

## EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE) (AMENDMENT ETC.) (EU EXIT) (No. 2) INSTRUMENT 2019

### Powers exercised

- A. The Bank of England (“the Bank”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

### Pre-conditions to making

- B. The Bank and the Financial Conduct Authority (“FCA”) are the appropriate regulators for the specified EU Regulations in Part 5 of the Schedule to the Regulations.
- C. The FCA has consented to the modifications contained in Annexes A to D of this instrument.
- D. The Bank and FCA have consulted the Prudential Regulation Authority (“the PRA”) in accordance with regulation 5 of the Regulations.
- E. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

### Interpretation

- F. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
  - (b) “exit day” has the meaning given in the Act; and
  - (c) “specified EU Regulations” has the meaning given in regulation 2(l) of the Regulations.
- G. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

### Modifications

- H. The Bank makes the modifications contained in the Annex listed in column (2) below to the corresponding specified EU Regulation (or part thereof) listed in column (1) below.

(1)	(2)
Commission Delegated Regulation (EU) No 285/2014	A
Commission Delegated Regulation (EU) No 2015/2205	B
Commission Delegated Regulation (EU) No 2016/592	C
Commission Delegated Regulation (EU) No 2016/1178	D

### Commencement

- I. This instrument comes into force on exit day.

Thursday 28 February: This document is near-final. The final version will be made and published close to exit day.  
We expect that the made instrument will be materially similar to this version.  
For more information, see: <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

## **Citation**

J. This instrument may be cited as the Technical Standards (European Market Infrastructure) (Amendment etc.) (EU Exit) (No. 2) Instrument 2019.

**By order of the Bank of England**  
[•] 2019

## Annex A

### Direct, Substantial and Foreseeable Effect of Contracts within the UK, and To Prevent Evasion of Rules and Obligations

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#### 1 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 285/2014

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- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Commission Delegated Regulation (EU) No 285/2014 of 13 February 2014 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on direct, substantial and foreseeable effect of contracts within the Union and to prevent the evasion of rules and obligations, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

#### *Article 2*

#### **Contracts with a direct, substantial and foreseeable effect within the United Kingdom~~Union~~**

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

...

(b) it is at least equal to 5 per cent of the sum of current exposures, as defined in Article 272, point (17) of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>(3)</sup>, in OTC derivative contracts of the financial counterparty established in the United Kingdom~~Union~~ issuing the guarantee.

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

Where the liability resulting from one or more OTC derivative contracts is below the threshold set out in point (a) of the first subparagraph, such contracts shall not be considered to have a direct, substantial and foreseeable effect within the United Kingdom~~Union~~ even where the maximum amount of the guarantee covering such liability is equal to or above the threshold set out in point (a) of the first subparagraph

and even where the condition set out in point (b) of the first subparagraph has been met.

...

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 points (a) and (b) of the first subparagraph, shall be considered as having a direct, substantial and foreseeable effect within the United Kingdom Union.

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

...

#### *Article 4*

#### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 2 shall apply from 10 October 2014.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

## Annex B

### Clearing Obligation

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#### 2 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 2015/2205

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- 2.1 In this Annex new text is underlined and deleted text is struck through.
- 2.2 Commission Delegated Regulation (EU) 2015/2205 of 6 August 2015 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

#### *Article 2*

#### **Categories of counterparties**

1. For the purposes of Articles 3 and 4, the counterparties subject to the clearing obligation shall be divided in the following categories:

...

(b) Category 2, comprising counterparties not belonging to Category 1 which belong to a group whose aggregate month-end average of outstanding gross notional amount of non-centrally cleared derivatives for January, February and March 2016 is above EUR 8 billion and which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council <sup>(2)</sup>~~ that are non-financial counterparties;

(c) Category 3, comprising counterparties not belonging to Category 1 or Category 2 which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ that are non-financial counterparties;

...

3. Where counterparties are AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ or UCITS as defined in section 236A of the Financial Services and Markets Act 2000~~undertakings for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council <sup>(3)</sup>~~, the EUR 8 billion threshold referred to in point (b) of paragraph 1 of this Article shall apply individually at fund level.

...

### Article 3

#### Dates from which the clearing obligation takes effect

1. In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect on:

...

(e) the applicable relevant day referred to in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 for OTC derivative contracts in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018.

