

Commission Delegated Regulation (EU) 2015/2205 of 6 August 2015 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (Text with EEA relevance)

*Article 3*

**Dates from which the clearing obligation takes effect**

1 In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect on:

- a 21 June 2016 for counterparties in Category 1;
- b 21 December 2016 for counterparties in Category 2;
- [<sup>F1</sup>c 21 June 2019 for counterparties in Category 3;]
- d 21 December 2018 for counterparties in Category 4.

Where a contract is concluded between two counterparties included in different categories of counterparties, the date from which the clearing obligation takes effect for that contract shall be the later date.

[<sup>F2</sup> By way of derogation from paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex and concluded between counterparties which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the Union, the clearing obligation shall take effect on:

- a 21 December 2020 in case no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in the Annex to this Regulation in respect of the relevant third country; or
- b the later of the following dates in case an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country:
  - (i) 60 days after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country;
  - (ii) the date when the clearing obligation takes effect pursuant to paragraph 1.]

This derogation shall only apply where the counterparties fulfil the following conditions:

- a the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;
- b the counterparty established in the Union is:
  - (i) a financial counterparty, a non-financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the counterparty referred to in point (a) is a financial counterparty; or

**Changes to legislation:** Commission Delegated Regulation (EU) 2015/2205, Article 3 is up to date with all changes known to be in force on or before 06 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) EUR 2015 No. 2205 may be subject to amendment by EU Exit Instruments made by both the Financial Conduct Authority and the Bank of England under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 5. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes

- (ii) either a financial counterparty or a non-financial counterparty and the counterparty referred to in point (a) is a non-financial counterparty;
- c both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;
  - d both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;
  - e the counterparty established in the Union has notified its competent authority in writing that the conditions laid down in points (a), (b), (c) and (d) are met and, within 30 calendar days after receipt of the notification, the competent authority has confirmed that those conditions are met.

#### Textual Amendments

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2017/751 of 16 March 2017 amending Delegated Regulations \(EU\) 2015/2205, \(EU\) 2016/592 and \(EU\) 2016/1178 as regards the deadline for compliance with clearing obligations for certain counterparties dealing with OTC derivatives \(Text with EEA relevance\)](#).
- F2** Substituted by [Commission Delegated Regulation \(EU\) 2019/667 of 19 December 2018 amending Delegated Regulations \(EU\) 2015/2205, \(EU\) 2016/592 and \(EU\) 2016/1178 to extend the dates of deferred application of the clearing obligation for certain OTC derivative contracts \(Text with EEA relevance\)](#).

**Changes to legislation:**

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EUR 2015 No. 2205 may be subject to amendment by EU Exit Instruments made by both the [Financial Conduct Authority](#) and the [Bank of England](#) under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 5. These amendments are not currently available on [legislation.gov.uk](#). Details of relevant amending instruments can be found on their website/s. [View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 13](#)