

PRA STANDARDS INSTRUMENT: THE TECHNICAL STANDARDS (BILATERAL MARGINING) INSTRUMENT 2025

Powers exercised

- A. The PRA makes this instrument in the exercise of powers under section 138P (Technical Standards) of the Act.
- B. For the purposes of section 138P of the Act, the power to make regulatory technical standards on which the PRA relies for the purposes of this instrument is conferred on the PRA by Article 11(15) of Regulation (EU) No 648/2012.
- C. Pursuant to section 138P(2)(b) of the Act, the power to make technical standards includes the power to modify, amend or revoke any EU tertiary legislation (as defined in section 20 of the EUWA) made by an EU entity under the original mandate which forms part of the retained EU law of the UK. Commission Delegated Regulation (EU) No 2016/2251 constitutes EU tertiary legislation (as defined in section 20 of the EUWA) for the purposes of section 138P(2)(b) of the Act.
- D. The powers referred to above are specified for the purpose of section 138Q(2) (Standards instruments) of the Act.

Interpretation

- E. In this instrument, any reference to any provision of direct EU legislation is a reference to it as it forms part of the retained EU law of the UK.
- F. In this instrument:
 - “FCA” means the Financial Conduct Authority;
 - “EUWA” means the European Union (Withdrawal) Act 2018;
 - “PRA” means the Prudential Regulation Authority;
 - “retained EU law” has the meaning given it in section 6 of the EUWA; and
 - “the Act” means the Financial Services and Markets Act 2000.

Amendment

- G. The PRA makes the amendments in the Annex to Commission Delegated Regulation (EU) 2016/2251 insofar as it applies to counterparties that are PRA-authorised persons.

Commencement

- H. This instrument comes into force on [DATE].

Citation

- I. This instrument may be cited as PRA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2025.

By order of the Prudential Regulation Committee

[DATE]

Annex A

AMENDMENTS TO COMMISSION DELEGATED REGULATION (EU) 2016/2251

1. In this Annex, new text is underlined and deleted text is struck through.
 2. Commission Delegated Regulation (EU) 2016/2251 with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, as it forms part of retained EU law, is amended as follows:
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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.
 - 1a. By way of derogation from Article 2(2), counterparties may provide in their risk management procedures that initial margins already collected are released and no further initial margins are collected for all outstanding OTC derivative contracts between two counterparties from the start of a calendar year if 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.
 - 1b. By way of derogation from Article 2(2), counterparties may make the provision in their risk management procedures described in subparagraph 1c in relation to OTC derivative contracts where:
 - a) one of the two counterparties has its registered office, or if it has no registered office, its head office, outside the UK;
 - b) the counterparty referred to in a) is subject to margining requirements in the jurisdiction where it has its registered office, or if it has no registered office, its head office, outside the UK; and
 - c) the margining requirements in the jurisdiction referred to in b) provide the option not to collect initial margins for all new OTC derivative contracts entered into in a specified period after one of the two counterparties has an aggregate month-end average notional amount of non-centrally cleared OTC derivatives that is below the threshold for three consecutive months as specified in the margining requirements of that jurisdiction.
 - 1c. Where subparagraph 1b applies, counterparties may provide in their risk management procedures that initial margins are not collected for all new OTC derivative contracts entered into between these two counterparties within the relevant period where one of the two counterparties has an aggregate month-end average notional amount of non-centrally cleared

OTC derivatives that is below EUR 8 billion for the three consecutive months specified in the margining requirements referred to in in subparagraph 1b. b) in the preceding 12 months. For the purpose of this subparagraph the relevant period is the period specified in the margining requirements referred to in subparagraph 1b. b) up to a maximum of 12 months.

1d. By way of derogation from Article 2(2), counterparties may make the provision in their risk management procedures described in subparagraph 1e in relation to OTC derivative contracts where:

- a) one of the two counterparties is has its registered office, or if it has no registered office its head office, outside the UK;
- b) the counterparty referred to in a) is subject to margining requirements in the jurisdiction where it has its registered office, or if it has no registered office, its head office; and
- c) the margining requirements in the jurisdiction referred to in b) provide the option to release initial margin already collected and to not collect further initial margins for all outstanding OTC derivative contracts between two counterparties after a specified date if one of the two counterparties has an aggregate month-end average notional amount of non-centrally cleared OTC derivatives that is below the threshold for three consecutive months as specified in the margining requirements of that jurisdiction.

1e. Where subparagraph 1d applies, counterparties may provide in their risk management procedures that initial margins already collected are released and no further initial margins are collected for all outstanding OTC derivative contracts between these two counterparties after the date specified in the margining requirements referred to in subparagraph 1d.b) if one of the two counterparties has an aggregate month-end average notional amount of non-centrally cleared OTC derivatives that is below EUR 8 billion for the three consecutive months specified in the margining requirements referred to in subparagraph 1d.b) in the preceding 12 months.

1f. Counterparties shall keep a record of the dates they are using in accordance with subparagraphs 1c and 1e for their OTC derivative contracts.

The aggregate month-end average notional amount referred to in ~~the first subparagraph~~ subparagraphs 1 to 1e shall be calculated at the counterparty level or at the group level where the counterparty belongs to a group.

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Article 38

Dates of application for specific contracts

1. By way of derogation from Articles 36(1) and 37, in respect of all non-centrally OTC derivatives which are single-stock equity options or index options, the Articles referred to in ~~paragraph~~ Articles 36(1) and 37 shall not apply until 4 January 2026.