Chapter 1

Commission Delegated Regulation (EU) 2016/2251

1

Preamble

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, and in particular Article 11(15) thereof,

01/01/2021

Whereas:

(1) Counterparties have an obligation to protect themselves against credit exposures to derivatives counterparties by collecting margins where those contracts are not cleared by a central counterparty. This Regulation lays out the standards for the timely, accurate and appropriately segregated exchange of collateral. These standards should apply on a mandatory basis to the collateral that counterparties are required to collect or post pursuant to this Regulation. However, counterparties which agree to collecting or posting collateral beyond the requirements of this Regulation should be able to choose whether or not to exchange such collateral in accordance with these standards.

(2) Counterparties subject to the requirements of Article 11(3) of Regulation (EU) No 648/2012 should take into account the different risk profiles of non-financial counterparties that are below the clearing threshold referred to in Article 10 of that Regulation when establishing their risk management procedures for over-the-counter ("OTC") derivative contracts concluded with such entities. It is therefore appropriate to allow counterparties to determine whether or not the level of counterparty credit risk posed by those non-financial counterparties that is below that clearing threshold needs to be mitigated through the exchange of collateral. Given that non-financial counterparties established in a third country that would be below the clearing threshold if established in the Union can be assumed to have the same risk profiles as non-financial counterparties below the clearing threshold established in the Union, the same approach should be applied to both types of entities in order to prevent regulatory arbitrage.

(3) Counterparties to non-centrally cleared OTC derivatives contracts need to be protected from the risk of a potential default of the other counterparty. Therefore, two types of collateral in the form of margins are necessary to properly manage the risks to which those counterparties are exposed. The first type is variation margin, which protects counterparties against exposures related to the current market value of their OTC derivative contracts. The second type is initial margin, which protects counterparties against poten-

tial losses which could stem from movements in the market value of the derivatives position occurring between the last exchange of variation margin before the default of a counterparty and the time that the OTC derivative contracts are replaced or the corresponding risk is hedged.

(4) Since central counterparties ("CCPs") might be authorised as a credit institution according to Union legislation, it is necessary to exclude non-centrally cleared OTC derivative contracts that CCPs enter into during a default management process from the requirements of this Regulation since those contracts are already subject to the provisions of Commission Delegated Regulation (EU) No 153/2013 and therefore they are not subject to the provisions of this Regulation.

(5) For non-centrally cleared OTC derivative contracts that involve the payment of a premium upfront to guarantee the performance of the contract, the counterparty receiving the payment of the premium ("option seller") does not have a current or potential future exposure to the counterparty. Also, the daily mark-to-market value of such contracts is already covered by the payment of this premium. Therefore, where the netting set consists of such option positions, the option seller should be able to choose not to collect initial or variation margins for these types of OTC derivatives as long as the option seller is not exposed to any credit risk. The counterparty paying the premium ("option buyer") should however collect both initial and variation margins.

(6) While dispute resolution processes contained in bilateral agreements between counterparties are useful for minimising the length and frequency of disputes, counterparties should, in the first instance, collect at least the undisputed amount in case the amount of a margin call is disputed. This will mitigate the risk arising from the disputed transactions and therefore ensure that non-centrally cleared OTC derivative contracts are collateralised to the extent possible.

(7) In order to guarantee a level playing field across jurisdictions, where a counterparty established in the Union enters into a non-centrally cleared OTC derivative contract with a counterparty that is established in a third country, initial and variation margins should be exchanged in both directions. Counterparties established in the Union transacting with counterparties established in third countries should remain subject to the obligation of assessing the legal enforceability of the bilateral agreements and the effectiveness of the segregation agreements.

(8) It is appropriate to allow counterparties to apply a minimum transfer amount when exchanging collateral in order to reduce the operational burden of exchanging limited sums when exposures move only slightly. However, it should be ensured that such minimum transfer amount is used as an operational tool and not with the view to serving as an uncollateralised credit line between counterparties. Therefore, a maximum level should be set out for that minimum transfer amount.

