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ADDENDUM TO NOTE

from: Secretariat

to: Delegations

No. Cion prop.: 13284/11 EF 112 ECOFIN 531 CODEC 1284 + ADD1, ADD2

Subject: Revised capital requirements rules (CRD IV) **[First Reading]**
- Proposal for a Regulation of the European Parliament and of the Council on
prudential requirements for credit institutions and investment firms
= *amendments to Regulation (EU) 648/2012*

Delegations will have attached the draft provisions on amendments to Regulation (EU) 648/2012, which have been by error omitted from the text of the political agreement.

1. In Regulation (EU) 648/2012 the following text is added in Title IV:

'CHAPTER 4

Calculations and reporting for the purposes of Regulation [inserted by OP]

Article 50a

Calculation of K_{CCP}

1. For the purposes of Article 298a of Regulation [inserted by OP], where a CCP has received the notification referred to in Article 295(2b) of that Regulation, it shall calculate K_{CCP} as specified in paragraph 2 for all contracts and transactions it clears for all its clearing members falling within the coverage of the given default fund.
2. A CCP shall calculate the hypothetical capital (K_{CCP}) as follows:

$$K_{CCP} = \sum_i \max\{EBRM_i - IM_i - DF_i; 0\} \cdot RW \cdot \text{capital ratio}$$

where:

$EBRM_i$ = exposure value before risk mitigation that is equal to the exposure value of the CCP to clearing member i arising from all the contracts and transactions with that clearing member, calculated without taking into account the collateral posted by that clearing member;

IM_i = the initial margin posted to the CCP by clearing member i ;

DF_i = the pre-funded contribution of clearing member i ;

RW = a risk weight of 20%;

capital ratio = 8%.

3. A CCP shall undertake the calculation required by paragraph 2 at least quarterly or more frequently where required by the competent authorities of those of its clearing members which are institutions.
4. EBA shall develop draft implementing technical standards to specify the following for the purpose of paragraph 3:
 - (a) the frequency and dates of the calculation laid down in paragraph 2;
 - (b) the situations in which the competent authority of an institution acting as a clearing member may require higher frequencies of calculation and reporting than the ones set out in point (a).

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2014.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1093/2010.'

Article 50b

General rules for the calculation of K_{CCP}

1. For the purposes of the calculation laid down in Article 50a(2), the following shall apply:
 - (a) a CCP shall calculate the value of the exposures it has to its clearing members as follows:
 - (i) for exposures arising from contracts and transactions listed in Article 295(1) (a) and (d)
 - (ii) for exposures arising from contracts and transactions listed in Article 295(1)(b), (c) and (e) of Regulation [inserted by OP] it shall calculate them in accordance with the Financial Collateral Comprehensive Method specified in Article 218 of that Regulation with supervisory volatility adjustments, specified in Articles 218 and 219; the exception according to Article 279(2), sentence 2 point (i), does not apply;
 - (iii) for exposures arising from transactions referred to in Article 295a(1), point (a) of Regulation [inserted by OP] it shall calculate them in accordance with Part Three, Title V of that Regulation.

- (aa) for institutions that fall under the scope of Regulation [inserted by OP] the netting sets are the same as those defined under Part III, Title II of that Regulation.
- (b) when calculating the values referred to in point (a), the CCP shall subtract from its exposures the collateral posted by its clearing members, appropriately reduced by the supervisory volatility adjustments in accordance with the Financial Collateral Comprehensive Method specified in Article 219 of that Regulation;
- (c) a CCP shall calculate its securities financing transaction exposures to its clearing members in accordance with the Financial Collateral Comprehensive method, with supervisory volatility adjustments, specified in Articles 218 and 219;
- (d) where a CCP has exposures to one or more CCPs it shall treat any such exposures as if they were exposures to clearing members and include any margin or pre-funded contributions received from those CCPs in the calculation of K_{CCP} ;
- (e) where a CCP has in place a binding contractual arrangement with its clearing members that allows it to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions, the CCP shall consider that initial margin as prefunded contributions for the purposes of the calculation in paragraph 1 and not as initial margin;

- (f) when applying the Mark-to-Market Method, a CCP shall replace the formula in point (c)(ii) of Article 292(1) of Regulation [inserted by OP] with the following one:

$$PCE_{red} = 0.15 \cdot PCE_{gross} + 0.85 \cdot NGR - PCE_{gross} ;$$

where the numerator of NGR is calculated according to Article 269(1) of Regulation [inserted by OP] and just before the variation margin is actually exchanged at the end of the settlement period, and the denominator is the gross replacement cost.

