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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 153/2013 Regulatory technical standards on requirements for central counterparties

Topic
EU-CCPs

Additional Legal Reference
Article 35 RTS on CCPs - old CCP question 15 dated 5/08/2013

Subject Matter

Allocation of additional resources (old CCP question 15 dated 5/08/2013)

Question

Where a CCP has established more than one default fund for the different classes of financial instruments it clears, is it compulsory under Article 35(3) of Commission Delegated Regulation No 153/2013 for the total amount of dedicated own resources referred to in Article 35(1) of Commission Delegated Regulation No 153/2013 to be allocated to each of the default funds in proportion to the size of each default fund, or just the minimum own resources required under Article 35(2) of Commission Delegated Regulation No 153/2013? In other words, can the CCP choose to allocate additional own resources above the minimum fungibly or must it allocate any additional own resources to specific default funds? If so, must it be allocated in the same proportion as it allocates the minimum amount?

ESMA Answer

05-08-2013

Original language

Article 35(3) of Commission Delegated Regulation No 153/2013 specifies that the minimum amount (as calculated according to Article 35(2) of Commission Delegated Regulation No 153/2013) of dedicated own resources referred to in Article 35(1) of Commission Delegated Regulation No 153/2013 must be allocated to each of the default funds in proportion to the size of each default fund. Article 35(3) of Commission Delegated Regulation No 153/2013 states that the amount allocated to a given default fund may be used only against defaults arising in the market segments to which that default fund refers, and not against defaults arising in market segments to which other default funds refer. Any amount of dedicated own resources contributed to the default waterfall in excess of this minimum amount does not need to be allocated to a specific default fund and may be allocated across the different default funds and in a different proportion to the minimum amount.