



US vs EU MARGIN RULES

Comparative Summary as of September 1, 2016

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US vs EU MARGIN RULES

Comparative Summary as of September 1, 2016

	US Margin Rules ¹		EU Margin Rules ²
	PR Margin Rules	CFTC Margin Rules	
I. SCOPE			
Covered Entities	Swap Entities and SBS Entities ³ that are prudentially regulated ⁴ (PR Swap Entities)	Swap Entities that are not prudentially regulated (CFTC Swap Entities)	(i) Financial Counterparties (FC) ⁵ (ii) Non-Financial Counterparties above clearing thresholds (NFC+) ⁶ (iii) Third Country Entities (TCE) that would be FC or NFC+ if established in the EU (TCE (FC/NFC+)) ⁷
Covered Products	Uncleared swaps and security-based swaps (SBS) entered into on or after the relevant compliance date (other than FX Products)	Uncleared swaps entered into on or after the relevant compliance date (other than FX Products)	Uncleared derivatives entered into on or after the relevant compliance date (other than Exempted Products)
Exempted Products	FX Products ⁸ are not subject to IM/VM requirements under US Margin Rules		<p>Permanent Exemptions</p> <ul style="list-style-type: none"> Physically-settled FX forwards and swaps (exempt from IM requirements only) Currency Swaps⁹ (exempt from IM requirements only) Hedging swaps related to regulated covered bonds (Covered Bond Swaps) <p>Temporary Exemptions (i.e., delayed implementation)</p> <ul style="list-style-type: none"> Physically-settled FX forwards (delayed implementation of VM requirements)¹⁰ Equity options and options on equity indices¹¹
Covered Counterparties	(i) PR Swap Entities (ii) CFTC Swap Entities (iii) Financial End-Users		(i) FCs (ii) NFC+ (iii) TCE (FC/NFC+)
Exempted Counterparties	Exempted End-Users ¹²		(i) Non-Financial Counterparties below clearing thresholds (NFC-) (ii) TCEs that would be NFC- if established in the EU (TCE (NFC-)) (iii) TCEs trading with each other if there is no "direct, substantial and foreseeable effect" within the EU (iv) Certain covered bond issuers or cover pools subject to certain conditions

US Margin Rules ¹		EU Margin Rules ²
PR Margin Rules	CFTC Margin Rules	

II. INITIAL MARGIN

Rule	<p>(i) Swap Entity Counterparty: Swap Entity must post/collect IM</p> <p>(ii) Financial End-User Counterparty with Material Swaps Exposure: Swap Entity must post/collect IM</p> <p>(iii) Financial End-User Counterparty without Material Swaps Exposure: No IM requirement under US Margin Rules</p>	<p>(i) FC/NFC+ Counterparty with Material Swaps Exposure: Covered Entity must collect IM</p> <p>(ii) FC/NFC+ Counterparty without Material Swaps Exposure: No IM requirement under EU Margin Rules</p>
IM Collection Frequency/Timing	Daily, beginning on or before the business day following execution and ending upon termination/expiration of the relevant transaction	Must be calculated and collected within one business day following certain events (e.g., change in the portfolio between the parties such as execution/expiration/non-margin related payment or delivery, underlying risk measurement approach has changed, no calculation performed in preceding 10 business days)
Material Swaps Exposure	> US\$8 billion ¹³	> €8 billion ¹⁴
Minimum Transfer Amount	US\$500,000 per counterparty	€500,000 (or equivalent in another currency) per counterparty
IM Threshold Amount	US\$50M ¹⁵	€50M ¹⁶
IM Calculation	<p><u>Standardized IM Schedule</u> (i.e., the ISDA Standardized Initial Margin Model (SIMM)) Calculated as a percentage of notional exposure, with adjustment for net-to-gross replacement cost ratio</p>	<p><u>Standardized IM Schedule</u>¹⁷ (i.e., SIMM or the Standardized Approach)</p> <ul style="list-style-type: none"> • Uses risk sensitivities as input • Risk divided into 6 asset classes (interest rate, FX, credit qualifying, credit non-qualifying, equities and commodities) (risk classes); risk factors are prescribed per risk class • Calibration of risk weights on an periodic basis • Parties using SIMM to calculate IM will need a license from the International Swaps and Derivatives Association, Inc. (ISDA)
	<p><u>Approved Proprietary Margin Models</u>¹⁸</p> <ul style="list-style-type: none"> • Potential future exposure is an estimate of 99% confidence interval over a holding period equal to the shorter of either: <ul style="list-style-type: none"> (i) 10 business days (ii) The maturity of the swap or netting portfolio • Historical observation period requirements: <ul style="list-style-type: none"> (i) Equally weighted data from a period of 1-5 years (ii) Must include period of significant financial stress 	<p><u>Approved Proprietary Margin Models (IM Models)</u></p> <ul style="list-style-type: none"> • Potential future exposure is an estimate of 99% confidence interval over margin period of risk of at least 10 days • Historical observation period requirements: <ul style="list-style-type: none"> (i) Equally weighted data from a period of 3-5 years (ii) At least 25% of data must be representative of period of significant financial stress

