

Regulators Re-Propose Uncleared Swap Margin, Capital and Segregation Rules for Swap Entities

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Summary

On September 3, 2014, U.S. banking regulators re-proposed margin, capital and segregation requirements applicable to swap entities¹ for uncleared swaps.² The new proposed rules modify significantly the regulators' **original 2011 proposal** in light of the Basel Committee on Banking Supervision's and the International Organization of Securities Commissions' ("**BCBS/IOSCO**") issuance of their **2013 final policy framework** on margin requirements for uncleared derivatives and the comments received on the original proposal. The revised proposal:

- provides for a compliance deadline of December 1, 2015 for variation margin and a phased compliance schedule for initial margin, running from December 1, 2015 to December 1, 2019, with compliance timing dependent on the uncleared swaps exposures of a swap entity's affiliated group and each counterparty's affiliated group for the June to August period of each prior year;
- does not require initial or variation margin for a swap entity's transactions with non-financial end users;
- includes a revised, and very complex, definition of "financial end user," which differs significantly from the original proposal and existing definitions used by the CFTC and SEC;
- outlines the specific collateral eligible to be used to satisfy the margin requirements and related "haircuts," expanding the list of collateral for initial margin and limiting variation margin to cash;
- does not provide an exemption from the margin requirements for uncleared swap transactions between affiliates; and
- excludes foreign uncleared swaps of foreign covered swap entities, each as defined, from the scope of the margin requirements and provides a process for the regulators to permit substituted

¹ For purposes of this memo, "swap entities" refers to swap dealers, security-based swap dealers, major swap participants and major security-based swap participants. Unless otherwise specified in this memo, "swap entities" refers to covered swap entities that will be subject to the U.S. banking regulators' uncleared swap margin requirements.

² For purposes of this memo, "uncleared swaps" refers to both uncleared swaps and uncleared security-based swaps and the term "swap" is used to refer to both swaps and security-based swaps. As a result of the 2012 determination by the Secretary of the Treasury that FX forwards and FX swaps are not to be considered swaps under the Dodd-Frank Act for some purposes, such transactions are not subject to the margin and segregation requirements outlined in the revised proposal, except where specifically included, such as in calculating an entity's material swaps exposure and the applicable phase-in compliance period.

The definition of “financial end user” includes:

Any counterparty that is not a swap entity and that is (among others):

- a U.S. or foreign bank; a credit union; a trust or fiduciary company; a bank holding company or savings and loan holding company; or an industrial loan company;
- a nonbank SIFI;
- Fannie Mae; Freddie Mac or any of the Federal Home Loan Banks;
- a market intermediary or service provider, including a broker/dealer; investment adviser; CPO; CTA; or FCM;
- an investment fund, including a private fund, as defined under section 202(a) of the Investment Advisers Act; an investment vehicle operating in reliance on section 3(c)(5)(C) or Rule 3a-7 of the 1940 Act; a commodity pool; a BDC; or an ERISA employee benefit plan;
- an insurance company;
- a lender or other financial services firm that is state-licensed or registered;
- an entity that is, or holds itself out as being, an entity or arrangement that raises money from investors primarily for the purpose of investing in loans, securities, swaps, funds or other assets for resale or other disposition or otherwise trading in loans, securities, swaps, funds or other assets; or
- a non-U.S. entity that would be a financial end user if it were organized under the laws of the United States or any State.

Financial end user *does not include*: a federal sovereign, a multilateral development bank, the Bank for International Settlements, a captive finance company or a hedging affiliate.

The full definition is available [here](#).

compliance with a non-U.S. regulatory framework to satisfy the margin requirements.

The revised proposal would apply to swap entities that are regulated by one of the “**Prudential Regulators**” – the Federal Reserve, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Farm Credit Administration and the Federal Housing Finance Authority. The CFTC and SEC have previously issued proposed rules for margin, capital and segregation requirements that would apply to swap entities not regulated by a Prudential Regulator, which differ in many respects from the Prudential Regulators’ proposal. However, the CFTC has scheduled a meeting to consider a re-proposed rule on margin requirements for uncleared swaps.

Initial and Variation Margin

The main topics covered in the margin aspects of the revised proposal are: collection and posting of initial and variation margin; calculation of initial margin; assets eligible to be posted as margin and related haircuts; phase-in compliance schedule; documentation requirements; extraterritorial application of the uncleared swaps margin rules; and third-party custodian requirements with respect to initial margin, each of which is discussed below. A summary comparison of the revised proposal, the original proposal and the BCBS/IOSCO final policy framework is included in Appendix A.

Counterparty Classifications and Material Swaps Exposure

Under the revised proposal, whether margin requirements would apply to the transactions between a swap entity and a particular counterparty generally would depend upon the type of counterparty, and for a financial end user whether it has a “material swaps exposure.”