(9) For operational reasons, it might be more appropriate in some cases to have separate minimum transfer amounts for the initial and the variation margin. In those cases it should be possible for counterparties to agree on separate minimum transfer amounts for variation and initial margin. However, the sum of the separate minimum transfer amounts should not exceed the maximum level of the minimum transfer amount. For practical reasons, it should be possible to define the minimum transfer amount in the currency in which margins are normally exchanged, which may not be the euro.

1

(10) Some third-country jurisdictions may determine a different scope to Regulation (EU) No 648/2012 for the purposes of their requirements for the exchange of collateral in relation to OTC derivative contracts that are not centrally cleared. Therefore, were this Regulation to require that only non-centrally cleared OTC derivative contracts governed by Regulation (EU) No 648/2012 are included in the margin calculations for cross-border netting sets, counterparties in different jurisdictions would potentially have to duplicate required calculations to take into account different definitions or different scopes of products under the respective margin requirements. This could lead to distorted margin calculations. Furthermore, this would likely increase the risk of disputes. Therefore, allowing the use of a broader set of products in cross-border netting sets that includes all the OTC derivative contracts that are subject to exchange of collateral in one or the other jurisdiction would facilitate a smoother process of margin collection. This approach is consistent with the systemic risk-reduction goal of Regulation (EU) No 648/2012, since a broader range of products would be subject to the margin requirements.

(11) Counterparties may choose to collect initial margins in cash, in which case the collateral should not be subject to any haircut, provided that the currency of the collateral matches the currency in which the contract is expressed. However, where initial margins are collected in cash in a currency different than the currency in which the contract is expressed, currency mismatch may generate foreign exchange risk. For this reason, a currency mismatch haircut should apply to initial margins collected in cash in another currency. For variation margins collected in cash no haircut is necessary in line with the BCBS-IOSCO framework, even where the payment is executed in a different currency than the currency of the contract.

(12) When setting the level of initial margin requirements, the Basel Committee on Banking Supervision and the Board of the International Organization of Securities Commissions have explicitly considered two aspects, as reflected in their framework, "Margin requirements for non-centrally cleared derivatives" of March 2015 ("BCBS-IOSCO framework"). The first aspect is the availability of high credit quality and liquid assets covering the initial margin requirements. The second is the proportionality principle, as smaller financial and non-financial counterparties might be hit in a disproportionate manner from the initial margin requirements. In order to maintain a level playing field, this Regulation should introduce a threshold that is exactly the same as in the BCBS-IOSCO framework below which two counterparties are not required to exchange initial margin. This should substantially alleviate costs and operational burden for smaller participants and address the concern about the availability of high credit quality and liquid assets without undermining the general objectives of Regulation (EU) No 648/2012.

(13) While the thresholds should always be calculated at group level, investment funds should be treated as a special case as they can be managed by a single investment manager and captured as a single group. However, where the funds are distinct pools of assets and they are not collateralised, guaranteed or supported by other investment funds or the investment manager itself, they are relatively risk remote in relation to the rest of the group. Such investment funds should therefore be treated as separate entities when calculating the thresholds, in line with the BCBS-IOSCO framework.

(14) With regard to initial margin, the requirements of this Regulation are likely to have a measurable impact on market liquidity, as assets provided as collateral cannot be liquidated or otherwise reused for the duration of the non-centrally cleared OTC derivative contract. Such requirements represent a significant change in market practice and present certain operational and practical challenges that will need to be managed as the new requirements come into effect. Taking into account that the variation margin already covers realised fluctuations in the value of non-centrally cleared OTC derivatives contracts up to the point of default, it is considered proportionate to apply a threshold of EUR 8 billion in gross notional amounts of outstanding contracts to the application of

the initial margin requirements. This threshold applies at the group level or, where the counterparty is not part of a group, at the level of the single entity. The aggregated gross notional amount of outstanding contracts should be used as an adequate reference given that it is an appropriate metric for measuring the size and complexity of a portfolio of non-centrally cleared OTC derivative contracts. It is also a reference that is easy to monitor and report. These thresholds are also in line with the BCBS-IOSCO framework for non-centrally cleared OTC derivative contracts and are therefore consistent with international standards.