US Margin Rules ¹		EU Margin Rules ²
PR Margin Rules	CFTC Margin Rules	

II. INITIAL MARGIN (continued)

Eligible Collateral	<ul style="list-style-type: none"> Immediately available cash funds denominated in USD, another major currency or the agreed currency of settlement (Cash Collateral) Securities issued or guaranteed by a US government agency, the European Central Bank (the ECB) or certain sovereign entities Certain debt securities and asset-backed securities issued by US government-sponsored enterprises (GSEs) Certain interests in pooled investment funds that invest in certain US government securities or securities issued by, or guaranteed by, the ECB or certain sovereign entities (Eligible Investment Fund Interests) Certain corporate debt securities Securities issued or guaranteed by the Bank for International Settlements, the IMF or a multilateral development bank Certain listed equities Gold 	<ul style="list-style-type: none"> Cash in the form of money credited to an account in any currency, or similar claims for the repayment of money (e.g., money market deposits accounts) (Cash Collateral) Gold in the form of allocated pure gold bullion of recognised good delivery (Gold) Certain debt securities issued by EU central governments, EU central banks, certain regional and local authorities of EU Member States and certain public sector entities of EU Member States, multilateral development banks or international organisations Certain debt securities issued by third countries' governments, central banks and certain regional and local authorities Certain debt securities issued by credit institutions or investment firms Corporate bonds Most senior tranche of a securitisation that is not a re-securitisation (securitisation positions) Certain convertible bonds provided that they can be converted only into equities which are included in a main index Certain equities included in a main index Shares or units in UCITS, where specified conditions are satisfied (Eligible UCITS Units) <p>* Additional considerations required for credit quality risk¹⁹, wrong-way risk and concentration risk²⁰</p>
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III. VARIATION MARGIN

Rule	Swap Entity must post/collect VM with any uncleared swap counterparties that are either (i) Swap Entities or (ii) Financial End-Users.	FC/NFC+/TCE (FC/NFC+) must collect VM from any FC/NFC+/ TCE (FC/NFC+) counterparties.
VM Collection Frequency/Timing	Daily, beginning on or before the business day following execution and ending upon termination/expiration of the relevant transaction	Must be calculated at least daily and collected same-day; permitted collection within two business days if certain conditions are met
Eligible Collateral	(i) Swap Entity Counterparty: Swap Entity may only post/collect Cash Collateral (ii) Financial End-User Counterparty: Swap Entity may post/collect the same forms of Eligible Collateral as for IM	Same Eligible Collateral as for IM

IV. COLLATERAL

Collateral Valuation	<p>The value of any Eligible Collateral collected/posted to satisfy the US Margin Rules is subject to the sum of the applicable Haircuts</p> <ul style="list-style-type: none"> Haircuts may only be determined by using the standard methodology provided for under the US Margin Rules 	<p>The value of any Eligible Collateral collected/posted to satisfy the EU Margin Rules is subject to the application of Haircuts to the market value of collected collateral</p> <p><i>(continued on next page)</i></p>
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US Margin Rules¹		EU Margin Rules²
PR Margin Rules	CFTC Margin Rules	

IV. COLLATERAL (continued)

Collateral Valuation (continued)

- Haircuts may be determined using either:
 - The standard methodology provided for under the EU Margin Rules
 - An FC/NFC+'s own estimates using internal models (volatility estimates) compliant with the EU Margin Rules
- Haircuts for debt securities and securitisation positions based on internal **Credit Quality Steps** corresponding with the probability of default (**PD**) associated with such posted securities:

Credit Quality Step	PD
1	≤ 0.10%
2	≤ 0.25%
3	≤ 1.00%
4	≤ 7.50%

Standardized Haircuts

Asset Class	Haircut
(i) VM collateral denominated in a currency that is not the settlement currency of the transaction (or group of transactions) for which such collateral was posted (except for immediately available cash funds denominated in USD or another major currency)	8.0%
(ii) IM collateral denominated in a currency that is not the settlement currency (except for Eligible Collateral denominated in a single termination currency designated as payable to the collecting counterparty under an Eligible Master Netting Agreement (EMNA))	8.0%
(iii) Eligible government and related debt	
Residual maturity <1 year	0.5%
Residual maturity 1-5 years	2.0%
Residual maturity >5 years	4.0%
(iv) Eligible GSE debt securities and other eligible publicly-traded debt	
Residual maturity <1 year	1.0%
Residual maturity 1-5 years	4.0%
Residual maturity >5 years	8.0%
(v) Equity included in the S&P 500 or a related index	15.0%
(vi) Equity included in the S&P 1500 or a related index	25.0%
(vii) Gold	15.0%

Asset Class	Haircut		
(i) VM Cash Collateral	0.0%		
(ii) VM non-cash Eligible Collateral denominated in a currency other than those agreed in an individual derivative contract, master netting agreement or the relevant credit support annex	8.0%		
(iii) IM collateral (cash and non-cash) denominated in a currency other than the agreed termination currency with respect to such counterparty ²¹	8.0%		
(iv) Eligible convertible bonds	15.0%		
(v) Eligible equities	15.0%		
(vi) Gold	15.0%		
(vii) Eligible debt securities issued by central governments and central banks (long-term vs. short-term credit quality assessments)			
	<u>Residual Maturity</u>		
	≤1 year	>1 ≤ 5 years	>5 years
Credit Quality Step 1	0.5% / 0.5%	2.0% / 0.5%	4.0% / 0.5%
Credit Quality Step 2-3	1.0% / 1.0%	3.0% / 1.0%	6.0% / 1.0%
(viii) Eligible debt securities issued by credit institutions and investment firms (long-term vs. short-term)			
	<u>Residual Maturity</u>		
	≤1 year	>1 ≤ 5 years	>5 years
Credit Quality Step 1	1.0% / 1.0%	4.0% / 1.0%	8.0% / 1.0%
Credit Quality Step 2+	2.0% / 2.0%	6.0% / 2.0%	12.0% / 2.0%

