
Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 153/2013. (See end of Document for details) EUR 2013 No. 153 may be subject to amendment by EU Exit Instruments made by 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. 3. 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)

ANNEX I

Conditions applicable to financial instruments, bank guarantees and gold considered as highly liquid collateral

SECTION I

Financial instruments

For the purposes of Article 46(1) of Regulation (EU) No 648/2012, highly liquid collateral in the form of financial instruments shall be financial instruments meeting the conditions provided for in point 1 of Annex II to this Regulation or transferable securities and money-market instruments which meet each of the following conditions:

- (a) the CCP can demonstrate to the competent authority that the financial instruments have been issued by an issuer that has low credit risk based upon an adequate internal assessment by the CCP. In performing such an assessment, the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;
- (b) the CCP can demonstrate to the competent authority that the financial instruments have a low market risk based upon an adequate internal assessment by the CCP. In performing such an assessment, the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions;
- (c) they are denominated in one of the following currencies:
 - (i) a currency the risk of which the CCP can demonstrate to the competent authorities that it is able to manage;
 - (ii) a currency in which the CCP clears contracts, in the limit of the collateral required to cover the CCP's exposures in that currency;
- (d) they are freely transferable and without any regulatory or legal constraint or third party claims that impair liquidation;
- (e) they have an active outright sale or repurchase agreement market, with a diverse group of buyers and sellers, to which the CCP can demonstrate reliable access, including in stressed conditions;
- (f) they have reliable price data published on a regular basis;
- (g) they are not issued by:
 - (i) the clearing member providing the collateral, or an entity that is part of the same group as the clearing member, except in the case of a covered bond and only where the assets backing that bond are appropriately segregated within a robust legal framework and satisfy the requirements set out in this section;
 - (ii) a CCP or an entity that is part of the same group as a CCP;
 - (iii) an entity whose business involves providing services critical to the functioning of the CCP, unless that entity is an EEA central bank or a central bank of issue of a currency in which the CCP has exposures;

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- (h) they are not otherwise subject to significant wrong-way risk.

SECTION 2

Bank guarantees

1. A commercial bank guarantee, subject to limits agreed with the competent authority, shall meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:
 - (a) it is issued to guarantee a non-financial clearing member;
 - (b) it has been issued by an issuer that the CCP can demonstrate to the competent authority that it has low credit risk based upon an adequate internal assessment by the CCP. In performing such assessment the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;
 - (c) it is denominated in one of the following currencies:
 - (i) a currency the risk of which the CCP can demonstrate to the competent authorities that it is able to adequately manage;
 - (ii) a currency in which the CCP clears contracts, in the limit of the collateral required to cover the CCP's exposures in that currency;
 - (d) it is irrevocable, unconditional and the issuer cannot rely on any legal or contractual exemption or defence to oppose the payment of the guarantee;
 - (e) it can be honoured, on demand, within the period of liquidation of the portfolio of the defaulting clearing member providing it without any regulatory, legal or operational constraint;
 - (f) it is not issued by:
 - (i) an entity that is part of the same group as the non-financial clearing member covered by the guarantee;
 - (ii) an entity whose business involves providing services critical to functioning of the CCP, unless that entity is an EEA central bank or a central bank of issue of a currency in which the CCP has exposures;
 - (g) it is not otherwise subject to significant wrong-way risk;
 - (h) it is fully backed by collateral that meets the following conditions:
 - (i) it is not subject to wrong way risk based on a correlation with the credit standing of the guarantor or the non-financial clearing member, unless that wrong way risk has been adequately mitigated by haircutting of the collateral;
 - (ii) the CCP has prompt access to it and it is bankruptcy remote in case of the simultaneous default of the clearing member and the guarantor.
 - (i) the suitability of the guarantor has been ratified by the board of the CCP after a full assessment of the issuer and of the legal, contractual and operational framework of the

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guarantee in order to have a high level of comfort on the effectiveness of the guarantee, and notified to the competent authority.