(15) Exposures arising either from contracts or counterparties that are permanently or temporarily exempted or partially exempted from margins, should also be included in the calculation of the aggregated gross notional amount. This is due to the fact that all the contracts contribute to the determination of the size and complexity of a counterparty's portfolio. Therefore, non-centrally cleared OTC derivative contracts that may be exempted from the requirements of this Regulation are also relevant for determining the size, scale and complexity of the counterparty's portfolio and should therefore also be included in the calculation of the thresholds.

(16) It is appropriate to set out special risk management procedures for certain types of non-centrally cleared OTC derivative contracts that show particular risk profiles. In particular, the exchange of variation margin without initial margin should, consistent with the BCBS-IOSCO framework, be considered an appropriate exchange of collateral for physically-settled foreign exchange contracts. Similarly, as cross-currency swaps can be decomposed into a sequence of foreign exchange forwards, only the interest rate component should be covered by initial margin.

(17) Account should be taken of the impediments faced by covered bonds issuers or cover pools in providing collateral. Under a specific set of conditions, covered bonds issuers or cover pools should therefore not be required to post collateral. This should allow for some flexibility for covered bonds issuers or cover pools while ensuring that the risks for their counterparties are limited. Covered bond issuers or cover pools may face legal impediments to posting and collecting non-cash collateral for initial or variation margin or posting variation margin in cash since variation margin payment could be considered a claim that ranks senior to the bond holder claims, which could result in a legal impediment. Similarly, the possibility to substitute or withdraw initial margin could be considered a claim that ranks senior to the bond holder claims facing the same type of constraints. However, there are no constraints on a covered bond issuer or cover pool to return cash previously collected as variation margin. Counterparties of covered bond issuers or cover pools should therefore be required to post variation margin in cash and should have the right to get back part or all of it, but the covered bond issuers or cover pools should only be required to post variation margin for the amount in cash that was previously received.

(18) Counterparties should always assess the legal enforceability of their netting and segregation agreements. Where, with respect to the legal framework of a third country, these assessments turn out to be negative, counterparties should rely on arrangements different from the two-way exchange of margins. With a view to ensuring consistency with international standards, to avoid that it becomes impossible for Union counterparties to trade with counterparties in those jurisdictions, and to ensure a level playing field for Union counterparties, it is appropriate to set out a minimum threshold below which counterparties can trade with counterparties established in those jurisdictions without exchanging initial or variation margins. Where the counterparties have the possibility to collect margins and can ensure that for collected collateral, as opposed to posted collateral, the provisions of this Regulation can be met, Union counterparties should always be required to collect collateral. Exposures from contracts with counterparties established in third-country jurisdictions that are not covered by any exchange of collateral because of the

1

legal impediments in those jurisdictions should be constrained by setting a limit, as capital is not considered equivalent to margin exchange in relation to the exposures arising from non-centrally cleared OTC derivative contracts and not all counterparties subject to the margin requirements under this Regulation are also subject to capital requirements. This limit should be set in such a way that it is simple to calculate and verify. To avoid the build-up of systemic risk and to avoid that such specific treatment creates the possibility to circumvent the provisions of this Regulation, the limit should be set at a conservative level. These treatments would be considered sufficiently prudent, because there are also other risk mitigation techniques as an alternative to margins.

(19) In order to safeguard against the case where collateral cannot be liquidated immediately after the default of a counterparty, it is necessary, when calculating initial margin to take into account the time period from the most recent exchange of collateral covering a netting set of contracts with a defaulting counterparty until the contracts are closed out and the resulting market risk is re-hedged. This time period is known as the "margin period of risk" ("MPOR") and is the same tool as that used in Article 272(9) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, with respect to counterparty credit risk of credit institutions. Nevertheless, as the objectives of the two Regulations differ, and Regulation (EU) No 575/2013 sets out rules for calculating the MPOR for the purpose of own funds requirements only, this Regulation should include specific rules on the MPOR that are required in the context of the risk management procedures for non-centrally cleared OTC derivative contracts. The MPOR should take into account the processes required by this Regulation for the exchange of margins.

(20) Initial and variation margin should generally be exchanged no later than the end of the business day following the day of execution. However, an extension of the time for the exchange of variation margin is permitted where compensated by an adequate calculation of the MPOR. Alternatively, where no initial margin requirements apply, an extension should be allowed if an appropriate amount of additional variation margin is collected.