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US Margin Rules¹

PR Margin Rules

CFTC Margin Rules

EU Margin Rules²

IV. COLLATERAL (continued)

Standardized Haircuts (continued)

<u>Asset Class</u>	<u>Haircut</u>		
(ix) Other eligible debt securities meeting certain regulatory requirements or issued by multilateral development banks, international organisations			
	<u>Residual Maturity</u>		
	≤1 year	>1 ≤ 5 years	>5 years
Credit Quality Step 1	0.5%	2.0%	4.0%
Credit Quality Step 2-3	1.0%	3.0%	6.0%
Credit Quality Step 4+	15.0% (for any residual maturity)		
(x) Other eligible debt securities not meeting certain regulatory requirements and eligible corporate bonds			
	<u>Residual Maturity</u>		
	≤1 year	>1 ≤ 5 years	>5 years
Credit Quality Step 1	1.0%	4.0%	8.0%
Credit Quality Step 2+	2.0%	6.0%	12.0%
(xi) Eligible securitisation positions (long-term vs. short-term)			
	<u>Residual Maturity</u>		
	≤1 year	>1 ≤ 5 years	>5 years
Credit Quality Step 1	2.0% / 2.0%	8.0% / 2.0%	16.0% / 2.0%
Credit Quality Step 2+	4.0% / 4.0%	12.0% / 4.0%	24.0% / 4.0%

Eligible Investment Fund Interests

The Haircut for any Eligible Investment Fund Interests under the PR Margin Rules is the weighted average Haircut on all assets within the relevant investment fund at the end of the prior month, with the weights applied in the weighted average calculated as a fraction of the fund's total market value that is invested in each asset with a given Haircut

Eligible Investment Fund Interests

The CFTC Margin Rules **do not** specify any Haircut with respect to Eligible Investment Fund Interests posted/collected as collateral under the CFTC Margin Rules

Eligible UCITS Units

The Haircut for any Eligible UCITS Unit(s) under the EU Margin Rules is the weighted average of the Haircuts that would apply to the assets in which the UCITS fund is invested

Holding of Collateral

Initial Margin

- IM collected pursuant to the US Margin Rules must be segregated at a third-party custodian
- No rehypothecation, but third-party custodian may reinvest Cash Collateral that is required to be segregated, in other Eligible Collateral
- Treatment of excess collateral:
 - PR Margin Rules: All IM posted by PR Swap Entities (even if not pursuant to the PR Margin Rules) must be held by a third-party custodian
 - CFTC Margin Rules: Any excess collateral posted above IM amounts required under CFTC Margin Rules **need not** be segregated at a third-party custodian

Initial Margin

- All IM collected must be segregated (can be held by collecting counterparty, third-party holder or custodian) to protect from the insolvency or default of the collecting counterparty
- Cash collected as IM must be deposited with an independent third-party holder or independent custodian (in either case, where credit quality has been considered using a methodology that **does not** rely solely upon external assessments) or with a central bank
- If collateral is held by the collecting party, collecting party must offer posting party right to individual segregation

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US Margin Rules ¹		EU Margin Rules ²
PR Margin Rules	CFTC Margin Rules	

IV. COLLATERAL (continued)

Holding of Collateral (continued)		<p>Initial Margin (continued)</p> <ul style="list-style-type: none"> The segregation arrangements shall ensure that collateral posted as IM is available to the posting counterparty in a timely manner, in case the collecting counterparty defaults No rehypothecation, but third-party holder/custodian or central bank may reinvest Cash Collateral that is required to be segregated, in other Eligible Collateral Diversification requirements for cash IM where parties are global systemically important institutions (G-SIIs) or other systemically important institutions (O-SIIs) dealing among themselves, including, <i>inter alia</i>: <ul style="list-style-type: none"> No more than 20% of that IM can be held in cash by a single third-party custodian Country diversification requirements if IM collected in excess of €1 billion from a single counterparty for certain transactions
	<p>Variation Margin No segregation requirements</p>	<p>Variation Margin No segregation requirements</p>

