Commission Implementing Regulation (EU) 2015/2326 of 11 December 2015 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) 2015/2326

of 11 December 2015

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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 are considered qualifying CCPs.

(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 of Regulation (EU) No 575/2013.

(3) Both the transitional period for own funds requirements set out in Article 497(1) and (2) of Regulation (EU) No 575/2013 and the transitional period for reporting the initial margin set out in the first and second subparagraphs of Article 89(5a) of Regulation (EU) No 648/2012 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 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 2015 by Commission Implementing Regulations (EU) No 591/2014[(3)], (EU) No 1317/2014[(4)] and (EU) 2015/880[(5)].

(5) The authorisation process for existing CCPs established in the Union is ongoing but will not be completed by 15 December 2015. With regard to existing CCPs established in third countries that have already applied for recognition, several CCPs established in third countries have already been recognised by ESMA and some others may be recognised on the basis of the equivalence decisions under Article 25 of Regulation (EU) No 648/2012 that the Commission adopted on 13 November 2015. The recognition process will not, however, be completed by 15 December 2015. The need to avoid disruption to the international financial markets that led previously to the extension of the transitional period laid down in Article 497(2) of Regulation (EU) No 575/2013 regarding CCPs established in third countries would therefore remain after the expiry of the extension of the transitional period set out in Implementing Regulation (EU) 2015/880. 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 recognised CCPs established in each relevant third country which provide, in a viable and accessible way, the specific type of clearing services that institutions established in the Union require. While such an increase may only be temporary, it could potentially lead to the withdrawal of those institutions as direct participants in those CCPs and cause disruption in the markets in which those CCPs operate. An additional six-month extension of the transitional periods is therefore appropriate.

(6) 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(1) and (2) of Regulation (EU) No 575/2013 and in the first and second subparagraphs of Article 89(5a) of Regulation (EU) No 648/2012, respectively, as extended pursuant to Article 1 of Implementing Regulations (EU) No 591/2014, (EU) No 1317/2014 and (EU) 2015/880, are extended by an additional six months until 15 June 2016.

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*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.