In relation to points (a) to (d), ~~W~~where a contract is concluded between two counterparties included in different categories of counterparties, the date from which the clearing obligation takes effect for that contract shall be the later date.

~~2. — By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in Annex I and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the United Kingdom Union, the clearing obligation shall take effect on:~~

~~(a) 21 December 2018 in case no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country; or~~

~~(b) the later of the following dates in case an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country:~~

~~(i) 60 days after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country;~~

~~(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.~~

~~This derogation shall only apply where the counterparties fulfil the following conditions:~~

~~(a) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~

~~(b) the counterparty established in the Union is:~~

~~(i) a financial counterparty, a non-financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to~~

- ~~appropriate prudential requirements and the counterparty referred to in point (a) is a financial counterparty; or~~
- ~~(ii) either a financial counterparty or a non-financial counterparty and the counterparty referred to in point (a) is a non-financial counterparty;~~
- ~~(c) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;~~
- ~~(d) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;~~
- ~~(e) the counterparty established in the Union has notified its competent authority in writing that the conditions laid down in points (a), (b), (c) and (d) are met and, within 30 calendar days after receipt of the notification, the competent authority has confirmed that those conditions are met.~~

...

#### *Article 4*

### **Minimum remaining maturity**

...

3. For financial counterparties in Category 3 and for transactions ~~referred to in Article 3(2) of this Regulation~~ in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 and which are concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:

- (a) 50 years for contracts that belong to the classes in Table 1 set out in Annex I;
- (b) 3 years for contracts that belong to the classes in Table 2 set out in Annex I.

4. Where a contract is concluded between two financial counterparties belonging to different categories or between two financial counterparties involved in transactions ~~referred to in Article 3(2)~~ in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018, the minimum remaining maturity to be taken into account for the purposes of this Article shall be the longer remaining maturity applicable.

#### *Article 5*

### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Thursday 28 February: This document is near-final. The final version will be made and published close to exit day.  
We expect that the made instrument will be materially similar to this version.  
For more information, see: <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

## Annex C

### Clearing Obligation

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#### 3 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 2016/592

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- 3.1 In this Annex new text is underlined and deleted text is struck through.
- 3.2 Commission Delegated Regulation (EU) 2016/592 of 1 March 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

#### *Article 2*

#### **Categories of counterparties**

1. For the purposes of Articles 3 and 4, the counterparties subject to the clearing obligation shall be divided in the following categories:

...

(b) Category 2, comprising counterparties not belonging to Category 1 which belong to a group whose aggregate month-end average of outstanding gross notional amount of non-centrally cleared derivatives for January, February and March 2016 is above EUR 8 billion and which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council<sup>(1)</sup>~~ that are non-financial counterparties;

(c) Category 3, comprising counterparties not belonging to Category 1 or Category 2 which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ that are non-financial counterparties;

...

3. Where counterparties are AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ or UCITS as defined in section 236A of the Financial Services and Markets Act 2000~~undertakings for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council<sup>(2)</sup>~~, the EUR 8 billion threshold referred to in point (b) of paragraph 1 of this Article shall apply individually at fund level.

...

### Article 3

#### Dates from which the clearing obligation takes effect

1. In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect on:

...

(e) the applicable relevant day referred to in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 for OTC derivative contracts in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018.

In relation to points (a) to (d), ~~W~~where a contract is concluded between two counterparties included in different categories of counterparties, the date from which the clearing obligation takes effect for that contract shall be the later date.

~~2. — By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in Annex I and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the United Kingdom Union, the clearing obligation shall take effect on:~~

~~(a) 9 May 2019 in case no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country; or~~

~~(b) the later of the following dates in case an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country:~~

~~(i) 60 days after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country;~~

~~(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.~~

~~This derogation shall only apply where the counterparties fulfil the following conditions:~~

~~(a) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~

~~(b) the counterparty established in the Union is:~~

- ~~(i) a financial counterparty, a non financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the counterparty referred to in point (a) is a financial counterparty; or~~
- ~~(ii) either a financial counterparty or a non financial counterparty and the counterparty referred to in point (a) is a non financial counterparty;~~
- ~~(c) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;~~
- ~~(d) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;~~
- ~~(e) the counterparty established in the Union has notified its competent authority in writing that the conditions laid down in points (a), (b), (c) and (d) are met and, within 30 calendar days after receipt of the notification, the competent authority has confirmed that those conditions are met.~~

...