V. INTER-AFFILIATE TRANSACTIONS

Rule	<p>Initial Margin</p> <ul style="list-style-type: none"> Affiliate Is Also a PR Swap Entity: PR Swap Entity must post and collect IM with respect to inter-affiliate uncleared swaps/SBS Affiliate Is Not a PR Swap Entity: PR Swap Entity need only post IM with respect to inter-affiliate uncleared swaps/SBS 	<p>Initial Margin</p> <p>(i) Collecting IM:</p> <ul style="list-style-type: none"> CFTC Swap Entities must collect IM from foreign affiliates that are both: <ol style="list-style-type: none"> Financial End-Users Not subject to comparable IM collection requirements on their own outward-facing swaps with Financial End-Users Otherwise, CFTC Swap Entity need not collect IM from an affiliate if the following conditions are satisfied: <ol style="list-style-type: none"> Inter-affiliate swap is subject to a centralized risk-management program meeting certain conditions VM is exchanged with respect to the inter-affiliate swap <p>(ii) Posting IM: CFTC Swap Entities need only post IM to its affiliates that are PR Swap Entities</p>	<p>Initial Margin</p> <ul style="list-style-type: none"> FCs/NFCs+ must collect IM from affiliates in accordance with the EU Margin Rules, unless they qualify for the intra-group exemption Parties can qualify for an exemption from EU Margin Rules for intra-group transactions if there are both: <ol style="list-style-type: none"> Adequate risk management procedures in place²² No actual or potential practical²³ or legal²⁴ impediments to the prompt transfer of own funds or repayment of liabilities existing between the parties Affiliates Established in the Same EU Member State: <ol style="list-style-type: none"> No positive decision of the competent authority is required The exemption applies automatically, <i>provided that</i> there is no current or foreseen practical or legal impediment to the prompt transfer of funds or repayment of liabilities between the affiliates <p><i>(continued on next page)</i></p>
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US Margin Rules ¹		EU Margin Rules ²
PR Margin Rules	CFTC Margin Rules	

V. INTER-AFFILIATE TRANSACTIONS (continued)

<p>Rule (continued)</p>	<p>Variation Margin PR Swap Entities must post and collect VM for inter-affiliate uncleared swaps/SBS</p>	<p>Variation Margin CFTC Swap Entities must post and collect VM for inter-affiliate uncleared swaps</p>	<p>Initial Margin (continued)</p> <ul style="list-style-type: none"> Affiliates Established in Different EU Member States: <ul style="list-style-type: none"> (i) Both Affiliates Are FC: A positive decision of both relevant competent authorities is required for a total or partial exemption (ii) Both Affiliates Are NFC+: Counterparties must notify their respective competent authorities of their intention to apply the exemption <ul style="list-style-type: none"> Exemption shall be valid, unless either competent authority does not agree within three months of such notification (iii) One FC Affiliate Facing an NFC+ Affiliate: A positive decision of the FC's competent authority is required for a total or partial exemption Transitional exemption for EU/non-EU intra-group transactions pending equivalence determinations with a long-stop of three years <p>Variation Margin Same as for IM</p>
<p>IM Threshold Amount (if applicable)</p>	<p>US\$20 million (resulting from all uncleared swaps/SBS with such affiliate)</p>	<p>US\$50 million (i.e., no special treatment for inter-affiliate swaps)</p>	<p>€10 million (resulting from all over-the-counter (OTC) derivatives with such affiliate)</p>
<p>IM Calculation (if applicable)</p>	<p>(i) Approved Proprietary IM Model:</p> <ul style="list-style-type: none"> Holding period equal to the shorter of: <ul style="list-style-type: none"> (a) 5 business days (b) The maturity of such inter-affiliate uncleared swap/SBS or the applicable netting portfolio If holding period for netting portfolio calculated in this way, such netting portfolio must be identified and separated from any other netting portfolio for purposes of calculating and complying with the IM requirements under the PR Margin Rules <p>(ii) Other Internal IM Model: To the extent that a PR Swap Entity uses an internal IM model that does not conform with the PR Margin Rules requirements, such PR Swap Entity must calculate (on a daily basis) the IM amount to be collected with respect to its uncleared swaps/SBS with a given affiliate, by using the standardized IM schedule and multiplying the gross IM by 0.7</p>	<p>No special treatment of inter-affiliate swaps in calculating IM</p>	<p>No special treatment of intra-group OTC derivatives in calculating IM (except insofar as the lower IM Threshold Amount applies)</p>

US Margin Rules ¹		EU Margin Rules ²
PR Margin Rules	CFTC Margin Rules	

V. INTER-AFFILIATE TRANSACTIONS (continued)

Segregation (if applicable)	Custodian for non-cash Eligible Collateral collected from the PR Swap Entity's affiliate to satisfy the IM requirements may be such PR Swap Entity or an affiliate thereof	Custodian for Eligible Collateral collected by a CFTC Swap Entity from its affiliate to satisfy the IM requirements may be such CFTC Swap Entity or an affiliate thereof	No special treatment of intra-group OTC derivatives with respect to the segregation of Eligible Collateral collected from affiliates as IM under the EU Margin Rules
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VI. NETTING

IM Calculation	<p><u>Standardized IM Schedule</u> 60% benefit of cross-asset netting</p> <p><u>Approved Proprietary IM Model</u> Swap Entity can net all uncleared swaps with a counterparty under an EMNA within, but not across, the following broad risk categories</p> <ul style="list-style-type: none"> • Commodity • Credit • Equity • FX and interest rates 	<p><u>Standardized IM Schedule</u> 60% benefit of cross-asset netting</p> <p><u>Approved Proprietary IM Model</u> Counterparties can net all uncleared swaps under an EMNA within, but not across, the following asset classes:</p> <ul style="list-style-type: none"> • Interest rates, currency and inflation • Equity • Credit • Commodities and Gold • Other
Portfolio Margining	<p>For purposes of portfolio margining, counterparties may enter into EMNAs that separately account for pre- and post-compliance date positions</p> <ul style="list-style-type: none"> • No exemption for new swaps/SBS arising from post-compliance date amendments to and novations or compressions of uncleared swaps/SBS that were entered into prior to the applicable compliance date(s) 	<p>For purposes of portfolio margining, counterparties may enter into EMNAs that separately account for pre- and post-compliance date positions</p> <ul style="list-style-type: none"> • The position related to post-compliance date amendments to and novations or compressions of legacy uncleared derivatives is not clear under the EU Margin Rules • Such trades may either (i) remain legacy trades that are not subject to margin requirements or (ii) come under regulatory scrutiny if the amendments are questionable, appear to be efforts to avoid application of the EU Margin Rules and/or result in a significantly larger credit risk to a counterparty (i.e., substantial increases to the notional amount of a legacy trade)

