

Capital
Requirements
Directive/
Regulation

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Chapter 3	Commission Delegated Regulation (EU) 2015/585
001	Preamble
002	Article 1
003	Article 2
004	Signature

Chapter 3

Commission Delegated Regulation (EU) 2015/585

Preamble

THE EUROPEAN COMMISSION,
.....

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

Having regard to Regulation (EU) No 575/2013 of 26 June 2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, and in particular the fourth subparagraph of Article 304(5) thereof,

01/01/2021

Whereas:

(1) The framework for the calculation of margin periods of risk (MPORs) used to compute own funds requirements of clearing members for exposures to their clients should be suitable both for institutions using the internal model method (IMM) and for those using the standardised methods. It should also reflect changes in the market conditions in order to constitute a prudentially sound approach, without, at the same time, imposing an excessive operational burden on those institutions.

(2) While the definition of liquidation periods used by central counterparties (CCPs) is not identical to the definition of MPORs used by clearing members for the purpose of calculating their own funds requirements for exposures to their clients, the former are nevertheless very similar to the latter from the point of view of their substance. Indeed, liquidation periods reflect changes in the market conditions and take into account close-out periods of contracts and transactions. CCPs' estimates of the liquidation periods should therefore serve as a proxy for the MPORs for the computation of own funds requirements of clearing members for exposures to their clients.

(3) Using liquidation periods would also ensure comprehensive coverage of all types of products and transactions set out in Article 301(1) of Regulation (EU) No 575/2013 that are cleared by CCPs and would have the added benefit of not requiring updates to this Delegated Regulation every time a CCP would start clearing a new type of product or transaction.

(4) Unlike MPORs, liquidation periods disclosed by the CCPs sometimes include additional periods to allow for the novation of positions to a non-defaulting clearing member. Since those additional periods are specific to liquidation periods and do not reflect any difference in the risks being incurred by clearing members, they need not be added to the

MPOR that institutions may use for the calculation of the own funds requirements for their exposures to a client when acting as clearing members.

(5) In order to ensure that such estimates are subject to supervisory approval, only the liquidation periods estimated by qualifying central counterparties as defined in point 88 of Article 4(1) of Regulation (EU) No 575/2013 should be allowed to serve as proxies for the MPORs for the computation of own funds requirements of clearing members for exposures to their clients.

(6) As the MPOR is aimed at capturing changes in the market value of a netting set of transactions during the time from the most recent exchange of collateral covering that netting set with a defaulting counterparty until the transactions are closed out and the resulting market risk is re-hedged, and as markets can be closed on certain calendar days, MPORs should be expressed in business days. This will ensure that the own funds requirement for those transactions fully reflects the risks that the institution is exposed to during the MPOR. It is therefore appropriate to provide that the MPOR floor to be used for the purposes of Article 304(3) Regulation (EU) No 575/2013 is equal to five business days, i.e. longer than the minimum of five days provided for in that Article. The MPOR floor would thus also be aligned with the provisions set out in Section 6 of Chapter 6 of Title II of Part Three of Regulation (EU) No 575/2013 that cover the requirements for the use of the IMM.

(7) In accordance with Article 304(3) and (4) of Regulation (EU) No 575/2013, the shorter MPORs that institutions may apply when calculating the own funds requirements for their exposures to a client are only applicable where institutions are acting as clearing members. Therefore rules on the MPORs that institutions may use under those provisions do not apply where institutions calculate own funds requirements for exposures to a client but are not acting as clearing members for those exposures. This is irrespective of whether such institutions apply the IMM or not, and irrespective of whether the relevant exposures to clients are centrally-cleared or not.

(8) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.

(9) The European Banking Authority has 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,

HAS ADOPTED THIS REGULATION:

Article 1

(1) The margin periods of risk (MPORs) of a netting set that institutions may use for the purposes of Article 304(3) and (4) of Regulation (EU) No 575/2013 shall be determined in accordance with paragraphs 2 and 3 of this Article.

(2) Where the relevant netting set includes transactions cleared with a qualifying central counterparty as defined in point 88 of Article 4(1) of Regulation (EU) No 575/2013, the MPORs that institutions may use shall be the longer of the following:

(a) five business days;

(b) the longest liquidation period of the contracts or transactions included in the netting set, as disclosed in accordance with point (b)(vi) of Article 10(1) of Commission Delegated Regulation (EU) No 153/2013 by the qualifying central counterparty with which those contracts or transactions are cleared.

For the purposes of point (b) of the first subparagraph, where the liquidation period disclosed includes an additional period for the purpose of the novation of the positions to a non-defaulting clearing member, the period to be used by institutions as MPOR shall exclude that additional period.

(3) Where the relevant netting set includes transactions not cleared with a qualifying central counterparty as defined in point 88 of Article 4(1) of Regulation (EU) No 575/2013, the MPORs that institutions may use shall be at least ten business days.



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*.



Signature

01/01/2021

This Regulation shall be binding in its entirety and directly applicable in all Member States.

01/01/2021

Done at Brussels, 18 December 2014.

01/01/2021

For the Commission

01/01/2021

The President

01/01/2021

Jean-Claude JUNCKER