

Chapter 3

Commission Delegated Regulation (EU) 2018/728

Article 2

(1) For the purpose of excluding transactions with a non-financial counterparty established in a third country from the own funds requirements for CVA risk in accordance with point (a) of Article 382(4) of Regulation (EU) No 575/2013, institutions shall verify, for each class of OTC derivative contracts referred to in Article 11 of Delegated Regulation (EU) No 149/2013, that the gross notional value of the OTC derivative contracts of that non-financial counterparty within that class does not exceed the relevant clearing threshold referred to in Article 11 of that Regulation.

(2) Institutions shall carry out the verification referred to in paragraph 1 in one of the following cases:

- (a) at the inception of each new trade with that counterparty;
- (b) on a periodic basis.

(3) For the purpose of point (b) of paragraph 2, the periodic verification shall be performed in accordance with one of the following frequencies:

- (a) on an annual basis;
- (b) on a quarterly basis, where for any of the classes of OTC derivatives the gross notional value of OTC derivatives transactions of the non-financial counterparty established in a third country is greater than 75 % of the clearing threshold value for that class referred to in Article 11 of Delegated Regulation (EU) No 149/2013.

(4) Institutions shall substantiate their opinion that, for each class of OTC derivatives contracts referred to in Article 11 of Delegated Regulation (EU) No 149/2013, the gross notional value of the OTC derivative contracts of a non-financial counterparty established in a third country, for that class, does not exceed the corresponding clearing threshold referred to in that Article.