Volatility derivative contract means a derivative contract in which the payoff of the derivative contract explicitly depends on a measure of the volatility of an underlying risk factor to the derivative contract.

§ 1240.3 Operational requirements for counterparty credit risk.

For purposes of calculating risk-weighted assets under subpart D of this part:

(a) *Cleared transaction.* In order to recognize certain exposures as cleared transactions pursuant to paragraphs (1)(ii), (iii), or (iv) of the definition of "cleared transaction" in § 1240.2, the exposures must meet the applicable requirements set forth in this paragraph (a).

(1) The offsetting transaction must be identified by the CCP as a transaction for the clearing member client.

(2) The collateral supporting the transaction must be held in a manner that prevents the Enterprise from facing any loss due to an event of default, including from a liquidation, receivership, insolvency, or similar proceeding of either the clearing member or the clearing member's other clients.

(3) The Enterprise must conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that in the event of a legal challenge (including one resulting from a default or receivership, insolvency, liquidation, or similar proceeding) the relevant court and administrative authorities would find the arrangements of paragraph (a)(2) of this section to be legal, valid, binding and enforceable under the law of the relevant jurisdictions.

(4) The offsetting transaction with a clearing member must be transferable under the transaction documents and applicable laws in the relevant jurisdiction(s) to another clearing member should the clearing member default, become insolvent, or enter receivership, insolvency, liquidation, or similar proceedings.

(b) *Eligible margin loan.* In order to recognize an exposure as an eligible margin loan as defined in § 1240.2, an Enterprise must conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal re-

view) that the agreement underlying the exposure:

(1) Meets the requirements of paragraph (1)(iii) of the definition of "eligible margin loan" in § 1240.2, and

(2) Is legal, valid, binding, and enforceable under applicable law in the relevant jurisdictions.

(c) [Reserved]

(d) *Qualifying master netting agreement.* In order to recognize an agreement as a qualifying master netting agreement as defined in § 1240.2, an Enterprise must:

(1) Conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that:

(i) The agreement meets the requirements of paragraph (2) of the definition of "qualifying master netting agreement" in § 1240.2; and

(ii) In the event of a legal challenge (including one resulting from default or from receivership, insolvency, liquidation, or similar proceeding) the relevant court and administrative authorities would find the agreement to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions; and

(2) Establish and maintain written procedures to monitor possible changes in relevant law and to ensure that the agreement continues to satisfy the requirements of the definition of "qualifying master netting agreement" in § 1240.2.

(e) *Repo-style transaction.* In order to recognize an exposure as a repo-style transaction as defined in § 1240.2, an Enterprise must conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that the agreement underlying the exposure:

(1) Meets the requirements of paragraph (3) of the definition of "repo-style transaction" in § 1240.2, and

(2) Is legal, valid, binding, and enforceable under applicable law in the relevant jurisdictions.

(f) *Failure of a QCCP to satisfy the rule's requirements.* If an Enterprise determines that a CCP ceases to be a QCCP due to the failure of the CCP to satisfy one or more of the requirements set forth in paragraphs (2)(i) through

(iii) of the definition of a ''QCCP'' in §1240.2, the Enterprise may continue to treat the CCP as a QCCP for up to three months following the determination. If the CCP fails to remedy the relevant deficiency within three months after the initial determination, or the CCP fails to satisfy the requirements set forth in paragraphs (2)(i) through (iii) of the definition of a ''QCCP'' continuously for a three-month period after remedying the relevant deficiency, an Enterprise may not treat the CCP as a QCCP for the purposes of this part until after the Enterprise has determined that the CCP has satisfied the requirements in paragraphs (2)(i) through (iii) of the definition of a ''QCCP'' for three continuous months.

§ 1240.4 Transition.

(a) *Compliance dates.* An Enterprise will not be subject to any requirement under this part until the compliance date for the requirement under this section.

(b) *Reporting requirements.* (1) For any reporting requirement under §1240.1(f) or §1240.41, the compliance date will be January 1, 2022.

(2) For any reporting requirement under §§1240.61 through 1240.63, the compliance date will be no later than 10 business days after an Enterprise files its Annual Report on SEC Form 10–K for the fiscal year ending December 31, 2022.

(3) For any reporting requirement under §1240.205, the compliance date will be no later than 10 business days after an Enterprise files its Annual Report on SEC Form 10–K for the fiscal year ending December 31, 2022.

(c) *Advanced approaches requirements.* Any requirement under subpart E or F (other than §1240.162(d) or any requirement to calculate the standardized measure for spread risk under §1240.204) will have a compliance date of the later of January 1, 2025 and any later compliance date for that requirement provided in a transition order applicable to the Enterprise.

(d) *Capital requirements and buffers—* (1) *Requirements.* The compliance date of any requirement under §1240.10 will be the later of:

(i) The date of the termination of the conservatorship of the Enterprise (or,

if later, the effective date of this part); and

(ii) Any later compliance date for §1240.10 provided in a transition order applicable to the Enterprise.

(2) *Buffers.* The compliance date of any requirement under §1240.11 will be the date of the termination of the conservatorship of the Enterprise (or, if later, the effective date of this part).

(3) *Capital restoration plan.* If a transition order of an Enterprise provides a compliance date for §1240.10, the Director may determine that, for the period between the compliance date for §1240.11 under paragraph (d)(2) of this section and any later compliance date for §1240.10 provided in the transition order—

(i) The prescribed capital conservation buffer amount of the Enterprise will be the amount equal to the sum of—

(A) The common equity tier 1 capital that would otherwise be required under §1240.10(d); and

(B) The prescribed capital conservation buffer amount that would otherwise apply under §1240.11(a)(5); and

(ii) The prescribed leverage buffer amount of the Enterprise will be equal to 4.0 percent of the adjusted total assets of the Enterprise.

(4) *Prudential standard.* If the Director makes a determination under paragraph (d)(3) of this section, §1240.11 will be a prudential standard adopted under section 1313B of the Safety and Soundness Act (12 U.S.C. 4513b) until the compliance date of §1240.10.

[85 FR 82198, Dec. 17, 2020, as amended at 87 FR 33429, June 2, 2022]

EFFECTIVE DATE NOTE: At 88 FR 83476, Nov. 30, 2023, §1240.4 was amended by in paragraph (c) by removing the year ''2025'' and adding in its place the year ''2028'', effective Apr. 1, 2024.

Subpart B—Capital Requirements and Buffers

§ 1240.10 Capital requirements.

(a) *Total capital.* An Enterprise must maintain total capital not less than the amount equal to 8.0 percent of the greater of:

(1) Standardized total risk-weighted assets; and