Commission Delegated Regulation (EU) 2016/861 of 18 February 2016 correcting Commission Delegated Regulation (EU) No 528/2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for non-delta risk of options in the standardised market risk approach and correcting Commission Delegated Regulation (EU) No 604/2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile (Text with EEA relevance)

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correcting Commission Delegated Regulation (EU) No 528/2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for non-delta risk of options in the standardised market risk approach and correcting Commission Delegated Regulation (EU) No 604/2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC[(1)], and in particular Article 94(2) thereof,

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[(2)], and in particular the third subparagraph of Article 329(3), the third subparagraph of Article 352(6) and the third subparagraph of Article 358(4) thereof,

Whereas:

(1) Article 329(3), the third subparagraph of Article 352(6) and the third subparagraph of Article 358(4) of Regulation (EU) No 575/2013 provide for the European Banking Authority (EBA) to develop a range of methods to reflect other risks, apart from delta risk, in the own funds requirements of institutions, in a manner proportionate to the scale and complexity of institutions' activities in options and warrants. Accordingly, the EBA

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2016/861. (See end of Document for details)*

developed draft regulatory technical standards in this regard which the Commission endorsed and adopted in Commission Delegated Regulation (EU) No 528/2014[(3)].

(2) The framework for prudential supervision established by Directive 2013/36/EU requires that all institutions identify all members of staff whose professional activities have a material impact on the institution's risk profile. In accordance with Article 94(2) of Directive 2013/36/EU, the EBA developed draft regulatory technical standards in this regard which the Commission endorsed and adopted in Commission Delegated Regulation (EU) No 604/2014[(4)].

(3) In Delegated Regulation (EU) No 528/2014 and Delegated Regulation (EU) No 604/2014 some errors occurred which need to be corrected.

(4) Under Delegated Regulation (EU) No 528/2014 the simplified approach should only be available for institutions that exclusively purchase options and warrants, but they should not be obliged to use that approach. It is, therefore, appropriate to correct the wording of Article 2 of Delegated Regulation (EU) No 528/2014 which obliges those institutions to use the simplified approach and does not prevent other institutions from using that approach as well.

(5) Article 4(1)(c) of Delegated Regulation (EU) No 604/2014 should be amended as appropriate to qualify any staff whose total remuneration takes them into the same remuneration bracket as senior management and risk takers as ‘material risk takers’, that is, those whose professional activities have a material impact on the institution's risk profile.

(6) This Regulation is based on the draft regulatory technical standards submitted by the EBA to the Commission.

(7) EBA conducted open public consultations on the original draft regulatory technical standards which this Regulation corrects, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[(5)].

(8) In order to ensure that the regulatory technical standards can be applied correctly as soon as possible, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Correction of Delegated Regulation (EU) No 528/2014

Article 2 of Delegated Regulation (EU) No 528/2014 is replaced by the following:

Article 2

Only institutions that exclusively purchase options and warrants may use the simplified approach.