

**LEVELS OF PROTECTION AND COSTS ASSOCIATED WITH THE
DIFFERENT LEVELS OF SEGREGATION**

(EMIR ARTICLE 39(7) REGULATION (EU) NO 648/2012)

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1. Introduction

Article 39(7) Regulation (EU) N. 648/ 2012 of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (“**EMIR**”) requires that: *“CCPs and clearing members shall publicly disclose the levels of protection and costs associated with the different levels of segregation that they provide and shall offer services on reasonable commercial terms. Details of the different levels of segregation shall include a description of the main legal implications of the respective levels of segregation offered including information on the insolvency law applicable in the relevant jurisdictions.”*

Equita SIM S.p.A. (“**Equita**”) is a clearing member of the Italian CCP called “Cassa di Compensazione e Garanzia” (“**CC&G**”).

The purpose of this document is to provide you, as required by art. 39 (7) of EMIR, with information about: (i) levels of protection offered by Equita (ii) main legal implications of the respective levels of segregation offered under the Italian Law and (iii) costs associated with them.

This document does not provide all the information you may need. It does not constitute legal or any other form of advice and must not be relied on as such. Nothing contained herein should be considered an offer, or an invitation to offer or a solicitation or a recommendation by us for a particular account type, level of segregation or transaction and no representation or warranty is made as to the accuracy or completeness of the disclosure provided.

2. Definitions

In this document:

- **CC&G**: means Cassa di Compensazione e Garanzia, the Italian CCP;
- **CCP**: means, under art. 2(1) of EMIR, a “legal person that interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer”;
- **Client** means – under art. 2(15) of EMIR – an “undertaking with a contractual relationship with a clearing member of a CCP which enables that undertaking to clear its transactions with that CCP”;
- **EMIR**: means Regulation (EU) N. 648/ 2012 of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (“EMIR”) ;
- **Equita**: means Equita SIM S.p.A.;
- **Designated Clearing Member**: has the meaning under the Paragraph 4.1 of this document;
- **Clearing Member**: means – under art. 2(14) of EMIR – an undertaking which participates in a CCP and which is responsible for discharging the financial obligations arising from that participation;
- **TUF**: means the Legislative Decree n. 58 of 24 February 1998.

3. Structure of accounts

There are two basic types of client accounts available:

- (i) omnibus account and
- (ii) individual segregated accounts.

3.1 Omnibus account (MOA, main omnibus account)

Under this account contractual positions and assets of one client of Equita that has chosen this structure are registered commingled with those of any other client that has chosen the same type.

3.2 Individual segregated account (ISA, individual segregated account)

Under this accounts positions and assets of one client of Equita that has chosen this structure are segregated from those of any other client of Equita.

4. Levels of protection

Levels of protections associated with each account structure depend on different factors such as: level of segregation, netting of positions and activation of the default procedure by CC&G.

4.1 Omnibus Account

Level of segregation

The registration of position and assets in a MOA account of Equita enables, at any time and without delay, to distinguish these positions and assets from: (i) those recorded into the “house” account of Equita, (ii) those recorded into the ISA accounts of Equita, (iii) those recorded into the accounts of other Clearing Members of CC&G, and (iv) those of CC&G.

Netting

Positions recorded in a MOA account can be netted, at any time and without delay, with any other position recorded in the same account. As a consequence positions of a single client of Equita (recorded in a MOA account) can be netted with positions of other clients of Equita, whose positions are recorded in the same MOA account.

Usage of assets for covering margins

The assets recorded in a MOA account are used as guarantee of the margins computed on positions recorded in the same MOA account, without considering that these refer to a specific client or to other clients of Equita, whose positions and assets are recorded in the same MOA account.

Activation of the default procedure

Portability

In case CC&G activates a “default procedure” for Equita (for more information please see paragraph n. 5), positions and assets registered in the MOA account are transferred to a Designated Clearing Member, respecting the conditions established under art. 48 of EMIR.

Default events for Clearing Members are clearly stated in the CC&G Regulation.

According to the CC&G Regulation it is possible to transfer positions and assets held in a MOA account when CC&G has received the documentation required to designate another Clearing Member before the activation of the default procedure for Equita. Therefore all clients of Equita, whose positions and assets are held in an omnibus account, must have already reached an agreement about the Designated Clearing Member (at the moment of the activation of the default procedure).

It is not permitted to transfer only part of the positions and assets held in an omnibus account. If the transfer has not taken place, the positions are closed out according to the default procedure.

Usage of margins

If the transfer to the Designated Clearing Member has not taken place the margins held in the MOA account are used only to close out positions registered in the same account.

4.2 Individual segregated account

Level of segregation

The registration of positions and assets of a client in an ISA account enables, at any time and without delay, to distinguish these positions and assets from: (i) those recorded into the “house” account of Equita, (ii) those recorded into the MOA account of Equita, (iii) those recorded into other ISA accounts of Equita, (iv) those recorded into the account of other Clearing Members of CC&G, and (v) those of CC&G.

The ISA account offers a higher degree of segregation due to the absence of positions and assets of other clients in the same account.

Netting

Positions held in each ISA account can be netted, at any time and without delay, with other positions held in the same ISA account (i.e. those of the same client). These cannot be netted with positions of other clients of Equita.