(21) When developing initial margin models and when calculating the appropriate MPOR, counterparties should take into account the need to have models that capture the liquidity of the market, the number of participants in that market and the volume of the relevant OTC derivative contracts. At the same time there is the need to develop a model that both parties can understand, reproduce and on which they can rely to resolve disputes. Therefore counterparties should be allowed to calibrate the model and calculate MPOR dependent only on market conditions, without the need to adjust their estimates to the characteristics of specific counterparties. This in turn implies that counterparties may choose to adopt different models to calculate the amounts of initial margin to be exchanged between them, and that those amounts of initial margin may not be symmetrical.

(22) While there is a need for recalibrating an initial margin model with sufficient frequency, a new calibration might lead to unexpected levels of margin requirements. For this reason, an appropriate time period should be established, during which margins may still be exchanged based on the previous calibration. This should give counterparties enough time to comply with margin calls resulting from the recalibration.

(23) Collateral should be considered as being freely transferable if, in the case of a default of the poster of collateral, there are no regulatory or legal impediments or third-party claims, including those of the third-party custodian. However, certain claims, such as costs and expenses incurred for the transfer of the collateral, in the form of liens routinely imposed on all securities transfers, should not be considered an impediment as that would lead to a situation where an impediment would always be identified.

(24) The collecting counterparty should have the operational capability to liquidate the collateral in the case of a default of the poster of collateral. The collecting counterparty should also be able to use the cash proceeds of liquidation to enter into an equivalent contract with another counterparty or to hedge the resulting risk. Having access to the market should therefore be a pre-requisite for the collector of collateral to enable it to either sell the collateral or repo it within a reasonable amount of time. This capability should be independent of the poster of collateral.

(25) Collateral collected must be of sufficiently high liquidity and credit quality to allow the collecting counterparty to liquidate the positions without suffering a loss due to significant changes in value in case the other counterparty defaults. The credit quality of the collateral should be assessed relying on recognised methodologies such as the ratings of external credit assessment institutions. In order to mitigate the risk of mechanistic reliance on external ratings, however, a number of additional safeguards should be introduced. Those safeguards should include the possibility to use an approved Internal Rating Based ("IRB") model and the possibility to delay the replacement of collateral that becomes ineligible due to a rating downgrade, with the view to efficiently mitigating potential cliff effects that may arise from excessive reliance on external credit assessments.

(26) While haircuts mitigate the risk that collected collateral is not sufficient to cover margin needs in a time of financial stress, other risk mitigants are also needed when accepting non-cash collateral in order to ensure that it can be effectively liquidated In particular, counterparties should ensure that the collateral collected is reasonably diversified in terms of individual issuers, issuer types and asset classes.

(27) The impact on financial stability of liquidating the collateral posted by non-systemically important counterparties is limited. Further, concentration limits on initial margin might be burdensome for counterparties with small OTC derivative portfolios as they might have only a limited range of eligible collateral available to post. Therefore, even though collateral diversification is a valid risk mitigant, non-systemically important counterparties should not be required to diversify collateral. On the other hand, systemically important financial institutions and other counterparties with large OTC derivative portfolios trading with each other should apply the concentration limits at least to initial margin including with respect to eligible collateral comprising Member States' sovereign debt securities. Those counterparties are sophisticated enough to either transform collateral or to access multiple markets and issuers to sufficiently diversify the collateral posted. Article 131 of Directive 2013/36/EU of the European Parliament and of the Council provides for the identification of institutions as systemically important under Union law. However, given the broad scope of Regulation (EU) No 648/2012, a quantitative threshold should be introduced so that the requirements for concentration limits apply also to counterparties that might not fall under those existing classifications of systemically important institutions but which should nonetheless be subject to concentration limits because of the size of their OTC derivative portfolios.

(28) Pension scheme arrangements are subject to bilateral collateralisation requirements. It is, however, important to avoid excessive burden from those requirements on the expected performance of those schemes and, consequently, on the retirement income of future pensioners. Pension scheme arrangements' liabilities to retirees are denominated in local currencies and their investments must therefore be denominated in the same currency in order to avoid the costs and risks of foreign currency mismatches. It is therefore appropriate to provide that concentration limits do not apply to pension scheme arrangements in the same manner as for other counterparties. However, it is important that adequate risk management procedures are in place to monitor and address potential concentration risks arising from that special regime. The application of these provisions

with regard to pension scheme arrangements should be monitored and reviewed in light of market developments.

