Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2016/1630. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2016 No. 1630 may be subject to amendment by EU Exit Instruments made by the Prudential Regulation Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 2. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

Commission Implementing Regulation (EU) 2016/1630 of 9 September 2016 laying down implementing technical standards with regard to the procedures for the application of the transitional measure for the equity risk sub-module in accordance with Directive 2009/138/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1630

of 9 September 2016

laying down implementing technical standards with regard to the procedures for the application of the transitional measure for the equity risk sub-module in accordance with Directive 2009/138/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II)[(1)], and in particular the sixth subparagraph of Article 308b(13) thereof,

Whereas:

(1) In order to allow for the application of the transitional measure set out in Article 308b(13) of Directive 2009/138/EC, insurance and reinsurance undertakings should be able to show to their supervisory authorities that the purchase of the equities subject to that transitional measure took place on or before 1 January 2016. For that purpose insurance and reinsurance undertakings should follow certain procedures for the appropriate identification and documentation of those equities.

(2) In order to ensure uniform conditions and an adequate control of the application of the transitional measure, insurance and reinsurance undertakings should keep records identifying any changes affecting the amount of equities which are subject to the transitional measure. They should update the records each time they calculate the Solvency Capital Requirement in accordance with the standard formula in order to identify the equities subject to the transitional measure.

(3) For equities held through collective investment undertakings or other investments packaged as funds where the look-through approach is not possible, Article 173(2) of Commission Delegated Regulation (EU) 2015/35[(2)] sets a methodology to identify the amount of equities purchased before 1 January 2016 and there is therefore no need to trace the date of purchase of those equities. The relevant date of purchase to be identified and documented should be the date of purchase of the units or shares of those collective investment undertakings or other investments packaged as funds.

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(4) Undertakings should include in their records the date of purchase of the equities, units or shares to which the transitional measure applies. Furthermore, comprehensive documentation and information to check that the conditions to apply the transitional measure are met should be made available to the supervisory authorities, upon request.

(5) Where insurance and reinsurance undertakings sell equities, units or shares referred to in Article 173 of Delegated Regulation (EU) 2015/35 and then buy back equities, units or shares of the same kind after 1 January 2016, the amount of equities which are subject to the transitional measure will decrease compared to the amount initially identified. The procedures followed by the insurance or reinsurance undertaking should therefore ensure that equities which remain subject to the transitional measure after such a sale and subsequent purchases of equities, units or shares can be distinguished from all other equities, units or shares.

(6) This Regulation is based on the draft implementing technical standards submitted by the European Insurance and Occupational Pensions Authority to the Commission.

(7) The European Insurance and Occupational Pensions Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Insurance and Reinsurance Stakeholder Group established by Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council[(3)],

HAS ADOPTED THIS REGULATION:

Article 1

1 Where the weight for the standard parameter referred to in point (b) of the first subparagraph of Article 308b(13) of Directive 2009/138/EC is lower than 100 %, insurance and reinsurance undertakings shall keep a record of the equities referred to in Article 173 of Delegated Regulation (EU) 2015/35 and the dates of their purchase. Where those equities are held within a collective investment undertaking or other investments packaged as funds and the look-through approach is not possible, undertakings shall only keep a record of the units or shares of the collective investment undertaking or other investment packaged as funds to which Article 173(2) applies and the dates of their purchase.

2 Insurance and reinsurance undertakings shall provide the supervisory authority with all the information necessary related to those equities, units and shares, and with documentary evidence of the date of purchase, upon request.

3 The records referred to in paragraph 1 shall be updated each time the insurance or reinsurance undertaking calculates the solvency capital requirement using the transitional measure set out in Article 308b(13) of Directive 2009/138/EC.

4 Where insurance and reinsurance undertakings sell equities, units or shares as referred to in paragraph 1 bought on or before 1 January 2016 and then purchase equities, units or shares of the same kind after 1 January 2016, insurance and reinsurance undertakings shall ensure that the remaining equities, units or shares bought on or before 1 January 2016 can be identified in accordance with paragraph 1.