US Margin Rules¹

PR Margin Rules

CFTC Margin Rules

EU Margin Rules²

VII. COMPLIANCE SCHEDULE

Phased-in Compliance Dates

<u>Notional Amount</u>	<u>VM Compliance Date</u>	<u>IM Compliance Date</u>
> US\$3 trillion	September 1, 2016	September 1, 2016 ²⁵
> US\$2.25 trillion	March 1, 2017	September 1, 2017
> US\$1.5 trillion	March 1, 2017	September 1, 2018
> US\$750 billion	March 1, 2017	September 1, 2019
> US\$8 billion	March 1, 2017	September 1, 2020
≤ US\$8 billion	March 1, 2017	N/A

Notional Amount Calculation

Average **daily** notional amount of uncleared swaps, uncleared SBS, FX forwards and FX swaps (computed for business days only) for each counterparty (aggregated with its respective affiliates), calculated for the previous March, April and May

- Inter-affiliate transactions need only be counted once
- Uncleared swaps/SBS entered into with Exempted End-Users **would not** be included in calculation
- SBS that either (i) are exempt pursuant to the SEC clearing exemption for affiliates of end-users or (ii) satisfy the criteria for the SEC's end-user exception for clearing **would not** be included in the calculation

<u>Notional Amount</u>	<u>VM Compliance Date (estimated)</u>	<u>IM Compliance Date (estimated)</u>
> €3 trillion	Date of Entry into Force (EF) +1 month	EF +1 month ²⁶
> €2.25 trillion	Later of (i) March 1, 2017 and (ii) EF + 1 month	September 1, 2017
> €1.5 trillion	Later of (i) March 1, 2017 and (ii) EF + 1 month	September 1, 2018
> €750 billion	Later of (i) March 1, 2017 and (ii) EF + 1 month	September 1, 2019
> €8 billion	Later of (i) March 1, 2017 and (ii) EF + 1 month	September 1, 2020
≤ €8 billion	Later of (i) March 1, 2017 and (ii) EF + 1 month	N/A

Notional Amount Calculation

Aggregate Average Notional Amount (**AANA**) for each counterparty (aggregated with its respective corporate group), calculated as of the last business day of the previous March, April and May

- Intra-group transactions (regardless of whether qualifying for exemption under the EU Margin Rules) need only be counted once
- Calculation would **include** transactions that are permanently/ temporarily exempt from IM /VM requirements under the EU Margin Rules (*i.e.*, physically-settled FX swaps and forwards, Currency Swaps, Covered Bond Swaps, derivatives with exempted counterparties, exempted intra-group transactions, hedging trades, etc.)
- Exchange traded derivatives on a non-EU equivalent market no longer constitute "non-centrally cleared OTC derivatives" and therefore **would not** be included in calculation
- There are separate AANA calculations for IM and VM; both entities must be above the relevant AANA threshold for the EU Margin Rules to apply

US Margin Rules¹

PR Margin Rules

CFTC Margin Rules

EU Margin Rules²

VIII. CROSS-BORDER APPLICATION

Exemption/Exclusion

Uncleared swaps/SBS for which neither the counterparty nor the Foreign Covered Swap Entity,²⁷ nor any party providing a guarantee of either party's relevant uncleared swap obligations, falls under the following categories:

- A US entity (including a US branch, agency or subsidiary of a foreign bank)
- A natural person who is a US resident
- A branch or office of a US entity
- A Swap/SBS Entity that is a subsidiary of a US entity

Uncleared swap of a CFTC Swap Entity that **is not** a US person (a **Non-US CFTC Swap Entity**), where the following conditions are met:

- Neither counterparty is a US person
- Neither counterparty's relevant uncleared swap obligations are guaranteed by a US person
- Neither counterparty is either:
 - (i) A Foreign Consolidated Subsidiary (an **FCS**)²⁸
 - (ii) A US branch of a Non-US CFTC Swap Entity

