleared transactions laid down in Regulation (EU) No 648/2012.

(6) The authorities of the United Kingdom have provided assurances on the status, rights and obligations of ESCB members, including their intention to grant to the members of the ESCB and other Member States' bodies performing similar functions and other Union public bodies charged with or intervening in the management of the public debt an exemption comparable to the one provided for in Article 1(4) of Regulation (EU) No 648/2012.

(7) Consequently, the central bank of the United Kingdom and the public bodies charged with or intervening in the management of the public debt in the United Kingdom should be included in the list of exempted entities laid down in Regulation (EU) No 648/2012.

(8) Therefore, Regulation (EU) No 648/2012 should be amended accordingly.

(9) The Commission continues to monitor on a regular basis the treatment of those central banks and public bodies exempted from the clearing and reporting requirements laid down in the list in Article 1(4)(c) of Regulation (EU) No 648/2012. That list may be updated in light of the development of the regulatory arrangements in those third countries and taking into account any relevant new sources of information. Such reassessment could lead to the removal of certain third countries from the list of exempted entities.

(10) This Regulation should enter into force as a matter of urgency and should apply from the day following that on which Regulation (EU) No 648/2012 ceases to apply to and in the United Kingdom,

HAS ADOPTED THIS REGULATION:

*Article 1*

In Article 1(4)(c) of Regulation (EU) No 648/2012 the following point (ix) is added:

(ix) the United Kingdom of Great Britain and Northern Ireland.

*Article 2*

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

It shall apply from the day following that on which Regulation (EU) No 648/2012 ceases to apply to and in the United Kingdom.

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