The revised proposal divides a swap entity’s counterparties into four types: (i) swap entities; (ii) financial end users *with* a material swaps exposure; (iii) financial end users *without* a material swaps exposure; and (iv) other counterparties.

Essential to these counterparty classifications is the definition of financial end user, the key provisions of which are outlined in the sidebar and the full definition of which is located [here](#). The proposed financial end user definition is significantly different from the original proposal as well as current definitions in the CFTC’s and SEC’s proposed and final regulations. As a general matter, the Prudential Regulators have proposed an approach to the definition of financial end user that provides an extensive list of regulated entities. The original proposal relied on a short list of enumerated entities and a catch-all prong to address those entities that are “predominantly engaged in activities that are financial in nature,” as defined under the Bank Holding Company Act, as is the case with the CFTC’s and SEC’s definitions of financial entity.

The revised proposal’s financial end user definition is very complex, and will in some cases require an extensive analysis of a counterparty’s business. The application of the financial end user definition to non-U.S.

counterparties is particularly convoluted. Under the revised proposal, a swap entity would need to determine whether a non-U.S. counterparty would fall within one of the prongs of the financial end user definition if the non-U.S. entity was organized under the laws of the United States or any State. The Prudential Regulators do not discuss whether a swap entity may rely upon a representation from its counterparty as to its financial end user status.

Under the revised proposal, the material swaps exposure for an entity is calculated for the entity’s consolidated group on an aggregate basis – i.e., inclusive of all outstanding swap exposures for the entity and all of its affiliates. This calculation looks to whether the average daily aggregate notional exposure of the entity and its affiliates for uncleared swaps, FX forwards and FX swaps with all counterparties is greater than \$3 billion, calculated on a daily basis for all business days in June, July and August of the previous calendar year.

Initial and Variation Margin Requirements

Based upon a counterparty’s classification and the result of the material swaps exposure calculation, the revised proposal would require initial and variation margin to be posted and collected as follows:

Applicability of Margin Requirements to Counterparties of a Swap Entity		
Counterparty	Initial Margin	Variation Margin
Swap entity	Required to collect and post	Required to collect and post
Financial end user <i>with</i> material swaps exposure	Required to collect and post	Required to collect and post
Financial end user <i>without</i> material swaps exposure	Collect and post as determined appropriate by the swap entity	Required to collect and post
Other counterparty	Collect and post as determined appropriate by the swap entity	Collect and post as determined appropriate by the swap entity

Notably, the revised proposal does not provide an exemption from the margin requirements for uncleared swap transactions between affiliates. Therefore, a swap entity would need to identify the counterparty type of each affiliate with which it transacts to determine the applicable margin requirements.

Because swap entities likely will not maintain calculations for the swaps exposures of counterparties and their affiliates (and may not even know the identities of a counterparty’s affiliates), the “material swaps exposure” requirement, as proposed, may prove to be a challenging standard as a practical matter. The revised proposal does not provide for reliance upon a counterparty’s representation concerning its material swaps exposure.

Standardized Initial Margin Schedule

Asset Class	Initial Margin Requirement (% of Notional Exposure)
Credit: 0-2 years	2
Credit: 2-5 years	5
Credit: 5+ years	10
Commodity	15
Equity	15
Foreign Exchange	6
Cross-Currency: Swaps: 0-2 years	1
Cross-Currency: Swaps: 2-5 years	2
Cross-Currency: Swaps: 5+ years	4
Interest Rate: 0-2 years	1
Interest Rate: 2-5 years	2
Interest Rate: 5+ years	4
Other	15

Generally, the revised proposal’s margin requirements apply only to uncleared swaps to which the swap entity becomes a party after the applicable compliance date, as described below.

Notwithstanding the requirements described above for a swap entity to collect and post initial and variation margin, a margin transfer with a counterparty is not required unless and until the total amount of margin required to be collected or posted exceeds \$650,000. Additionally, a swap entity will be deemed not to have violated its obligations under the rules to collect or post margin from or to a counterparty if the counterparty has refused or failed to provide or accept the required margin and the swap entity has made the necessary efforts to collect or post the required margin.

Calculating Initial Margin

Under the revised proposal, the minimum amount of required initial margin may be determined in one of two ways:

- pursuant to the standardized look-up table (provided in the sidebar), which is similar to that outlined by the BCBS/IOSCO final policy framework; or
- based upon an initial margin model that must conform to the requirements discussed below.

In each case, the initial margin required to be collected is equal to the amount determined by one of the above two methods less any initial margin threshold amount established by the swap entity, which may be no greater than \$65 million.

The initial margin threshold is applied on a consolidated entity basis, thus the amount subtracted from the required initial margin for any one counterparty may not include any portion of the initial margin threshold already applied to other uncleared swaps with that counterparty or any of its affiliates. This proposed approach presents potential practical difficulties, particularly when allocating the threshold amount among affiliates and tracking these allocations accurately on a daily basis.

