Prudential requirements for credit institutions and investment firms: exemptions for commodity dealers

2015/0295(COD) - 16/12/2015 - Legislative proposal

PURPOSE: to extend the period during which commodity dealers are exempted from certain requirements laid down in Regulation (EU) nº 575/2013 on capital requirements (the 'Capital Requirements Regulation' or 'CRR').

PROPOSED ACT: Regulation of the European Parliament and of the council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Articles 493(1) and 498(1) of Regulation (EU) nº 575/2013 ('CRR') **exempt commodity dealers from large exposures requirements and from own funds requirements respectively**. Both exemptions expire on 31 December 2017. This 'sunset clause' was originally included in the CRR in order to allow time for regulators to determine a prudential regulation adapted to the risk profile of commodity dealers. To this end, the CRR mandates the Commission to prepare reports by the end of 2015. On the basis of those reports, the Commission may decide to submit proposals to amend the CRR.

The prudential framework applicable to investment firms (including commodity dealers) laid down in the CRR and Directive 2013/36/EC ('the Capital Requirements Directive') is **currently under review**. The results will determine the appropriate prudential treatment of commodity dealers. The investment firms review is a complex project. The finalisation of the review and the adoption of new legislation that may be required in light of that review will be concluded only after 31 December 2017.

It is therefore **highly improbable that any legislation that may result from this review can be prepared, adopted and applied before the current exemptions expire**. This has implications for commodity dealers: if no specific prudential framework that may result from the investment firm review would be in place by then, they would be subject to the full CRR/CRD requirements starting from 1 January 2018. 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 those activities.

To prevent this situation arising, the Commission feels it opportune to extend the existing exemptions laid down in the CRR, while taking into account the amount of time that will be necessary to conclude the investment firms review and to prepare, adopt and apply any legislation that may result from that review.

CONTENT: the proposed provisions aim to **extend the exemptions laid down in the CRR for commodity dealers from the large exposures and own funds requirements** and accordingly, amend Regulation 575/2013.

These exemptions apply until **31 December 2020** or the date of entry into force of any amendments, whichever is the earlier.