* Exclusion **not** available for certain inter-affiliate uncleared swaps

- Uncleared derivatives entered into between two TCEs (regardless of whether they are TCE (FC/NFC+)) if both:
 - (i) The contract **does not** have a direct, substantial or foreseeable effect within the EU²⁹
 - (ii) The application of margin-related obligations **is not** necessary or appropriate to prevent evasion of EMIR
- Uncleared derivatives entered into between an EU counterparty and a TCE in a jurisdiction where each of the following conditions are met:
 - (i) Legal reviews confirm that either (a) the exchange of collateral agreements cannot be enforceable at all times with certainty or (b) segregation compliant with the EU Margin Rules is not possible
 - (ii) The collection of collateral in accordance with the EU Margin Rules (*i.e.*, on a gross basis) is not possible
 - (iii) Group aggregate notional where no margin collected, divided by group aggregate notional (excluding intra-group transactions) < 2.5%
 - The EU counterparty's trades with a TCE in a non-netting jurisdiction **may not exceed** this 2.5% ratio
- An EU counterparty is not required to **post** IM/VM to (but must **collect** IM/VM on a **gross** basis from) a TCE counterparty in a jurisdiction where legal reviews confirm that either:
 - (i) The exchange of collateral agreements cannot be enforceable at all times with certainty
 - (ii) Segregation compliant with the EU Margin Rules is not possible

Availability of Substituted Compliance

Initial Margin

If an uncleared swap/SBS is not eligible for the exclusion, substituted compliance may be available with respect to the **collection** (but not posting) of IM by a PR Swap Entity for uncleared swaps/SBS meeting the following conditions:

- PR Swap Entity is either:
 - (i) A Foreign Covered Swap Entity
 - (ii) A US branch or agency of a foreign bank
 - (iii) An entity that **is not** organized under US law and is a subsidiary of a depository institution, Edge corporation or agreement corporation

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Initial Margin

If an uncleared swap is not eligible for the exclusion, substituted compliance may be available with respect to both the **posting and collection** of IM for uncleared swaps meeting the following conditions:

- CFTC Swap Entity is a Non-US person (including a US branch thereof or an FCS)
- The Non-US CFTC Swap Entity's relevant uncleared swap obligations **are not** guaranteed by a US person

(continued on next page)

Initial Margin

If an uncleared cross-border OTC derivative is subject to the EU Margin Rules, substituted compliance may be available when the EU adopts explicit decisions on the equivalence of third-country regimes (*i.e.*, the United States) in accordance with Article 13 of EMIR

- No such decision has been adopted yet and the EC **has not** responded to questions from market participants as to what happens on the implementation day in the absence of an equivalence decision.
- The market will probably take the pragmatic approach that the stricter rules should apply, but the analysis is not straightforward

If a TCE (FC/NFC+) is guaranteed by an EU entity, substituted compliance **is not** available

US Margin Rules¹

PR Margin Rules

CFTC Margin Rules

EU Margin Rules²

VIII. CROSS-BORDER APPLICATION (continued)

Availability of Substituted Compliance (continued)

Initial Margin (continued)

- Neither party's relevant uncleared swap/SBS obligations are guaranteed by any of the following:
 - (i) An entity organized under US law (excluding a US branch or agency of a foreign bank)
 - (ii) A natural person who is a US resident
 - (iii) A branch or office of an entity organized under US law

Initial Margin (continued)

- Counterparty is neither:
 - (i) A CFTC Swap Entity that is a US person (a **US CFTC Swap Entity**)
 - (ii) A Non-US CFTC Swap Entity (including a US branch thereof or an FCS) whose relevant swap obligations are guaranteed by a US person
- Substituted compliance may be available with respect to the **posting** (but not collection) of IM by a CFTC Swap Entity for the following uncleared swap transactions:
- (i) A US CFTC Swap Entity facing (ii) a Non-US person counterparty (including a Non-US CFTC Swap Entity, a US branch thereof or an FCS) whose relevant uncleared swap obligations **are not** guaranteed by a US person
 - (i) A Non-US CFTC Swap Entity (including a US branch thereof or an FCS) whose relevant swap obligations are guaranteed by a US person facing (ii) a Non-US person counterparty (including a Non-US CFTC Swap Entity, a US branch thereof or an FCS) whose relevant uncleared swap obligations **are not** guaranteed by a US person
- Substituted compliance may be available with respect to the **collection** (but not posting) of IM by an FCS or a US branch of a Non-US CFTC Swap Entity with respect to an uncleared swap satisfying the following conditions:
- The relevant uncleared swap obligations of the FCS or US branch of a Non-US CFTC Swap Entity **are not** guaranteed by a US person
 - Counterparty is either:
 - (i) A US CFTC Swap Entity
 - (ii) A Non-US CFTC Swap Entity (including a US branch thereof or an FCS) whose relevant uncleared swap obligations are guaranteed by a US person

US Margin Rules ¹		EU Margin Rules ²
PR Margin Rules	CFTC Margin Rules	

VIII. CROSS-BORDER APPLICATION (continued)

Availability of Substituted Compliance (continued)	<p>Variation Margin</p> <p>No substituted compliance with respect to VM posting/collection requirements under PR Margin Rules</p>	<p>Variation Margin</p> <p>Substituted compliance may be available with respect to both the posting and collection of VM for uncleared swaps meeting the following conditions:</p> <ul style="list-style-type: none"> • CFTC Swap Entity is a Non-US person (including an FCS or a US branch of a Non-US CFTC Swap Entity) • The Non-US CFTC Swap Entity's relevant uncleared swap obligations are not guaranteed by a US person • Counterparty is neither: <ul style="list-style-type: none"> (i) A US CFTC Swap Entity (ii) A Non-US CFTC Swap Entity (including a US branch thereof or an FCS) whose relevant swap obligations are guaranteed by a US person 	<p>Variation Margin</p> <p>Same as for IM</p>

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Endnotes

¹ **US Margin Rules** refers, collectively, to the PR Margin Rules and the CFTC Margin Rules, where: (i) **PR Margin Rules** means the margin requirements for uncleared swaps/SBS finalized jointly by the **Prudential Regulators** (*i.e.*, the Board of Governors of the Federal Reserve System (the **FRB**), the Office of the Comptroller of the Currency (the **OCC**), the Federal Deposit Insurance Corporation (the **FDIC**), the Farm Credit Administration (the **FCA**) and the Federal Housing Finance Agency (the **FHFA**)); and (ii) **CFTC Margin Rules** means the margin requirements for uncleared swaps finalized by the US Commodity Futures Trading Commission (the **CFTC**).

