AUTORITÉ DES MARCHÉS FINANCIERS

Book IV - Collective investment products

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

Chapter unique - Undertakings for collective investment in transferable securities (UCITS)

Section 4 - Calculating global exposure

Paragraph 2 - Counterparty risk and issuer concentration

General regulation of the AMF

Article 411-82 into force since 03 January 2018

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Article 411-82

1 • The management company shall ensure that the counterparty risk of the UCITS as defined in Article 321-76 arising from an over-the-counter financial derivative instrument (OTC derivative) is subject to the limits set out in Article R. 214-21 of the Monetary and Financial Code.

2 • When calculating the exposure of the UCITS to a counterparty in accordance with the limits set out in I of Article R. 214-21 of the Monetary and Financial Code, the management company will use the positive mark-to- market value of the OTC derivative with that counterparty.

The management company may net the derivative positions of a UCITS with the same counterparty, provided it has the means, as provided for under Article L. 211-36-1 of the Monetary and Financial Code or equivalent foreign provisions, to enforce netting agreements with the counterparty on behalf of the UCITS. Netting is only permissible with respect to OTC derivatives with the same counterparty, and not with respect to other exposures the UCITS may have with that same counterparty;

3 • The management company may reduce the exposure of a UCITS to a counterparty in an OTC derivative transaction by receiving collateral for the benefit of the UCITS. This collateral shall be sufficiently liquid so that it can be sold quickly at a price that is close to its pre-sale valuation;

4 • The management company will take account of collateral when calculating exposure to counterparty risk as referred to in I of Article R. 214-21 of the Monetary and Financial Code, if it provides collateral to an OTC counterparty on behalf of the UCITS. Collateral may be taken into account on a net basis only if the management company has the legal and regulatory means to enforce netting agreements with the counterparty on behalf of the UCITS;

5 • The management company shall use as its basis the underlying exposure created through the use of OTC derivatives in accordance with the commitment approach, to ensure compliance with the concentration limits by category of issuer mentioned in Articles R. 214-21, R. 214-24 and R. 214-25 of the Monetary and Financial Code;

6 • As regards exposure arising from OTC derivatives transactions referred to in 3° of III of Article R. 214-21 of the Monetary and Financial Code, the management company shall include in its calculation any exposure to counterparty risk from such contracts.

↘ **Version into force since 3 January 2018**