

Chapter 1

Commission Delegated Regulation (EU) 2016/2251

Article 28 Threshold based on notional amount

(1) By way of derogation from Article 2(2), counterparties may provide in their risk management procedures that initial margins are not collected for all new OTC derivative contracts entered into within a calendar year where one of the two counterparties has an aggregate month-end average notional amount of non-centrally cleared OTC derivatives for the months March, April and May of the preceding year of below EUR 8 billion.

The aggregate month-end average notional amount referred to in the first subparagraph shall be calculated at the counterparty level or at the group level where the counterparty belongs to a group.

(2) Where a counterparty belongs to a group, the calculation of the group aggregate month-end average notional amount shall include all non-centrally cleared OTC derivative contracts of the group including all intragroup non-centrally cleared OTC derivatives contracts.

For the purposes of the first subparagraph, OTC derivative contracts which are internal transactions shall only be taken into account once.

(3) UK UCITS and AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013) managed by AIFMs (as defined in regulation 4 of the Alternative Investment Fund Managers Regulation 2013) authorised or registered in accordance with the Alternative Investment Fund Managers Regulations 2013 shall be considered distinct entities and treated separately when applying the thresholds referred to in paragraph 1 where the following conditions are met:

(a) the funds are distinct segregated pools of assets for the purposes of the fund's insolvency or bankruptcy;

(b) the segregated pools of assets are not collateralised, guaranteed or otherwise financially supported by other investment funds or their managers.