Regulation (EU) 2016/1014 of the European Parliament and of the Council of 8 June 2016 amending Regulation (EU) No 575/2013 as regards exemptions for commodity dealers (Text with EEA relevance)

REGULATION (EU) 2016/1014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 8 June 2016

amending Regulation (EU) No 575/2013 as regards exemptions for commodity dealers

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Regulation (EU) No 575/2013 of the European Parliament and of the Council[(4)] exempts investment firms whose main business consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC of the European Parliament and of the Council[(5)] and to whom Council Directive 93/22/EEC[(6)] did not apply on 31 December 2006 (‘commodity dealers’) from the requirements for large exposures and from own funds requirements. Those exemptions apply until 31 December 2017.

(2) Regulation (EU) No 575/2013 also requires the Commission to prepare, by 31 December 2015, a report on an appropriate regime for the prudential supervision of commodity dealers. Furthermore, that Regulation requires the Commission to prepare, by the same date, a report on an appropriate regime for the prudential supervision of investment firms in general. Where appropriate, those reports are to be followed by legislative proposals.

(3) A review of the prudential treatment of investment firms (‘investment firms review’), including commodity dealers, is currently underway but has not yet been completed. The finalisation of that review and the adoption of new legislation that may be required in light of that review will be concluded only after 31 December 2017.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2016/1014 of the European Parliament and of the Council. (See end of Document for details)*

(4) Under the existing regime, after 31 December 2017 commodity dealers will become subject to the requirements for large exposures and own funds requirements. This could force them to significantly increase the amount of own funds that they need to have in order to continue their activities and could therefore increase the related costs of performing such activities.

(5) A decision to apply the requirements for large exposures and own funds requirements to commodity dealers should not be arrived at as a result of a lapsed exemption. Instead, that decision should be a thoroughly reasoned one, based on conclusions of the investment firms review, and should be clearly expressed in legislation.

(6) It is therefore necessary to establish a new date until which the exemptions for commodity dealers should continue to apply. Regulation (EU) No 575/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 575/2013 is amended as follows:

(1) in Article 493(1), the second sentence is replaced by the following:

> This exemption is available until 31 December 2020 or the date of entry into force of any amendments pursuant to paragraph 2 of this Article, whichever is the earlier.;

(2) in Article 498(1), the second subparagraph is replaced by the following:

> This exemption shall apply until 31 December 2020 or the date of entry into force of any amendments pursuant to paragraphs 2 and 3, whichever is the earlier..

Article 2

This Regulation shall enter into force on the twentieth 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 Strasbourg, 8 June 2016.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

A.G. KOENDERS