esma European Securities and Markets Authority

Guidelines

On EMIR Anti-Procyclicality Margin Measures for Central Counterparties

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I. Scope

Who?

1. These guidelines are addressed to the competent authorities designated under Article 22 of EMIR that supervise CCPs authorised under Article 14 of the EMIR.

What?

2. These guidelines relate to the application of the margining requirements to limit pro-cyclicality pursuant to Article 41 of EMIR, Article 10 and Article 28 of the RTS.

When?

3. These guidelines apply from 3/12/2018.

II. Legislative references and abbreviations

Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC[1]
EMIR	Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories[2]
RTS on CCPs	Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties[3]

Abbreviations

[1] OJ L 331, 15.12.2010, p. 84
[2] OJ L 201, 27.7.2012, p. 1
[3] OJ L 52, 23.2.2013, p. 41

APC margin measures	Anti-Procyclicality margin measures under Article 28 of the RTS
CCPs	Central Counterparties authorised under Article 14 of EMIR
Competent authority/ National Competent Authority (NCA)	An authority designated under Article 22 of EMIR
EC	European Commission
EMIR	Regulation (EU) 648/2012 of 4 July 2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
RTS	Regulatory technical standards on CCPs i.e. Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for CCPs

III. Purpose

4. These guidelines seek to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure a common, uniform and consistent application of Article 41 of EMIR and Article 10 and Article 28 of the RTS in the context of limiting procyclicality of CCP margins.

IV. Compliance and Reporting Obligations

Status of guidelines

5. In accordance with Article 16(3) of the ESMA Regulation, competent authorities must make every effort to comply with these guidelines.

6. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal or supervisory frameworks as appropriate.

Reporting requirements

7. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.

8. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the guidelines.

9. A template for notifications is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.

V. Guidelines

V.1. Regular Assessment of Procyclicality

10. Competent authorities should ensure that any CCP supervised by them defines quantitative metrics to assess the margins, including margin add-ons, in the context of margin procyclicality. CCPs may define their own metrics and should holistically assess the long/short-term stability, also compared to the market volatility using indicators, and the conservativeness of margins[4]. For example, metrics are:

    - Short-term stability could be measured by metrics such as margin changes over a defined period or standard deviation of margin;

    - Long-term stability could be monitored by a metric such as margin peak-to-trough ratio over a defined period;

11. Competent authorities should ensure that any CCP supervised by them applies the metrics to assess the procyclicality of its margin requirements on a regular basis and the potential procyclicality arising from any significant proposals to revise its margin parameters, prior to making such revisions. As part of the assessment, the CCP should take into consideration the characteristics of its product offering and its membership as well as its risk management practices.

12. Where the metrics indicate procyclical effects arising from margin requirements, competent authorities should ensure that any CCP supervised by them reviews its application of the APC margin measures and make the appropriate adjustments to its policies to ensure that such procyclical effects are adequately addressed.

[4] In general, CCPs should consider metrics to assess the stability as well as conservativeness of its margin requirements.

13. Competent authorities should ensure that any CCP supervised by them therefore develops a policy for the review of its APC measures. The policy should at least specify:

    (a) the risk appetite for procyclicality of its margins e.g., tolerance threshold for big-stepped margin increases;

    (b) the quantitative metrics it uses to assess the procyclicality of its margins;

    (c) the frequency at which it conducts the assessment;

    (d) the potential actions it could take to address the outcomes of metrics; and

    (e) the governance arrangements surrounding the reporting of the outcomes of the metrics and approval of actions it proposes to take in relation to the outcomes.

14. Competent authorities should ensure that any CCP supervised by them maintains the records of its review, including the computed metrics, and of the actions taken to address the findings in accordance with Article 12 of the RTS.

V.2. Application of APC margin measures to All Material Risk Factors

15. Competent authorities should ensure that any CCP supervised by them ensures that the APC margin measures applied to at least all material risk factors, which could potentially lead to big-stepped changes in margins, and could include price shifts, foreign exchange shifts, implied volatility shifts, maturity spreads and portfolio margin offsets, as applicable. For the avoidance of doubt, a CCP may apply APC margin measures at a product or portfolio level as long as the application addresses all material risk factors used in the margin computation.

16. Competent authorities should ensure that any CCP supervised by them that chooses to apply a margin buffer in accordance with Article 28(1)(a) of the RTS for non-linear products such as options, should apply a buffer at the risk factor level instead of directly scaling up the margins by 25%.

17. In applying the APC margin measures at the risk factor level, a CCP may use different APC margin measures for different risk factors or apply the same APC margin measure across all risk factors. If a CCP chooses to use the same APC margin measure across all risk factors, it may do so by applying the measure independently to each risk factor or by using internally consistent scenarios across risk factors.

V.3. Exhaustion of Margin Buffer under Article 28(1)(a) of the RTS

18. Competent authorities should ensure that any CCP supervised by them that chooses to apply a margin buffer at least equal to 25% of the calculated margin should develop and

maintain documented policies and procedures setting out the circumstances under which the buffer could be temporarily exhausted. Such policies and procedures should specify at least:

(a) the metrics and thresholds for which the CCP believes that margin requirements are rising significantly and which may warrant the exhaustion of the margin buffer;

(b) the conditions for replenishment of the margin buffer following its exhaustion; and

(c) the governance arrangements surrounding the approvals for the exhaustion and replenishment of the margin buffer.

V.4. Margin Floor under Article 28(1)(c) of the RTS

19. Competent authorities should ensure that any CCP supervised by them avoids using modelling procedures such as applying different weights to observations within the lookback period to reduce the effectiveness of using a 10 year historical lookback period for the computation of the margin floor when applying the APC margin measure in Article 28(1)(c) of the RTS.

20. Competent authorities should ensure that any CCP supervised by them ensures that the margin floor is computed in a manner that continues to meet the requirements set out in EMIR and the RTS, including compliance with Articles 24, 26 and 27 of the RTS.

21. Competent authorities should ensure that any CCP supervised by them also computes the margin floor at the same frequency as the regular computation of margins, unless the CCP is otherwise able to demonstrate that the margin floor will remain stable over an extended period of time until which the margin floor is re-computed.

V.5. Disclosure of Margin Parameters

22. In line with Article 10 of the RTS, competent authorities should ensure that any CCP supervised by them publicly discloses the models used in the calculation of margin requirements. Such disclosure should include at least the following information defined by the CCP for each margin model used:

(a) confidence interval;

(b) look-back period;

(c) liquidation period;

(d) parameters and methodology used in the computation of margin offsets under Article 27 of the RTS;

(e) information on the models used for margin calculation such as quantitative methodology (e.g., type of the VaR model), the approach for any adjustments or add-ons made to these models and their formulae; and

(f) APC margin measures adopted and the methodology and parameters used when applying the selected APC margin measures. In particular,

(i) a CCP which adopts Article 28(1)(a) of the RTS should disclose the percentage of buffer on top of margin requirements which has been collected and the conditions for exhaustion and replenishment;

(ii) a CCP which adopts Article 28(1)(b) of the RTS should disclose its approach in deriving stress observations and incorporating the observations into the calculation of margin requirements; and

(iii) a CCP which adopts Article 28(1)(c) of the RTS should disclose its approach in computing the 10-year margin floor.

23. The information disclosed should be sufficiently detailed to allow the replication of margin calculations and anticipation of big-stepped margin revisions.