



**COMMISSION DELEGATED REGULATION (EU) 2024/818**

**of 28 November 2023**

**amending the regulatory technical standards laid down in Delegated Regulation (EU) No 153/2013 as regards the extension of temporary emergency measures on CCP collateral requirements**

**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories <sup>(1)</sup>, and in particular Article 46(3) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2022/2311 <sup>(2)</sup> has amended Commission Delegated Regulation (EU) No 153/2013 <sup>(3)</sup> as regards temporary emergency measures on collateral requirements. Delegated Regulation (EU) 2022/2311 has temporarily expanded the pool of eligible collateral available to non-financial clearing members active on gas and derivatives regulated markets. That expansion has included into that pool uncollateralised bank guarantees until 29 November 2023. That Delegated Regulation has also allowed the use of guarantees issued or backed by public entities as eligible collateral for financial and non-financial counterparties by the CCP until 29 November 2023.
- (2) The Commission proposal of 7 December 2022 <sup>(4)</sup> proposes to amend Article 46(1) of Regulation (EU) No 648/2012 to make it possible that bank guarantees and public guarantees are to be considered eligible as highly liquid collateral, subject to certain safeguards. Pursuant to that amendment, CCPs, including CCPs that clear energy derivatives, would be able to allow their clearing members and their clearing members' clients to use a broader range of collateral to meet margin calls from CCPs. That would avoid unnecessary liquidity stresses on those clearing members and clients. It is necessary to avoid a potential discontinuity in the treatment of guarantees before the outcome of the negotiations on the amendments to Regulation (EU) No 648/2012, and in particular the amendment to Article 46(1) of that Regulation, which concerns the treatment of guarantees, becomes known. The temporary measures enabling the use of such guarantees should therefore be extended for 6 months.
- (3) Delegated Regulation (EU) No 153/2013 should therefore be amended accordingly.
- (4) To ensure the smooth functioning of the Union financial and energy markets, this Regulation should enter into force as a matter of urgency.
- (5) This Regulation is based on draft regulatory technical standards submitted to the Commission by the European Securities and Markets Authority (ESMA), after consulting the European Banking Authority, the European Systemic Risk Board and the European System of Central Banks.

<sup>(1)</sup> OJ L 201, 27.7.2012, p. 1.

<sup>(2)</sup> Commission Delegated Regulation (EU) 2022/2311 of 21 October 2022 amending the regulatory technical standards laid down in Delegated Regulation (EU) No 153/2013 as regards temporary emergency measures on collateral requirements (OJ L 307, 28.11.2022, p. 31).

<sup>(3)</sup> Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (OJ L 52, 23.2.2013, p. 41).

<sup>(4)</sup> Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets (COM(2022) 697 final).

- (6) ESMA has not conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, nor did it analyse the potential costs and benefits, as that would have been highly disproportionate to the scope and impact of the amendments to be adopted, taking into account the urgent nature and the limited scope of the proposed changes. Given the urgency, ESMA has not requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>(5)</sup>. The Securities and Markets Stakeholder Group will be informed thereof pursuant to that provision.

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendments to Delegated Regulation (EU) No 153/2013**

Delegated Regulation (EU) No 153/2013 is amended as follows:

- (1) in Article 39, the second paragraph is replaced by the following:

'Until 7 September 2024, for the purposes of Article 46(1) of Regulation (EU) No 648/2012, public guarantees that meet the conditions set out in Annex I shall be considered as highly liquid collateral.;

- (2) in Article 62, second paragraph, the second sentence is replaced by the following:

'However, Section 2, paragraph 1, point (h), of Annex I shall not apply in respect of transactions on derivatives, as referred to in Article 2(4), points (b) and (d), of Regulation (EU) No 1227/2011 from 29 November 2022 to 7 September 2024.;

- (3) Annex I is amended in accordance with the Annex to this Regulation.

*Article 2*

**Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2023.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

---

<sup>(5)</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

## ANNEX

Annex I to Delegated Regulation (EU) No 153/2013 is amended as follows:

(1) the title is replaced by the following:

**'Conditions applicable to financial instruments, bank guarantees, public guarantees and gold considered as highly liquid collateral';**

(2) in Section 2a, the first paragraph, the introductory wording is replaced by the following:

'Until 7 September 2024, a public guarantee that does not meet the conditions for a central bank guarantee set out in Section 2, paragraph 2, shall meet all of the following conditions to be accepted as collateral under Article 46(1) of Regulation (EU) No 648/2012:'.

---