- (f) when applying the Mark-to-Market Method as set out in Article 269 of Regulation [inserted by OP], a CCP shall replace the formula in point (c)(ii) of Article 292(1) of Regulation [inserted by OP] with the following one:

$$PCE_{red} = 0.15 \cdot PCE_{gross} + 0.85 \cdot NGR - PCE_{gross} ;$$

where the numerator of NGR is calculated according Article 269(1) of Regulation [inserted by OP] and just before variation margins are actually exchanged at the end of the settlement period, and the denominator is gross replacement cost

- (g) where a CCP cannot calculate the value of NGR as defined in point (c)(ii) of Article 292(1) of Regulation [inserted by OP], it shall do the following:
- (i) notify those of its clearing members which are institutions and their competent authorities about its inability to calculate NGR and the reasons why it is unable to carry out the calculation;
 - (ii) for a period of 3 months, it may use a value of NGR of 0.3 to perform the calculation of PCE_{red} specified in point (f);
- (h) where, at the end of the period specified in point (ii) of point (g), the CCP would still be unable to calculate the value of NGR, it shall do the following:
- (i) stop calculating K_{CCP} ;
 - (ii) notify those of its clearing members which are institutions and their competent authorities that it has stopped calculating K_{CCP} ;
- (i) for the purpose of calculating the potential future exposure for options and swaptions in accordance with the Mark-to-Market Method specified in Article 269 of Regulation [inserted by OP], a CCP shall multiply the notional amount of the contract by the absolute value of the option's delta ($\partial V/\partial p$) as defined in point (a) of Article 274(1) of Regulation [inserted by OP];
- (j) where a CCP has more than one default fund, it shall carry out the calculation laid down in Article 50a(2) for each default fund separately.

Article 50c
Reporting of information

1. For the purposes of Article 298a of Regulation [inserted by OP], a CCP shall report the following information to those of its clearing members which are institutions and to their competent authorities.
 - (a) the hypothetical capital (K_{CCP});
 - (b) the sum of pre-funded contributions (DF_{CM});
 - (c) the amount of its pre-funded financial resources that it is required to use - by law or due to a contractual agreement with its clearing members - to cover its losses following the default of one or more of its clearing members before using the default fund contributions of the remaining clearing members (DF_{CCP});
 - (d) the total number of its clearing members (N);
 - (f) the concentration factor (β), as defined in Article 50d;
 - (g) the sum of all of the contractually committed contributions (DF_{CM}^c).

Where the CCP has more than one default fund, it shall report the information in the first subparagraph for each default fund separately.

2. The CCP shall notify those of its clearing members which are institutions at least quarterly or more frequently where required by the competent authorities of those clearing members.
3. EBA shall develop implementing technical standards to specify the following:
 - (a) the uniform template for the purpose of the reporting specified in paragraph 1;
 - (b) the frequency and dates of the reporting specified in paragraph 2;
 - (c) the situations in which the competent authority of an institution acting as a clearing member may require higher frequencies of reporting than the ones set out in point (b).

EBA shall submit those draft implementing technical standards to the Commission by 1 January 2014.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1093/2010.

Article 50d

Calculation of specific items to be reported by the CCP

For the purposes of Article 50c, the following shall apply

- (a) where the rules of a CCP foresee that it shall use part or all of its financial resources in parallel to the pre-funded contributions of its clearing members in a manner that makes those resources equivalent to pre-funded contributions of a clearing member in terms of how they absorb the losses incurred by the CCP in case of the default or insolvency of one or more of its clearing members, the CCP shall add the corresponding amount of those resources to DF_{CM} ;
- (b) where the rules of a CCP foresee that it shall use part or all of its financial resources to cover its losses due to the default of one or more of its clearing members after it has depleted its default fund, but before it calls on the contractually committed contributions of its clearing members, the CCP shall add the corresponding amount of those additional financial resources (DF_{CCP}^a) to the total amount of pre-funded contributions (DF) as follows:

$$DF = DF_{CCP} + DF_{CM} + DF_{CCP}^a.$$

(c) a CCP shall calculate the concentration factor (β) according to the following formula:

$$\beta = \frac{PCE_{red,1} + PCE_{red,2}}{\sum_i PCE_{red,i}}$$

where:

$PCE_{red,i}$ = the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with clearing member i; $PCE_{red,1}$ = the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with the clearing member that has the largest PCE_{red} value;

$PCE_{red,2}$ = the reduced figure for potential future credit exposure for all contracts and transaction of a CCP with the clearing member that has the second largest PCE_{red} value;

2. In Article 89 of Regulation (EU) 648/2012 the following paragraph is added:

'5a. Up until 15 months after the date of entry into force of the latest of the eleven regulatory technical standards referred to at the end of the first subparagraph of Article 89(3), or until a decision is made under Article 14 of that regulation on the authorisation of the CCP, that CCP shall apply the treatment specified in the third subparagraph.

Up until 15 months after the date of entry into force of the latest of the eleven regulatory technical standards referred to at the end of the second subparagraph of Article 89(3), or until a decision is made under Article 25 of that regulation on the recognition of the CCP, whichever date is earlier, that CCP shall apply the treatment specified in the third subparagraph.'
