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Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market infrastructures
Article	302(2)(b)
Paragraph	2
Subparagraph	b
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	1
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Disclose name of institution / entity	No
Type of submitter	Consultancy firm
Subject matter	Treatment of clients' exposures
Question	Is it a requirement for the criteria in Article 305, paragraph 2, subparagraph (b) to be fulfilled that the client has an agreement with a clearing member in place, which, while not guaranteeing porting, has been identified to the relevant CCP as a back-up clearing broker for that client?
Background on the question	Pursuant to Article 305, paragraph 2, one of the requirements for a client to be allowed to calculate own funds requirements for its trade exposures for CCP-related transactions with its clearing member in accordance with Article 306 (i.e. as CCP exposures) is that in the event of default or insolvency of the original clearing member, applicable laws, regulations, rules and contractual arrangements facilitate transfer of the client's positions and transactions, and of the corresponding collateral to another clearing member within a certain stipulated period. However, it is not clear from the provision whether this requirement may be fulfilled, whether or not the client has an arrangement in place of some kind (short of a guarantee) with such other (back-up) clearing member, or whether the requirement may be fulfilled even in the absence of such arrangement, provided otherwise applicable laws, regulations, rules and contractual arrangements binding on the client institution or the CCP facilitate such transfer.

Final answer	<p>Article 305 (2)(b) of Regulation (EU) No.575/2013 (CRR) requires that the applicable laws, regulations, rules and contractual arrangements binding on the client institution or the CCP, facilitate transfer of the client's positions and transactions, and of the corresponding collateral to another clearing member within the applicable margin period of risk in the event of default or insolvency of the original clearing member.</p> <p>It is not a specified requirement of Article 305(2)(b) of the CRR that a back-up clearing member is in place. However, such an arrangement is considered a practical and acceptable means of ensuring that clients' positions and transactions and the corresponding collateral can be transferred to another clearing member within the applicable margin period of risk.</p>
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_366

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