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| <b>Question ID</b>  | 2013_134   |
| <b>Status</b>   | Final Q&A  |
| <b>Legal act</b>  | Regulation (EU) No 575/2013 (CRR)  |
| <b>Topic</b>  | Market risk  |
| <b>Article</b>  | 273  |
| <b>Paragraph</b>  | 6  |
| <b>Subparagraph</b>   | -  |
| <b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b> | Not applicable   |
| <b>Article/Paragraph</b>  | N/A  |
| <b>Date of submission</b>   | 07/08/2013   |
| <b>Published as Final Q&amp;A</b>                                     | 28/03/2014   |
| <b>Disclose name of institution / entity</b>                          | No   |
| <b>Type of submitter</b>  | Credit institution   |
| <b>Subject matter</b>   | Counterparty Credit Risk   |
| <b>Question</b>   | <p>Article 273(6) outlines that "For a given counterparty, the exposure value for a given netting set of OTC derivative instruments listed in Annex II calculated in accordance with this Chapter shall be the greater of zero and the difference between the sum of exposure values across all netting sets with the counterparty and the sum of CVA for that counterparty being recognised by the institution as an incurred write-down" In the event that an institution does not fulfil the conditions outlined in Article 296 &amp; Article 297 and as a result does not benefit from the recognition of contractual netting agreements, can this institution then reduce the exposure value by the amount of the CVA for that counterparty that has been recognised as an incurred write down when calculating exposure value?</p> |
| <b>Background on the question</b>                                     | <p>The institution does not meet all of the requirements set out in Article 296 &amp; 297 and as a result does not currently apply the benefit of netting arrangements when calculating regulatory capital for Counterparty Credit Risk. The institution does calculate CVA which is recognised as an incurred write-down. The purpose of this question is to clarify whether the institution can reduce the exposure value for all derivatives with a given counterparty by the CVA charge that has been applied to that counterparty.</p>  |

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| <p><b>Final answer</b></p> | <p>According to Article 272(4) of Regulation (EU) No. 575/2013 (CRR) "each transaction that is not subject to a legally enforceable bilateral netting arrangement which is recognised under Section 7 shall be treated as its own netting set for the purposes of this Chapter". Where an institution has at least one OTC derivative instrument listed in Annex II for which the exposure value is calculated in accordance with this Chapter with a given counterparty, the exposure value for all netting sets with the counterparty shall be the greater of zero and the difference between the sum of exposure values across all netting sets with the counterparty and the CVA for that counterparty being recognised by the institution as an incurred write-down. The credit valuation adjustments shall be calculated without taking into account any offsetting debit value adjustment attributed to the own credit risk of the firm that has been already excluded from own funds under Article 33(1)(c) of the CRR. This follows from interpreting the second sub-paragraph of Article 273(6) of the CRR, taking into account that it cannot be the exposure value "for a given netting set of OTC derivative instruments" that is determined from the "sum of exposure values across all netting sets with the counterparty".</p> <p><u>DISCLAIMER:</u></p> <p>This question goes beyond matters of consistent and effective application of the regulatory framework. A Directorate General of the Commission (Directorate General for Internal Market and Services) has prepared the answer, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. This is an unofficial opinion of that Directorate General, which the European Banking Authority publishes on its behalf. The answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&amp;As, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.</p> |
| <p><b>Link</b></p>         | <p><a href="https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_134">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_134</a></p>   |

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