


## **Chapter 19**

# **Commission Delegated Regulation (EU) 2017/579**



## Article 2 Contracts with a direct, substantial and foreseeable effect within the United Kingdom

(1) An OTC derivative contract shall be considered as having a direct, substantial and foreseeable effect within the United Kingdom when at least one third country entity benefits from a guarantee provided by a financial counterparty established in the United Kingdom which covers all or part of its liability resulting from that OTC derivative contract, to the extent that the guarantee meets both following conditions:

(a) it covers the entire liability of a third country entity resulting from one or more OTC derivative contracts for an aggregated notional amount of at least EUR 8 billion or the equivalent amount in the relevant foreign currency, or it covers only a part of the liability of a third country entity resulting from one or more OTC derivative contracts for an aggregated notional amount of at least EUR 8 billion or the equivalent amount in the relevant foreign currency divided by the percentage of the liability covered;

(b) it is at least equal to 5 per cent of the sum of current exposures, as defined in Article 272(17) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, in OTC derivative contracts of the financial counterparty established in the United Kingdom issuing the guarantee.

(2) When the guarantee is issued for a maximum amount which is below the threshold set out in paragraph 1(a), the contracts covered by that guarantee shall not be considered to have a direct, substantial and foreseeable effect within the United Kingdom unless the amount of the guarantee is increased, in which case the direct, substantial and foreseeable effect of the contracts within the United Kingdom shall be re-assessed by the guarantor against the conditions set out in points (a) and (b) of paragraph 1 on the day of the increase.

(3) Where the liability resulting from one or more OTC derivative contracts is below the threshold set out in paragraph 1(a), such contracts shall not be considered to have a direct, substantial and foreseeable effect within the United Kingdom even where the maximum amount of the guarantee covering such liability is equal to or above the threshold set out in paragraph 1(a) and even where the condition set out in paragraph 1(b) has been met.

(4) In the event of an increase in the liability resulting from the OTC derivative contracts or of a decrease of the current exposure, the guarantor shall re-assess whether the conditions set out in paragraph 1 are met. Such assessment shall be done respectively on the day of the increase of liability for the condition set out in paragraph 1(a), and on a monthly basis for the condition set out in paragraph 1(b).

(5) OTC derivative contracts for an aggregate notional amount of at least EUR 8 billion or the equivalent amount in the relevant foreign currency concluded before a guarantee is issued or increased, and subsequently covered by a guarantee that meets the conditions set out in paragraph 1, shall be considered as having a direct, substantial and foreseeable effect within the United Kingdom.

(6) An OTC derivative contract shall be considered as having a direct, substantial and foreseeable effect within the United Kingdom where the two entities established in a third country enter into the OTC derivative contract through their branches in the United Kingdom and would qualify as financial counterparties if they were established in the United Kingdom.