AUTORITÉ DES MARCHÉS FINANCIERS

Book IV - Collective investment products

Title I - Undertakings for Collective Investment in Transferable Securities (UCITS)

Chapter unique - Collective investment schemes

Section 4 - Calculating global exposure

Paragraph 2 - Counterparty risk and issuer concentration

General regulation of the AMF

Article 411-83 into force from 21 December 2013 to 21 April 2018

Article 411-83

I. - To calculate the counterparty risk referred to in I of Article R. 214-21 of the Monetary and Financial Code, the UCITS will take account of collateral, and subsequent variations in that collateral, granted to an investment services provider for derivatives concluded on a market referred to in 1°, 2° or 3° of I of Article R. 214-11 of the Monetary and Financial Code or traded OTC, where such collateral is not protected by customer asset protection rules or other similar rules to protect the UCITS against the risk of failure of the investment services provider.

II. - To calculate the limits referred to in III of Article R. 214-21 of the Monetary and Financial Code, the UCITS shall take into account the net risk to which it is exposed via the transactions referred to in Article R. 214-18 of the Monetary and Financial Code with a single counterparty. The net risk is equal to the amount that may be recovered by the scheme less any collateral posted in favour of the UCITS.

The risk arising from reuse of collateral posted in favour of the UCITS shall also be taken into account when calculating the issuer ratio.

III. - To calculate the limits referred to in Article R. 214-21 of the Monetary and Financial Code, the UCITS shall determine whether the counterparty to which it is exposed is an investment services provider, a clearing house or another entity in the context of an OTC derivative.

IV. - The limits set in Articles R. 214-21, R. 214-24 and R. 214-25 of the Monetary and Financial Code take into account exposure linked to the underlying assets of derivatives, including embedded derivatives, relating to eligible securities, money market instruments or shares or units in UCITS or French or foreign collective investment schemes or foreign investment funds.

V. - Where the UCITS calculates concentration limits by category of issuer, the underlying assets of derivatives, including in the case of embedded derivatives, shall be taken into account to determine exposure to a given issuer resulting from these positions.

Exposure arising from a position shall be taken into account when calculating concentration limits by category of issuer.

This exposure shall be measured using the commitment approach, where appropriate.

The estimated maximum potential loss arising from default of the issuer shall be taken into account if this gives a more conservative result.

The provisions of this article shall apply to all UCITS, whether or not they use the VaR approach to calculate global exposure.

The provisions of this article do not apply to index-based derivatives linked to an index meeting the criteria of Article R. 214-16 of the Monetary and Financial Code.

↘ Version into force since 22 April 2018

↘ **Version into force from 21 December 2013 to 21 April 2018**