

Question ID	2013_472
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	382
Paragraph	4
Subparagraph	a
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	not applicable
Date of submission	01/11/2013
Published as Final Q&A	11/04/2014
Disclose name of institution / entity	Yes
Name of institution / submitter	Austrian Federal Economic Chamber, Division Bank and Insurance
Country of incorporation / residence	Austria
Type of submitter	Industry association
Subject matter	Determination of clearing threshold of non-financial counterparties
Question	Who decides if a non-financial counterparty exceeds a clearing threshold and therefore has to be included in the CVA calculation? Is this the responsibility of the counterparty? Is this only relevant for counterparties in third countries or also for counterparties in member states?
Background on the question	Determination of clearing threshold of non-financial counterparties.
Final answer	According to Article 382(4)(a) of Regulation (EU) No. 575/2013 (CRR), transactions with non-financial counterparties as defined in Article 2(9) of Regulation (EU) No. 648/2012 (EMIR), or with non-financial counterparties in third countries, shall be excluded from the own funds requirements for CVA risk where those transactions do not exceed the clearing threshold specified in Article 10(3) and (4) of EMIR.

	<p>The institution itself is responsible for taking the necessary steps to identify all non-financial counterparties that qualify for the exemption under Article 382(4)(a) of the CRR and calculate their own funds requirements for CVA risk with respect to those eligible non-financial counterparties accordingly (regardless of whether they are located within the EU or in a third country). Institutions should define appropriate arrangements with non-financial counterparties to ensure they remain informed of their status as regards the clearing threshold on an ongoing basis.</p> <p>Please note that this does not prejudice the mandate of the EBA under Article 382(5) of the CRR to develop, in cooperation with ESMA, draft regulatory technical standards to specify the procedures for excluding transactions with non-financial counterparties established in a third country from the own funds requirements for CVA risk charge further to its review of international regulatory developments.</p> <p>Where an institution has no information as to whether a non-financial counterparty exceeds the clearing threshold, the institution shall calculate an own funds requirement for CVA risk for all transactions with that counterparty.</p>
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2013_472

European Banking Authority, 22/05/2022
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