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 Regulations (EU) No 575/2013 and (EU) No 648/2012 of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2227

of 9 December 2016

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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 648/2012[(1)], 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 authorisation and recognition of existing central counterparties (CCPs Article 497(1) and (2) of Regulation (EU) No 575/2013 established a transitional period during which all CCPs with which institutions established in the Union clear transactions may be considered qualifying CCPs by institutions.

(2) Regulation (EU) No 575/2013 amended Regulation (EU) No 648/2012 of the European Parliament and of the Council[(2)] in respect of certain inputs to the calculation of institutions' own funds requirements for exposures to CCPs. Accordingly, Article 89(5a) of Regulation (EU) No 648/2012 requires certain 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(1) and (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 December 2016 by Commission Implementing Regulations (EU) No 591/2014[(3)], (EU) No 1317/2014[(4)], (EU) 2015/880[(5)], (EU) 2015/2326[(6)] and (EU) 2016/892[(7)].

(5) The authorisation process for existing CCPs established in the Union has been completed, so no further extensions of the transitional period are necessary for those CCPs.

(6) With regard to CCPs established in third countries that have applied for recognition so far, 21 CCPs have already been recognised by the European Securities and Markets Authority (ESMA). Of those, three CCPs from the United States of America have been recognised after the adoption of Implementing Regulation (EU) 2016/892. Furthermore, additional CCPs from the United States of America may be recognised on the basis of Commission Implementing Decision (EU) 2016/377[(8)]. However, the remaining third-country CCPs are still awaiting recognition and the recognition process will not be completed by 15 December 2016. If the transitional period is 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.

(7) 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) 2016/892. 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.

(8) 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) 2016/892, are extended by an additional six months until 15 June 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*.