



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL amending Regulation (EU) No 575/2013 as regards exemptions
for commodity dealers

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

of

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 Bank¹,

After consulting the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 130, 13.4.2016, p. 1.

² Opinion of 27 April 2016 (not yet published in the Official Journal).

³ Position of the European Parliament of 11 May 2016 (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) Regulation (EU) No 575/2013 of the European Parliament and of the Council¹ 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 Council² and to whom Council Directive 93/22/EEC³ 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.

¹ 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 (OJ L 176, 27.6.2013, p. 1).

² Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

³ Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (OJ L 141, 11.6.1993, p. 27).

- (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.
- (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 ..,

For the European Parliament
The President

For the Council
The President
