

Submission Date

27/04/2023

ESMA_QA_862

Status: Answer Published

Additional Information

Level 1 Regulation

Regulation 648/2012 - OTC derivatives, central counterparties and trade repositories (EMIR)
- CCPs

Level 2 Regulation

COMMISSION DELEGATED REGULATION (EU) No 152/2013 Regulatory technical
standards on capital requirements for central counterparties

Topic

EU-CCPs

Additional Legal Reference

Article 16 of EMIR - old CCP question 7 dated 4/06/2013

Subject Matter

Question

Does a CCP have to hold capital for market risk on their investments?

In particular, market risk is required to be calculated on a CRD basis under Commission Delegated Regulation (EU) No 152/2013, and under that approach, assets may be treated as being held for the banking book rather than the trading book. For banking book assets, CRD only requires CCPs to hold capital against credit risk and not market risk.

ESMA Answer

04-06-2013

Original language

Under CRD, the classification of an investment asset under the banking or trading book depends on whether the bank has a trading intent with reference to that asset; positions held with a trading intent are those held intentionally for short-term resale and/or with the intention of benefiting from actual expected short-term price differences between buying and selling prices or from other price or interest rate variations.

In the case of a CCP the investments stemming from cash assets posted to the CCP as margins, default fund contributions, contributions to other financial resources or the portion of the CCP's own resources dedicated to the default waterfall in accordance with Article 45(4) of EMIR are not intended to be held with a trading intent to maturity; however, given that it is always the intention of a CCP that such assets would be liquidated in the event of a clearing member default, it is appropriate that these investments are capitalised against market risk.

With respect to the CCP's own capital (i.e. what it holds to meet its regulatory requirements under Article 16 of EMIR), instead, these investments might be held akin to the banking book of a CRD firm and therefore exempt from capitalisation for market risk.