² **EU Margin Rules** refers to the most recent draft margin requirements for uncleared derivatives proposed by the European Supervisory Authorities (*i.e.*, the European Insurance and Occupational Pensions Authority (**EIOPA**), the European Banking Authority (the **EBA**) and the European Securities and Markets Authority (**ESMA**)) (**ESAs**) on March 8, 2016 and submitted to the European Commission (the **EC**) for adoption. On July 28, 2016, and following review of the draft EU Margin Rules, the EC indicated to the ESAs that it wished make various amendments to the draft. This table was prepared on the basis of the EU Margin Rule as amended by the EC. The ESAs have six weeks (to September 11, 2016) to consider and further amend the EC draft of the EU Margin Rules and resubmit it to the EC in the form of a formal opinion. Following that, the draft EU Margin Rules will then be subject to further review by the EC and the European Parliament and Council.

³ **Swap Entities** refers to CFTC-registered swap dealers and major swap participants; and **SBS Entities** refers to SEC-registered security-based swap dealers and major security-based swap participants.

⁴ A Swap/SBS Entity is **prudentially regulated** if it is subject to regulatory oversight by (i) the FRB, (ii) the OCC, (iii) the FDIC, (iv) the FCA or (v) the FHFA. See FN4 of the PR Margin Rules for a detailed discussion on how to determine whether a Swap/SBS Entity is subject to prudential regulatory oversight.

⁵ **Financial Counterparties** refers to investment firms, credit institutions, insurance undertakings, assurance undertakings, reinsurance undertakings, undertakings for collective investments in transferrable securities (**UCITS**) and their managers, institutions for occupational retirement provision and alternative investment funds managed by alternative investment fund managers (**AIFMs**) (in each case, authorised pursuant to relevant EU directives).

⁶ **Non-Financial Counterparties** refers to an undertaking established in the EU other than an FC or a central counterparty. NFCs are divided into the categories of NFC+ and NFC-, depending on whether they are above or below the clearing threshold. The clearing threshold is €1 billion for each of credit and equity derivatives and €3 billion for each of interest rate, FX, commodity and other derivatives. Contracts objectively measurable as reducing risks relating to commercial and treasury financing activity are **excluded** from these clearing threshold calculations.

⁷ Trades between two TCEs (FC/NFC+) are in scope if either (i) there is a "direct, substantial and foreseeable effect" within the EU or (ii) the application of margin-related obligations is necessary to prevent evasion of EMIR.

⁸ **FX Products** refers to physically-settled FX forwards and FX swaps and the fixed, physically-settled exchange of principal in cross-currency swaps.

⁹ **Currency Swaps** refers to OTC derivative contracts under which counterparties exchange solely the principal amount and any interest payments in one currency, for the principal amount and any interest payments in another currency, at specified points in time according to a specified formula.

¹⁰ There is a temporary exemption on exchange of VM for physically-settled FX forwards (until the earlier of (i) December 31, 2018 and (ii) the application of the MiFID II delegated act (currently expected to be January 3, 2018), to allow time for a unified definition of physically-settled FX forwards across the EU). **MiFID II** refers to the *Directive on Markets in Financial Instruments repealing Directive 2004/39/EC and the Regulation on Markets in Financial Instruments*.

¹¹ EU Margin Rules contemplate delayed implementation of IM/VM requirements for equity options and options on equity indices for up to three years after the entry into force of the EU Margin Rules.

¹² **Exempted End-Users** means: (i) commercial end-users, including treasury affiliates (that qualify for the end-user exception to mandatory clearing) acting as agent; (ii) financial institutions (*i.e.*, small banks, savings associations, Farm Credit System institutions, credit unions) with total assets of US\$10 billion or less; (iii) certain financial cooperatives hedging the risks associated with originating loans for their members; and (iv) certain captive finance companies.

¹³ **Material Swaps Exposure Calculation Under US Margin Rules:** A Financial End-User with Material Swaps Exposure is an entity that has an average daily aggregate notional amount of uncleared swaps, uncleared SBS, FX forwards and FX swaps with all counterparties for June, July and August of the previous calendar year (calculated only for business days), aggregated with the Financial End-User's affiliates, that exceeds US\$8 billion.

¹⁴ **Material Swaps Exposure Calculation Under EU Margin Rules:** An FC/NFC+ Counterparty with Material Swaps Exposure is an entity that has an AANA recorded in the last business day of March, April and May of the previous calendar year (including all the non-centrally cleared OTC derivatives at group level and all intra-group non-cleared OTC trades, which are only counted once), that exceeds €8 billion (dynamic assessment every year).

