



INSTRUCTION B12/2014

Default Waterfall

11.Mar.2024

Versions Index

14.Jul.2014

Initial version.

13.May.2016

Modification of the Service provided by OMIClear from “MIBEL Derivatives Market” to “Service on Power Derivatives Contracts”.

24.Nov.2017

Instruction update following the inclusion of the Service on Natural Gas Derivatives Contracts. Introduction of a paragraph that sets the existence of a Guarantees waterfall that is unique for both Services (Service on Power Derivatives Contracts and Service on Natural Gas Derivatives Contracts).

11.Mar.2024

Instruction update to include the second SIG.

DISCLAIMER

The English language text below is not an official translation and is provided for information purposes only. The original text of this document is in the Portuguese language (available in www.omiclear.pt) and it was registered by the Portuguese Securities Market Commission (Comissão do Mercado de Valores Mobiliários). In the event of any discrepancies between the English translation and the Portuguese original, the Portuguese original shall prevail. Whilst every effort has been made to provide an accurate translation, we are not liable for the proper and complete translation of the Portuguese original and we do not accept any liability for the use of, or reliance on, the English translation or for any errors or misunderstandings that may derive from the translation.

This document is available in www.omiclear.pt

Pursuant to Article 73 of its Rulebook, OMIclear approves this Instruction, which defines the set of assets and Guarantees to be used if there is a default of Clearing Member under the scope of the Service on Power Derivatives Contracts or the Service on Natural Gas Derivatives Contracts.

General Provisions

1. The set of assets and Guarantees to be used by OMIclear in a default scenario of a Clearing Member corresponds to the sum of all assets and Guarantees coming from the Services referred to in the introduction paragraph of this Instruction and for which there is only a single Clearing Fund. Consequently, the following paragraphs only refer to a single Guarantees waterfall.
2. Without prejudice to any action in exceptional cases, OMIclear is called to intervene directly in resolving any defaults of Clearing Members, using a set of assets and Guarantees in the order of priority shown below.
3. Firstly, it uses the defaulting Clearing Member's Guarantees set up as Margins, both those that cover the responsibilities for its own Positions and those that cover the responsibilities assumed on behalf of its clients, as provided in a specific Instruction, taking into account the following:
 - a) Guarantees deposited to cover the Positions of clients may not be used to manage the default of own Positions;
 - b) Guarantees deposited to cover own Positions may not be used to manage the default of clients Positions, unless they are not necessary to manage the default of own Positions.
4. Under the terms of paragraph (2) above, all the available Guarantees of the Clearing Members will be used to cover those Positions, even the portion that exceeds the amount required by OMIclear for the Positions registered, corresponding to a positive Guarantee Balance.
5. Secondly, if the portions of the Clearing Member's Guarantees, referred to in the preceding paragraphs are not sufficient to cover the default, OMIclear uses the Guarantees of the Clearing Member set up as Additional Guarantee.
6. In third place, if the Guarantees are still not sufficient, OMIclear uses the defaulting Clearing Member's contribution to the Clearing Fund.
7. In the same sequence, in fourth place, OMIclear the resources of the Autonomous Reserve.
8. In fifth place, if the resources mentioned above are not sufficient, OMIclear uses specific funds set up for this purpose, defined in paragraphs (13) to (15).
9. If nevertheless there are still insufficient resources, OMIclear mobilises the contributions to the Clearing Fund, already set up, made by other Clearing Members, as provided in the Instruction governing the functioning of that Fund.
10. In seventh place, if the resources mentioned above are not sufficient, OMIclear uses additional specific funds for this purpose, as defined in paragraphs (16) to (19).
11. Finally, when the Guarantees set up for the Clearing Fund have all been used, OMIclear resorts to the additional responsibilities of the Clearing Members, as provided also in the Instruction relating to the Clearing Fund.

Clients with Individual Segregation or Omnibus Segregation

12. If, in exceptional circumstances, OMIclear is called to intervene directly in the resolution of a default of a Client with individual segregation or omnibus segregation, to manage the default the order of priority referred to in the paragraphs above is preceded by the use of Guarantees registered in the Client's Clearing Accounts under that system.

Own Funds

13. OMIClear has set up own funds in cash equivalent to 25% of the minimum capital required by EMIR, fully available and intended to cover losses from events of default, in accordance with paragraph (8).
14. The amount referred to in paragraph (13) may be updated by OMIClear, informing its Clearing Members at least 5 (five) Clearing Days in advance of its entry into effect.
15. If a portion of the funds referred to in paragraph (13) is used, OMIClear has up to 20 (twenty) Clearing Days to restore the missing amount.

Additional Own Funds

16. OMIClear has set up fully available own funds in cash to cover losses arising from events of default, pursuant to paragraph (10), as well as to cover losses arising from non-default events.
17. The amount referred to in paragraph (16) may be updated by OMIClear, informing its Clearing Members at least 5 (five) Clearing Days in advance of its entry into effect.
18. If a portion of the funds referred to in paragraph (16) is used, OMIClear has up to 20 (twenty) Clearing Days to restore the missing amount.
19. The use of Additional Own Funds depends on the procedures established in OMIClear's Recovery Plan and in Regulation (EU) 2021/23 of the European Parliament and of the Council on the recovery and resolution of central counterparties.

Entry into Effect

20. This Instruction has been registered with CMVM on February 8th, 2024 and enters into effect March 11th, 2024.

The Board of Directors