

Single Rulebook Q&A

Question ID	2017_3511
Status	Final Q&A
Legal act	Regulation (EU) No 648/2012 (EMIR) - only RTS 2016/2251
Topic	Market infrastructures
Article	11
Paragraph	15
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Regulation (EU) 2016/2251 - RTS on risk mitigation techniques for OTC derivatives not cleared by a central counterparty (CCP)
Article/Paragraph	30
Date of submission	04/09/2017
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Disclose name of institution / entity	No
Type of submitter	Law firm
Subject matter	Scope of the Covered Bond Exemption as set out in Article 30 of the Margin Rules.
Question	Does the exemption in Article 30 of the Margin Rules concerning OTC derivatives concluded in connection with covered bonds apply where the conditions in Article 30.2 are satisfied in respect of all such covered bonds or only to those covered bonds that are issued by credit institutions that have their registered office in the European Union and which are subject to special public supervision designed to protect bond holders?
Background on the question	This is in respect of existing transactions where EU financial institutions (acting as hedging banks) face a third country covered bond issuer.
EBA answer	<i>Note: The answer to this Q&A has been prepared by the three ESAs, and is part of guidance provided by the ESAs in the context of RTS 2016/2251, which can be accessed here. The answer is included here for information only. (Q&As on other legislation is of relevance to more than one ESA can be accessed under https://www.eba.europa.eu/about-us/organisation/joint-committee/q-and-s.)</i>

According to Article 30 of the Commission Delegated Regulation (EU) 2016/2251 (RTS 2016/2251), each of the conditions set out in Article 30(2) RTS 2016/2251 must be fully met. Article 30(2)(f) of RTS 2016/2251 also requires that the covered bond with which the OTC derivative transaction is associated with must meet the requirements in paragraphs (1), (2), and (3) of Article 129 of Regulation (EU) No 575/2013 (CRR).

Article 129(1) CRR provides preferential credit risk weighting treatment only for “bonds as referred to in Article 52(4) of Directive 2009/65 (“UCITS Directive”)”. Article 52(4) of the UCITS Directive in turn refers to bonds that are issued by a credit institution, which has its registered office in a Member State and is subject by law to special public supervision designed to protect bond-holders.

Hence, the exemption can only be applied to those covered bonds that are issued by EU based credit institutions that have their registered office in the European Union and which are subject to special public supervision designed to protect bond holders.

Link

https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2017_3511