Commission Implementing Regulation (EU) 2016/892 of 7 June 2016 on the extension of the transitional periods related to own funds requirements for exposures to central counterparties set out in Regulation (EU) No 575/2013 and Regulation (EU) No 648/2012 of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/892

of 7 June 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), paragraphs 1 and 2 of Article 497 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[(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 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 6 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 June 2016 by Commission Implementing Regulations (EU) No 591/2014[(3)], (EU) No 1317/2014[(4)], (EU) 2015/880[(5)] and (EU) 2015/2326[(6)].

(5) The authorisation process for existing CCPs established in the Union is ongoing but will not be completed by 15 June 2016. There are still 2 CCPs established in the Union that await authorisation. If the transitional period is not extended, institutions established in the Union having exposures to those 2 CCPs would see significant increases in the own funds requirements for those exposures. While such increases may only be temporary, they could potentially lead to the withdrawal of those institutions as direct participants in those CCPs or to the, at least temporary, cessation of the provision of clearing services to those institutions' clients and thus cause disruption in the markets in which those CCPs operate and potentially in Union markets in general.

(6) With regard to CCPs established in third countries that have applied for recognition so far, 17 CCPs have already been recognised by the European Securities and Markets Authority (ESMA). Of those, 6 CCPs from Canada, Mexico, South Africa and Switzerland, have been recognised after the adoption of Implementing Regulation (EU) 2015/2326. Furthermore, CCPs from South Korea and the United States may be recognised on the basis of Implementing Decisions (EU) 2015/2038[(7)] and (EU) 2016/377[(8)], respectively. However, the remaining third-country CCPs are still awaiting recognition and the recognition process will not be completed by 15 June 2016. The markets served by those remaining CCPs could also be severely disrupted in case the transitional period for institutions having exposures to those CCPs is not extended for the same reasons as in case of the non-extension of the transitional periods for CCPs established in the Union.

(7) The need to avoid disruption to markets inside and outside of the Union that led previously to the extension of the transitional period laid down in paragraphs 1 and 2 of Article 497 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) 2015/2326. 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 authorisation or recognition processes 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 6-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 paragraphs 1 and 2 of Article 497 of Regulation (EU) No 575/2013 and in the first and second subparagraphs of paragraph 5a of Article 89 of Regulation (EU) No 648/2012, respectively, as extended pursuant to Article 1 of Implementing Regulations (EU) No 591/2014, (EU) No 1317/2014, (EU) 2015/880 and (EU) 2015/2326, are extended by an additional 6 months until 15 December 2016.