(29) Difficulties in segregating cash collateral should be acknowledged by allowing counterparties to post a limited amount of initial margin in the form of cash and by allowing custodians to reinvest this cash collateral. However, cash held by a custodian is a liability that the custodian has towards the posting counterparty, which generates a credit risk for the posting counterparty. Therefore, in order to reduce systemic risk, the use of cash as initial margin should be subject to diversification requirements at least for systemically important institutions. Systemically important institutions should be required to either limit the amount of initial margin collected in cash or to diversify the exposures by using more than one custodian.

(30) The value of collateral should not exhibit a significant positive correlation with the creditworthiness of the poster of collateral or the value of the underlying non-centrally cleared derivatives portfolio since this would undermine the effectiveness of the protection offered by the collateral collected. Accordingly, securities issued by the poster of collateral or its related entities should not be accepted as collateral. Counterparties should also be required to monitor that collateral collected is not subject to other forms of wrong way risk.

(31) It should be possible for the non-defaulting counterparty to liquidate assets collected as collateral as initial or variation margin in a sufficiently short time in order to protect against losses on non-centrally cleared OTC derivative contracts in the event of a counterparty default. These assets should therefore be highly liquid and should not be exposed to excessive credit, market or foreign exchange risk. To the extent that the value of the collateral is exposed to these risks, appropriately risk-sensitive haircuts should be applied.

(32) In order to ensure the timely transfer of collateral, counterparties should have efficient operational processes in place. This requires that the processes for the bilateral exchange of collateral are sufficiently detailed, transparent and robust. A failure by counterparties to agree upon and establish an operational framework for efficient calculation, notification and finalisation of margin calls can lead to disputes and failed exchanges of collateral that result in uncollateralised exposures under OTC derivative contracts. As a result, it is essential that counterparties set clear internal policies and standards in respect of collateral transfers. Any deviation from those policies should be rigorously reviewed by all relevant internal stakeholders that are required to authorise those deviations. Furthermore, all applicable terms in respect of operational exchange of collateral should be accurately recorded in detail in a robust, prompt and systematic way.

(33) An exchange of collateral agreement should be concluded between counterparties entering into non-centrally cleared OTC derivative contracts in order to provide legal certainty. As a result, the exchange of collateral agreement should include all material rights and obligations of the counterparties applicable to non-centrally cleared OTC derivative contracts.

(34) Collateral protects the collecting counterparty in the event of the default of the posting counterparty. However, both counterparties are also responsible for ensuring that the manner in which collateral collected is held does not increase the risk of a loss of excess posted collateral for the posting counterparty in case the collecting counterparty defaults. For this reason, the bilateral agreement between the counterparties should allow both counterparties to access the collateral in a timely manner when they have the right to do so, hence the need for rules on segregation and for rules providing for an assessment of

the effectiveness of the agreement in this respect, taking into account the legal constraints and the market practices of each jurisdiction.

(35) The re-hypothecation, re-pledge or re-use of collateral collected as initial margins would create new risks for counterparties due to claims of third parties over the assets in the event of a default. Legal and operational complications could delay the return of the collateral in the event of a default of the initial collateral collector or the third party or even make it impossible. In order to preserve the efficiency of the framework and ensure a proper mitigation of counterparty credit risks, the re-hypothecation, re-pledge or re-use of collateral collected as initial margin should therefore not be permitted.

(36) Given the difficulties in segregating cash, the current practices for the exchange of cash collateral in certain jurisdictions and the need for reliance on cash instead of securities in certain circumstances where transferring securities may be impeded by operational constraints, cash collateral collected as initial margin should always be held by a central bank or third-party credit institution, since this ensures the separation from the two counterparties to the contract. To ensure such separation, the third-party credit institution should not belong to the same group as either of the counterparties.

(37) When a counterparty notifies the relevant competent authority regarding its intention to take advantage of the exemption of intragroup transactions, in order for the competent authority to decide whether the conditions for the exemption are met, the counterparty should provide a complete file including all relevant information necessary for the competent authority to complete its assessment.