Usage of assets for covering margins

The assets recorded in an ISA account are used only as guarantee of margins computed for the positions registered in such account.

Activation of the default procedure

Portability

In case CC&G activates a “default procedure” for Equita, positions and assets registered in an ISA account are transferred to the Designated Clearing Member only if, at the moment of the activation of the default procedure, the documentation required for the portability to the Designated Clearing Member has already been transmitted to the CC&G.

Otherwise the Client has 5 open days (i.e. 5 CC&G open days) from the activation of the CC&G procedure to transmit the documentation required for the portability to the CC&G.

If portability has not taken place, positions are closed out according to the default procedure.

Usage of margins

If the transfer to the Designated Clearing Member has not taken place the margins held in the ISA account are used only to close out positions registered in the same account.

5. Insolvency

5.1 CC&G insolvency

This paragraph 5 “insolvency” deals only with our insolvency.

Nonetheless it is important to underline that there is also the insolvency risk of CC&G. In case of CC&G default, Clients’ rights will depend on the Italian law. In this respect, you should review the relevant CC&G disclosure carefully and take legal advice to fully understand the risks of this scenario.

Please see the following CC&G web address:

[http:// www.ccg.it](http://www.ccg.it)

5.2 Equita insolvency

In case of Equita insolvency CC&G activates a “default procedure”, in accordance with CC&G Regulation.

In this respect, in accordance with CC&G regulation, events of default include total or partial infringements of CC&G regulation and the declaration of a state of insolvency carried out towards the Clearing Member

Nonetheless, as already explained, this paragraph will only deal with the declaration of a state of insolvency for Equita.

As a general rule, the case of insolvency of a Clearing Member is regulated by art. 70 of TUF, that establishes – as provided by art. 48 (7) of EMIR: “the margins and other benefits acquired by a central counterparty as collateral for fulfilling the obligation arising from compensation carried out in favor of its participants cannot be subject to enforcement or precautionary actions by creditors of the single participant or the entity that manages the central counterparty, even in case of opening of insolvency proceedings. The acquired collateral may be used only in accordance with regulation (EU) N. 648/ 2012” (i.e. EMIR).

According to this regulation, the CC&G insolvency procedure provides for the transfer to the Designated Clearing Member of collaterals and positions of the accounts that fall in the conditions laid down in art. 48 of EMIR.

As already previously explained in par. 4, in order to proceed with the transfer of positions and collaterals recorded in a MOA account CC&G must have received the documentation on the identification of the participant receiving the transfer (Designated Clearing Member) before the default or insolvency of the Clearing Member. This assumes that the customers of the Clearing Member whose positions and collateral flow into the same MOA account have previously reached an agreement in relation to the Designated Clearing Member.

With regard to the Client who has positions and assets recorded in an ISA account it is not required to have reached any agreement. In this case the Client has 5 working days of open CC&G, after the default or insolvency has taken place, to provide for the designation. In the period between the default and the transfer, he becomes “Participant Pro-Tempore” of CC&G and is required to pay the margins, in order to enable a proper risk management of his positions.

Otherwise, the CC&G will terminate the contractual positions and perform a close-out calculation in respect of them in accordance with CC&G rules.

At the end of the “insolvency procedure”, residual positions and assets in excess of the amount necessary to cover the losses incurred will be refunded by CC&G as follows:

- residual positions and assets held in an ISA account will be returned to customers themselves. More precisely, warranties from an ISA account will be returned to that client whose positions and assets are recorded in the same account.
- residual positions and assets arising from a MOA account are returned to Equita.

In case Equita goes into a special liquidation procedure (“liquidazione coatta amministrativa”), please note that under art. 22 of TUF it is provided that the financial instruments of individual customers held by an intermediary (i.e. Equita in this case) shall be separate assets for all intents and purposes from those of the intermediary itself and from those of other customers. Therefore, Clients are entitled to ask for having their assets returned.

In case positions and assets are not enough to be returned to each client, it is likely that Clients will receive back only a percentage of the asset available proportional to the rights of each one or to the profit coming from the liquidation of the assets.

Over the non-reimbursed assets Clients will have the same rights of the unsecured creditors of Equita. For more information Clients should take legal advice.

5.3 Insolvency of others

As already explained, this paragraph 5 “Insolvency” deals only with the insolvency of Equita.

Nonetheless it is important to underline that the Clients have also a risk of insolvency of the other parties involved in the clearing structure (e.g. custodians or settlement agents).

In this respect Clients should take legal advice to fully understand all implications.

6. Costs

The following table shows the different levels of commissions Equita charges to the omnibus account (MOA) or to the individual segregated account (ISA).

Commission type	Account type	Maximum fee charged
Set up	MOA account	Euro 0
	ISA account	Euro 15.000 one-off
Maintenance	MOA account	Euro 0
	ISA account	Euro 10.000 per month

Additional costs to the above commissions may be charged by the CC&G. For more information please see the CC&G website:

<http://www.ccg.it>

Additional commissions and/ or costs may be applied by the bank where all the assets are deposited to the account opened to support the execution of the transactions.

Equita does not apply any discount or rebate to the maximum commissions above disclosed.