

## Default Waterfall

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Document Title	EMIR* Article	RTS** Article	Document Class
Default Waterfall	45	35, 36	Procedure

\*EMIR =VO (EU) 648/2012 , \*\* ESMA RTS = \*Verordnung (EU) 153/2013

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## Document Information

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### **Change Log**<sup>1</sup>

Version	Date	Change Description
<b>V2.0</b>	06.06.2014	Derivatives market reference has been removed; 2.3: measures regarding reporting to FMA and replenishment in case of subsequent member defaults have been inserted;  2.5: monitoring of availability of dedicated own resources and reporting to FMA inserted
<b>V2.1</b>	12.06.2014	Minor editorial changes
<b>V2.2</b>	07.05.2018	Harmonisation with GTC wording IOSCO public quantitative data disclosure included

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<sup>1</sup> The Change log is only used for final versions.

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## 1 Introduction

This document describes the default waterfall as it is implemented by CCP.A according to Article 45 EMIR.

## 2 Default Waterfall Principle

The application of the default waterfall principle and the order of realization of the resources on different levels in the event of a Clearing Member's default is stipulated in *Section V B Realization of Clearing Collateral* and *V C Use of the Default Fund* in the *General Terms and Conditions of Business* of CCP.A (hereinafter GTC).

### 2.1 Realization of the defaulting Member's collateral

The GTC stipulate the consequences for the collateral resources or assets of Clearing Members when CCP.A resolves a Member's default. The resolving process involves first the positions and assets of the defaulting Clearing Member. It is structured by the following actions and measures, arranged in chronological order:

- a) CCP.A immediately informs the Exchange Operating Company and Financial Market Authority (FMA) about the default of the Clearing Member and, in case of a General Clearing Member, of the affected Non-Clearing Members.
- b) The Exchange Operating Company suspends the Clearing Member (and the affected Non-Clearing Members) from trading and CCP.A no longer accepts any transactions from the Clearing Member or its assigned Clients.
- c) If possible, positions and assets of segregated accounts are transferred to the previous announced back-up Clearing Member.
- d) The remaining positions are closed out, with the remaining cash balances being used for loss coverage.
- e) In parallel, CCP.A is authorized to fully realize the collateral of the defaulting Clearing Member, pursuant to § 51 GTC.
- f) If the collateral of a defaulting Clearing Member is consumed by CCP.A, the defaulting Clearing Member is obliged to replenish the required collateral fully, as margin requirements have to be fulfilled at any time.
- g) If the Clearing Member fails on the replenishment objective according to lit. f), it runs formally into default on providing collateral ('default on collateral'), pursuant to § 34 GTC.

## 2.2 Realization of the defaulting Clearing Member's contribution to the default fund

Following the procedures described in sec. 2.1, involving positions and collateral of a defaulting Clearing Member, the resolving process addresses then the default fund to the extent as needed:

- h) CCP.A realizes the defaulting Clearing Member's (own) contributions to the default fund in the amount necessary to cover remaining losses.
- i) If the default fund contribution of a defaulting Clearing Member is consumed by CCP.A, the defaulting Clearing Member is obliged to replenish the contribution, as default fund contributions requirements have to be fulfilled at any time.
- j) If the Member fails on the replenishment objective according to lit. i), it runs formally into default on providing collateral ('default on collateral'), pursuant to § 34 GTC.

## 2.3 Realization of CCP.A's own dedicated additional resources

Following the procedures described in sec. 2.2, involving the default fund contribution of a defaulting Clearing Member, the resolving process activates the waterfall facility of CCP.A, i.e. the dedicated additional resources ("skin-in-the-game") of CCP.A to the extent as needed.

- k) CCP.A uses the skin-in-the-game to the extent needed to cover remaining losses. The available extent of the skin-in-the-game is set according to Art 45 EMIR and Art 35 Regulation (EU) 153/2013 (hereinafter RTS 153/2013). The calculation of CCP.A's own default resources is performed on a regular basis and publicly disclosed on CCP.A's website under *IOSCO Public Quantitative Data Disclosure* (field 4.1.1): <https://www.ccpa.at/cpmi-iosco/>. Currently CCP.A's skin-in-the-game amounts to EUR 1.875.000 (25% of its capital requirement according to Art 16 EMIR EUR 7.5 million).
- l) In case of a Clearing Member's default, CCP.A immediately reports to the Financial Market Authority (FMA) the amount, which was realized and reinstates the dedicated own resources to the full extent, according to lit. k), within one month from the notification at the latest.
- m) Where a subsequent default of one or more Clearing Members occurs before CCP.A has reinstated the dedicated own resources, only the residual amount of the allocated dedicated own resources by CCP.A is used in the default waterfall.

## 2.4 Realization of non-defaulting Clearing Member's contributions to the default fund

Following the procedures described in sec. 2.3, involving the waterfall facility of CCP.A, the resolving process will address the default fund contribution of the other non-defaulting Clearing Members (joint and several liability) to the extent as needed:

- n) CCP.A determines the remaining liabilities of the defaulting Clearing Member, compare them to the size of the remaining default fund of the other Clearing Members and calculates a percent share of the open liabilities.
- m) The contributions of the other non-defaulting Clearing Members to the default fund will be realized to the percent rate, according to lit. n), covering the liabilities of the defaulting Clearing Member.
- o) If CCP.A has drawn on the contributions of other non-defaulting Members, according to lit. m), such Clearing Members are obliged to replenish their contributions, as default fund contributions requirements have to be fulfilled at any time. In that sense, lit. i) applies accordingly.
- p) If the measures described in lit. n) - o) are not sufficient to fully resolve the default at once, i.e. if the remaining default fund size, according to lit. n), is smaller than the respective liabilities then the procedures in lit. n) - o) are being repeated as often as required.
- q) According to § 52 GTC, a Clearing Member is obliged to replenish its contribution up to five times.

## 2.5 Continuous monitoring and reporting

CCP.A continuously monitors its capital requirement and the own dedicated resources and reports the current value to the Austrian National Bank (OeNB) and to FMA within the monthly EMIR reporting. Due to the size and business model of CCP.A (proportionality) and the well-defined and stable (not varying) exposure to the non-clearing business partners the calculated capital requirement lies far below the minimum amount defined in EMIR of EUR 7.5 million but is still fully adequate to meet the EMIR-requirements. Therefore, it is assured that the own funds and the other dedicated resources of CCP.A are sufficient at any time.

CCP.A immediately informs FMA if the amount of dedicated own resources held falls below the amount according to sec. 2.3. lit. k), together with the reasons for the breach and a comprehensive description in writing of the measures and the timetable for the replenishment of such an amount.

The calculation of CCP.A's regulatory capital requirement and own default resources (skin-in-the-game) is performed on regular basis and publicly disclosed in the section CCP.A *IOSCO Public Quantitative Data Disclosure* on CCP.A's website: <https://www.ccpa.at/cpmi-iosco/>.