#### *Article 4*

### **Minimum remaining maturity**

...

3. For financial counterparties in Category 3 and for transactions ~~referred to in Article 3(2) of this Regulation~~ in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 and which are concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be 5 years and 3 months.

4. Where a contract is concluded between two financial counterparties belonging to different categories or between two financial counterparties involved in transactions ~~referred to in Article 3(2)~~ in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018, the minimum remaining maturity to be taken into account for the purposes of this Article shall be the longer remaining maturity applicable.

#### *Article 5*

### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Thursday 28 February: This document is near-final. The final version will be made and published close to exit day.  
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For more information, see: <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

## Annex D

### Clearing Obligation

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#### 4 MODIFICATIONS TO SPECIFIED ARTICLES OF COMMISSION DELEGATED REGULATION (EU) NO 2016/1178

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- 4.1 In this Annex new text is underlined and deleted text is struck through.
- 4.2 Commission Delegated Regulation (EU) 2016/1178 of 10 June 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation, as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

#### *Article 2*

##### **Categories of counterparties**

1. For the purposes of Articles 3 and 4, the counterparties subject to the clearing obligation shall be divided in the following categories:

...

(b) Category 2, comprising counterparties not belonging to Category 1 which belong to a group whose aggregate month-end average of outstanding gross notional amount of non-centrally cleared derivatives for January, February and March 2016 is above EUR 8 billion and which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council<sup>(3)</sup>~~ that are non-financial counterparties;

(c) Category 3, comprising counterparties not belonging to Category 1 or Category 2 which are any of the following:

(i) financial counterparties;

(ii) AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ that are non-financial counterparties;

...

3. Where counterparties are AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013)~~alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU~~ or UCITS as defined in section 236 of the Financial Services and Markets Act 2000~~undertakings for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council<sup>(4)</sup>~~, the EUR 8 billion threshold referred to in point (b) of paragraph 1 of this Article shall apply individually at fund level.

...

### Article 3

#### Dates from which the clearing obligation takes effect

1. In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect on:

...

(e) the applicable relevant day referred to in Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 for OTC derivative contracts in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018.

In relation to points (a) to (d), ~~Where~~ a contract is concluded between two counterparties included in different categories of counterparties, the date from which the clearing obligation takes effect for that contract shall be the later date.

~~2. — By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in Annex I and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the United Kingdom Union, the clearing obligation shall take effect on:~~

~~(a) 9 August 2019 in case no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country; or~~

~~(b) the later of the following dates in case an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country:~~

~~(i) 60 days after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts set out in Annex I of this Regulation in respect of the relevant third country;~~

~~(ii) the date when the clearing obligation takes effect pursuant to paragraph 1.~~

~~This derogation shall only apply where the counterparties fulfil the following conditions:~~

~~(a) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~

~~(b) the counterparty established in the Union is:~~

- ~~(i) a financial counterparty, a non financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the counterparty referred to in point (a) is a financial counterparty; or~~
- ~~(ii) either a financial counterparty or a non financial counterparty and the counterparty referred to in point (a) is a non financial counterparty;~~
- ~~(c) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;~~
- ~~(d) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;~~
- ~~(e) the counterparty established in the Union has notified its competent authority in writing that the conditions laid down in points (a), (b), (c) and (d) are met and, within 30 calendar days after receipt of the notification, the competent authority has confirmed that those conditions are met.~~

...

#### *Article 4*

### **Minimum remaining maturity**

...

3. For financial counterparties in Category 3 and for transactions ~~referred to in Article 3(2) of this Regulation~~ in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 and which are concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:

- (a) 15 years for contracts that belong to the classes in Table 1 set out in Annex I;
- (b) 3 years for contracts that belong to the classes in Table 2 set out in Annex I.

4. Where a contract is concluded between two financial counterparties belonging to different categories or between two financial counterparties involved in transactions ~~referred to in Article 3(2)~~ in respect of which an exemption from the clearing obligation applies until the applicable relevant day in accordance with transitional provisions granted by or under Part 5 of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018, the minimum remaining maturity to be taken into account for the purposes of this Article shall be the longer remaining maturity applicable.

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For more information, see: <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

## *Article 5*

### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~