(38) For a group to be deemed to have adequately sound and robust risk management procedures, a number of conditions have to be met. The group should ensure a regular monitoring of the intragroup exposures, and the timely settlement of the obligations resulting from the intragroup OTC derivative contracts should be guaranteed based on the monitoring and liquidity tools at group level that are consistent with the complexity of the intragroup transactions.

(39) In order for the exemption for intragroup transactions to be applicable, it must be certain that no legislative, regulatory, administrative or other mandatory provisions of applicable law could legally prevent the intragroup counterparties from meeting their obligations to transfer monies or repay liabilities or securities under the terms of the intragroup transactions. Similarly, there should be no operational or business practices of the intragroup counterparties or the group that could result in funds not being available to meet payment obligations as they fall due on a day-to-day basis, or in prompt electronic transfer of funds not being possible.

(40) This Regulation includes a number of detailed requirements to be met for a group to obtain the exemption from posting margin for intragroup transactions. In addition to those requirements, where one of the two counterparties in the group is domiciled in a third country for which an equivalence determination under Article 13(2) of Regulation (EU) No 648/2012 has not yet been provided, the group has to exchange, variation and appropriately segregated initial margins for all the intragroup transactions with the subsidiaries in those third countries. In order to avoid a disproportionate application of the margin requirements and taking into account similar requirements for clearing obligations, this Regulation should provide for a delayed implementation of that particular requirement. This would allow enough time for completion of the process to produce the equivalence determination, while not requiring an inefficient allocation of resources to the groups with subsidiaries domiciled in third countries.

(41) Taking into account the principle of proportionality, counterparties that have smaller portfolios and therefore generally smaller operations should be allowed more time to adapt their internal systems and processes in order to comply with the requirements of this Regulation. In order to achieve a proper balance between mitigating the risks arising from non-centrally cleared OTC derivatives and the proportionate application of this Regulation, as well as to achieve international consistency and minimise possibilities of regulatory arbitrage with the view to avoiding market disruption, a phase-in period of the requirements is necessary. The phase-in period for the requirements introduced in this Regulation takes into account the schedule agreed in the BCBS-IOSCO framework, which was established by reference to a quantitative impact study involving Union credit institutions.

(42) Commission Delegated Regulation specifies the definition of physically settled foreign exchange forwards within the Union. However, at this juncture, that definition is not applicable and those products are defined in a non-homogenous way in the Union. Therefore, in order to avoid creating an un-level playing field within the Union, it is necessary that the application of the corresponding risk mitigation techniques are aligned to the date of application of the relevant Delegated Act. A specific date on which the relevant requirements should in any case apply is also set out to avoid excess delays in the introduction of the risk mitigation techniques.

(43) In order to avoid market fragmentation and ensure a level playing field for Union counterparties established in the Union on a global level, and acknowledging the fact that in some jurisdictions the exchange of variation and initial margin for single-stock options and equity index options is not subject to equivalent margin requirements, the treatment of those products should be phased-in. This phase-in period will provide time for monitoring regulatory developments in other jurisdictions and ensuring that appropriate requirements are in place in the Union to mitigate counterparty credit risk in respect of such contracts whilst avoiding scope for regulatory arbitrage.

(44) For reasons of legal certainty and to avoid potential disruptions in financial markets, it is appropriate to clarify the treatment of existing contracts.

(45) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority.

(46) The European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority have conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, 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, the opinion of the Insurance and Reinsurance Stakeholder Group and the Occupational Pensions Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council, and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council.

(47) In accordance with the procedure set out in the fifth, sixth and seventh sub-paragraphs of Article 10(1) of Regulation (EU) No 1093/2010, in the fifth, sixth and seventh sub-paragraphs of Article 10(1) of Regulation (EU) No 1095/2010 and in the fifth,

sixth and seventh sub-paragraphs of Article 10(1) of Regulation (EU) No 1094/2010, this Regulation incorporates amendments to the draft regulatory technical standards, resubmitted in the form of a formal opinion to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority, on the basis of the Commission's proposed amendments,

HAS ADOPTED THIS REGULATION: