

Chapter 3

Commission Delegated Regulation (EU) 2018/728

Article 1

(1) For the purposes of point (a) of Article 382(4) of Regulation (EU) No 575/2013, institutions shall consider as non-financial counterparties established in a third country, counterparties that meet both of the following conditions:

(a) they are established in a third country;

(b) they would qualify as a non-financial counterparty within the meaning of point (9) of Article 2 of Regulation (EU) No 648/2012 if they were established in the United Kingdom.

(2) Institutions shall verify whether a counterparty is a non-financial counterparty established in a third country:

(a) at trade inception when trading with a new counterparty;

(b) on an annual basis for existing counterparties;

(c) where there is reason to believe that the counterparty is no longer a non-financial counterparty established in a third country.

(3) Institutions shall substantiate their opinion that an undertaking is a non-financial counterparty established in a third country.