



Single Rulebook Q&A

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| Question ID | 2019_4915 |
| Status | Final Q&A |
| Legal act | Regulation (EU) No 575/2013 (CRR) |
| Topic | Large exposures |
| Article | 400 |
| Paragraph | 1 |
| Subparagraph | j |
| COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations | Not applicable |
| Article/Paragraph | n.a. |
| Date of submission | 16/09/2019 |
| Published as Final Q&A | 07/05/2021 |
| Disclose name of institution / entity | No |
| Type of submitter | Credit institution |
| Subject matter | CCP related transactions |
| Question | Do bilateral exposures vis-à-vis a clearing member qualify as trade exposures, and therefore fall under the exemption of Article 400(1)(j)? |
| Background on the question | The institution is a client of a CCP established via indirect clearing arrangements with a clearing member. The institution is a client (established indirect clearing arrangements with a clearing member), not a clearing member. In accordance with Article 303(4) and 305(1), the institutions uses Sections 1 to 8 of Part 3, Title 2, Chapter 6 (Counterparty Credit Risk) and |

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| | <p>treats the CCP related transactions as bilateral exposures vis-a-vis the clearing member. The institution is not entitled to make use of contractual netting in accordance with Section 7 of Part 3, Title 2, Chapter 6 (Counterparty Credit Risk). It is unclear if the definition of trade exposures is still applicable in this case. The institution does not apply the method of Article 305 (2), but calculates the own funds requirements for its CCP-related transactions with its clearing member in accordance with Sections 1 to 8 of Chapter 6 of the CRR and with Title VI of Part Three, as applicable. Q&A 365 seems to focus solely on the classification as trade exposure when Article 305 (2) is applied.</p> |
| EBA answer | <p>Article 400(1)(j) of Regulation (EU) No 575/2013 as amended by Regulation (EU) 2019/876 (CRR) - which shall apply from 28 June 2021 - grants an exemption for clearing members' trade exposures and default fund contributions to qualified central counterparties. In its previous wording, it refers to "trade exposures to central counterparties and default fund contributions to central counterparties"</p> <p>Article 400(1)(l) CRR exempts clients' trade exposures with reference to Article 305(2) or (3) CRR.</p> <p>Article 400(1)(j) and (l) CRR use the definition of trade exposure as stated in Article 4(1)(91) CRR, applicable since 27 June 2019. According to this definition, the exposure of a clearing member or a CCP client has to arise from contracts and transactions listed in points (a), (b) and (c) of Article 301(1) CRR, as well as initial margin. Article 305 - both before and after the amendment introduced by Regulation (EU) 2019/876 - does not describe a form of trade exposure. It states the methods, which have to be used to calculate the own funds requirements.</p> <p>Therefore (bilateral) exposures of a clearing member to qualified central counterparties are exempted under Article 400(1)(j) CRR as long as they meet the criteria set out in Article 4(1)(91), (i.e. contracts and transactions listed in points (a), (b) and (c) of Article 301(1), as well as initial margin)</p> <p>(Bilateral) exposures of a client are exempted under Article 400(1) (l) as long as they meet the criteria set out in Article 4(1) point 91 and the criteria set out in Article 305 (2) or (3) CRR.</p> <p>Other types of exposures are not exempted from the application of Article 395(1) CRR.</p> |
| Link | <p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2019_4915</p> |