¹⁵ **IM Threshold Amount Under US Margin Rules:** Aggregate credit exposure resulting from all uncleared swaps and uncleared SBS between (i) a Swap Entity or any of its affiliates and (ii) a counterparty or any of its affiliates, excluding any uncleared swaps or uncleared SBS entered into with Exempted End-Users. Note that calculation of IM Threshold Amount under the US Margin Rules **excludes** physically-settled FX forwards and swaps.

¹⁶ **IM Threshold Amount Under EU Margin Rules:** AANA resulting from all uncleared derivatives between (i) an FC/NFC+ or any of its affiliates and (ii) a counterparty or any of its affiliates, excluding any uncleared derivatives entered into with NFC- or TCE (NFC-), but **including** physically-settled FX forwards and swaps, Currency Swaps, Covered Bond Swaps and derivatives with exempted counterparties.

¹⁷ A counterparty may calculate the amount of IM to be collected using either (i) the Standardized Approach, (ii) an IM Model or (iii) both.

¹⁸ Note that, under both the US Margin Rules and the EU Margin Rules, approved proprietary IM models may be either developed by the counterparty or provided by a third party.

¹⁹ The use of internal or external credit assessment process remains subject to a minimum level of credit quality. Credit institutions authorised under *Regulation EU 575/2013 of June 26, 2013 on Prudential Requirements for Credit Institutions and Investment Firms (CRR)* are allowed to use internal-ratings-based (**IRB**) approaches using **Credit Quality Steps** and agree these with their counterparties. If there is no approved IRB approach for the collateral or if the two counterparties do not agree on the use of the IRB approach developed by one counterparty, the two counterparties can define a list of eligible collateral relying on the external credit assessments of recognized external credit assessment institutions.

²⁰ Concentration limits for sovereign debt securities **only** apply to trades between systemically important counterparties (including, but not limited to, systemically important banks) and **do not** apply to trades between them and smaller counterparties.

²¹ Where the relevant agreement **does not** identify a termination currency, the Haircut shall apply to the market value of all the assets posted as IM.

²² The risk management procedures shall be adequately sound, robust and consistent with the level of complexity of the derivative transaction and shall ensure the regular monitoring of exposures arising under intra-group transactions and the timely settlement of obligations resulting from such intra-group OTC derivatives transactions.

²³ Practical impediments include insufficient unencumbered/liquid assets to the counterparty when due and operational impediments for transfers or repayments when due.

²⁴ Legal impediments include: (i) currency/exchange controls;(ii) regulatory/administrative/legal/contractual frameworks that prevent mutual financial support or significantly affect transfer of funds intra-group; (iii) any condition for early intervention, recovery and resolution is met which results in supervisor foreseeing an impediment to prompt transfer of own funds or repayment of liabilities; and (iv) minority interests that limit decision-making power and the purpose or the legal structure of the counterparty, as defined in its statutes, instruments of incorporation and internal rules.

²⁵ On September 1, 2016, the CFTC's Division of Swap Dealer and Intermediary Oversight issued a time-limited no-action letter stating that it would not recommend an enforcement action by the CFTC against a CFTC Swap Entity subject to the September 1, 2016 compliance date for the CFTC Margin Rules, for failing to fully comply with the CFTC's custodial arrangement requirements during the initial 30 days of implementation (*i.e.*, through October 3, 2016), provided that the CFTC Swap Entity is otherwise (i) collecting and posting margin in accordance with the CFTC Margin Rules, (ii) working in good faith to complete custodial arrangements in satisfaction of the CFTC Margin Rules and (iii) meeting certain other requirements.

²⁶ Estimated compliance schedule based on the EC version of the draft EU Margin Rules as published on July 28, 2016. The ESAs have six weeks (until September 11, 2016) to consider and further amend the EC draft of the EU Margin Rules and resubmit it to the EC in the form of a formal opinion. Following that, the draft will then be subject to further review by the EC and the European Parliament and Council.

²⁷ **Foreign Covered Swap Entity** means a PR Swap Entity that **is not** (i) a US entity (including a US branch, agency or subsidiary of a foreign bank), (ii) a branch or office of a US entity or (iii) an entity that is a subsidiary of a US entity.

²⁸ **Foreign Consolidated Subsidiary** means a Non-US CFTC Swap Entity in which an ultimate parent entity (*i.e.*, the parent entity in a consolidated group in which none of the other entities in the consolidated group has a controlling interest, in accordance with US GAAP) that is a US person has a controlling financial interest (in accordance with US GAAP), such that the US ultimate parent entity includes the Non-US CFTC Swap Entity's operating results, financial position and statement of cash flows in the US ultimate parent entity's consolidated financial statements (in accordance with US GAAP).

²⁹ An OTC derivative contract between two TCEs will be considered to have **direct, substantial or foreseeable effect within the EU** when (i) at least one of the TCE counterparties benefits from a guarantee from a EU FC for a notional amount of at least €3 billion and the contract would constitute at least 5% of current exposures in the OTC derivative contracts of the guarantor or (ii)(a) the two TCE counterparties enter into the OTC derivative contract through their EU branches and (b) would qualify as FCs if they were established in the EU (*i.e.*, are both TCEs (FC)).

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