2. A bank guarantee issued by a central bank shall meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:
 - (a) it is issued by an EEA central bank or a central bank of issue of a currency in which the CCP has exposures;
 - (b) it is denominated in one of the following a currencies:
 - (i) a currency the risk of which the CCP can demonstrate to the competent authorities that it is able to adequately manage;
 - (ii) a currency in which the CCP clears transactions, in the limit of the collateral required to cover the CCP's exposures in that currency;
 - (c) it is irrevocable, unconditional and the issuing central bank cannot rely on any legal or contractual exemption or defence to oppose the payment of the guarantee;
 - (d) it can be honoured within the period of liquidation of the portfolio of the defaulting clearing member providing it without any regulatory, legal or operational constraint or any third party claim on it.

SECTION 3

Gold

Gold shall be allocated pure gold bullion of recognised good delivery and meet the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:

- (a) it is directly held by the CCP;
- (b) it is deposited with an EEA central bank or a central bank of issue of a currency in which the CCP has exposures that has adequate arrangements so as to safeguard clearing member or clients' ownership rights to the gold and enables the CCP prompt access to the gold when required;
- (c) it is deposited with an authorised credit institution as defined under Directive 2006/48/EC that has adequate arrangements so as to safeguard clearing member or clients' ownership rights to the gold, enables the CCP prompt access to the gold when required and the CCP can demonstrate to the competent authority that it has low credit risk based upon an adequate internal assessment by the CCP. In performing such an assessment, the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the credit institution in a particular country;
- (d) it is deposited with a third country credit institution that is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down in Directive 2006/48/EC and which has robust accounting practices, safekeeping procedures and internal controls and that has adequate arrangements so as to safeguard clearing member or clients' ownership rights to the gold, enables the CCP prompt access to the gold when required and CCP can demonstrate to the competent authority that it has low credit risk based upon an internal assessment by the CCP. In performing such an assessment, the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes

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into consideration the risk arising from the establishment of the credit institution in a particular country.

ANNEX II

Conditions applicable to highly liquid financial instruments

1. For the purposes of Article 47(1) of Regulation (EU) No 648/2012, financial instruments can be considered highly liquid financial instruments, bearing minimal credit and market risk if they are debt instruments meeting each of the following conditions:
 - (a) they are issued or explicitly guaranteed by:
 - (i) a government;
 - (ii) a central bank;
 - (iii) a multilateral development bank as listed under Section 4.2 of Part 1 of Annex VI to Directive 2006/48/EC;
 - (iv) the European Financial Stability Facility or the European Stability Mechanism where applicable;
 - (b) the CCP can demonstrate that they have low credit and market risk based upon an internal assessment by the CCP. In performing such assessment the CCP shall employ a defined and objective methodology that shall not fully rely on external opinions and that takes into consideration the risk arising from the establishment of the issuer in a particular country;
 - (c) the average time-to-maturity of the CCP's portfolio does not exceed two years;
 - (d) they are denominated in one of the following currencies:
 - (i) a currency the risks of which the CCP can demonstrate that it is able to manage; or
 - (ii) a currency in which the CCP clears transactions, in the limit of the collateral received in that currency;
 - (e) they are freely transferable and without any regulatory constraint or third party claims that impair liquidation;
 - (f) they have an active outright sale or repurchase agreement market, with a diverse group of buyers and sellers, including in stressed conditions and to which the CCP has reliable access;
 - (g) reliable price data on these instruments are published on a regular basis.
2. For the purposes of Article 47(1) of Regulation (EU) No 648/2012, derivative contracts can also be considered highly liquid financial investments, bearing minimal credit and market risk if they are entered into for the purpose of:
 - (a) hedging the portfolio of a defaulted clearing member as part of the CCP's default management procedure; or

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- (b) hedging currency risk arising from its liquidity management framework established in accordance with Chapter VIII.

Where derivative contracts are used in such circumstances, their use shall be limited to derivative contracts in respect of which reliable price data is published on a regular basis and to the period of time necessary to reduce the credit and market risk to which the CCP is exposed.

The CCP's policy for the use of derivative contracts shall be approved by the board after having consulted the risk committee.

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