Single Rulebook Q&A

Question ID	2014_990
Status	Final Q&A
Legal act	Regulation (EU) No 575/2013 (CRR)
Topic	Market risk
Article	273
Paragraph	3
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	273
Date of submission	24/03/2014
Published as Final Q&A	12/09/2014
Disclose name of institution / entity	Yes
Name of institution / submitter	BaFin/ Bundesbank
Country of incorporation / residence	Germany
Type of submitter	Competent authority
Subject matter	Recognition of credit derivatives for protection buyer
Question	An institution purchases protection through a credit derivative against an exposure. Is the exposure value for counterparty credit risk (CCR) for this derivative zero even if the derivative is either not eligible for credit risk mitigation or it is eligible but the institution abstains from using it for credit risk mitigation?
Background on the question	Article 273 (3) of Regulation (EU) No 575/2013 (CRR) says that “[w]hen an institution purchases protection against a non-trading book exposure or against a counterparty risk exposure […]” the institution is allowed to mitigate its credit exposure and to calculate its own funds requirements for its “hedged exposure”. In a case where the purchase of a credit derivative is economically suitable to protect the institution against an exposure but is either not legally eligible for credit risk mitigation (Title II chapter IV) or the derivative is eligible but the institution does not use it for reducing its credit

	exposure the question arises if “[t]he exposure value for CCR shall be zero…”.
Final answer	An institution is allowed to use an exposure value of zero for counterparty credit risk for a credit derivative purchased for protection against a credit risk exposure or a counterparty credit risk exposure only if the credit derivative is recognised as eligible credit risk mitigation in accordance with Chapter 4 of Title II of Part Three of Regulation (EU) No. 575/2013 (CRR). The first subparagraph of Article 273(3) of the CRR provides the rules for calculating the effects of unfunded credit protection on own funds requirements, while the second subparagraph of that paragraph establishes that those credit derivatives must be assigned a zero exposure value, unless the treatment in Article 299(2)(h)(ii) is applied. The first subparagraph of Article 273(3) allows institutions to recognise the effects of unfunded credit protection only if that protection is recognised as eligible credit risk mitigation. The second subparagraph of that paragraph is a special provision for "those credit derivatives" that have been recognised in accordance with the first sub-paragraph and therefore only applies in cases where credit derivatives are recognised as eligible credit risk mitigation. If the credit derivative is not recognised as eligible credit risk mitigation, the general rule established in Article 273(1) of the CRR, i.e. "institutions shall determine the exposure value for the contracts listed in Annex II on the basis of one of the methods set out in Sections 3 to 6 in accordance with this Article", applies. **DISCLAIMER:** 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&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.
Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2014_990