Similarly, a swap entity must post initial margin with respect to any uncleared swap with a financial end user with material swaps exposure in an amount that is at least as large as that which the swap entity would be required to collect if it were in the place of the counterparty.

In response to commenters, the revised proposal requires initial margin to be posted and collected on or before the business day *following* the day the uncleared swap is entered into, providing an additional day to comply as compared with the period specified in the original proposal.

Where a swap entity elects to use the standardized table to determine its initial margin requirement, the initial margin amount depends on the asset class and, in the case of certain asset classes, the duration of the underlying uncleared swap. A swap entity may apply the standardized table initial margin amounts to a portfolio of uncleared swaps, including across asset classes, so long as the entire portfolio is executed under a single eligible master netting agreement. In this case, the revised proposal permits risk offsets to the standardized amounts through the application of

Qualitative Requirements of an Initial Margin Model

- Periodic review, at least annually, to ensure continued satisfaction of the initial margin model requirements and whether enhancements to the model are necessary;
- Maintenance of a risk control unit that is independent of the business trading units and reports directly to senior management;
- Validation of the model prior to implementation and on an ongoing basis by the risk control unit;
- Notification to regulators of material problems revealed during validation, the remedial actions being taken and any adjustments to the model;
- Internal audit function independent of business-line management and the risk control unit that assesses the controls supporting the initial margin model measurement systems at least annually;
- Documentation of all material aspects of the model; and
- Escalation procedures governing any changes to the model.

a net-to-gross ratio to determine the aggregate initial margin amount for the entire portfolio.

If a swap entity elects to use an initial margin model to calculate and comply with the initial margin requirements under the revised proposal, the swap entity must obtain written approval from its regulator prior to using the model and upon any changes to the model or to the products for which it is used. The models must set initial margin equal to the potential future exposure of the swap entity consistent with a one-tailed 99% confidence level over a 10-day close-out period. Additionally, the model must satisfy certain quantitative requirements that are similar to those required for internal regulatory capital models – capturing all of the material risks that affect the uncleared swap including material non-linear price characteristics of the swap, as well as the qualitative requirements that are discussed in the sidebar.

Calculating Variation Margin

The revised proposal requires a swap entity to collect and pay variation margin at least daily for uncleared swaps with a swap entity or a financial end user counterparty, regardless of the counterparty’s material swaps exposure. Unlike the original proposal, the revised proposal does not allow a swap entity to establish a credit exposure limit for certain counterparties below which the swap entity would not need to pay or collect variation margin.

Swap entities are permitted to calculate variation margin requirements on an aggregate net basis across all uncleared swap transactions with a counterparty that are executed under a single eligible master netting agreement. While the revised proposal does not generally apply to uncleared swaps entered into prior to the applicable compliance date, all uncleared swaps under a single eligible master netting agreement must be included in the aggregate for calculating and complying with variation margin requirements if the swap entity chooses to calculate on an aggregate basis.

Eligible Collateral

For variation margin, the revised proposal permits a swap entity to collect or post variation margin only in cash denominated in either U.S. dollars or the currency in which payment obligations are required to be settled under the swap. Unlike the original proposal, a swap entity is not permitted to collect or post U.S. Treasuries to satisfy a variation margin requirement.

For initial margin, the revised proposal limits the collateral eligible to satisfy the required initial margin to those instruments and cash, subject to haircuts, each as listed in the sidebar on the following page. For initial margin purposes only, cash must be denominated in U.S. dollars, any “major currency” as listed in the rule, or the currency in which payment obligations are required to be settled under the uncleared swap.

While the revised proposal expanded the list of eligible collateral for initial margin as compared to the original proposal to include certain corporate securities and non-U.S. sovereign debt, it specifically *excludes* securities issued by:

Initial Margin Eligible Collateral and Haircuts

Asset Class	Haircut (% of market value)
Cash in same currency as swap obligation	0.0
Eligible government and related debt: residual maturity less than 1 year	0.5
Eligible government and related debt: residual maturity 1-5 years	2.0
Eligible government and related debt: residual maturity greater than 5 years	4.0
Eligible corporate debt: residual maturity less than 1 year	1.0
Eligible corporate debt: residual maturity 1-5 years	4.0
Eligible corporate debt: residual maturity greater than 5 years	8.0
S&P 500 or related index equities	15.0
S&P 1500 Composite or related index equities	25.0
Gold	15.0
Additional (additive) haircut when the currency of the swap obligation differs from that of the collateral	8.0

- a counterparty or an affiliate of the counterparty pledging the collateral; or
- a bank holding company, a savings and loan holding company, a non-U.S. bank, a depository institution, a market intermediary, or an equivalent foreign institution.

Counterparties are permitted to pledge assets that do not qualify as eligible collateral with a lender in a separate arrangement and use the cash or other eligible collateral received from that separate arrangement to meet the minimum margin requirements. In addition, any collateral may be used to satisfy margin requirements imposed by counterparty agreement and not required by these rules, such as margin beyond the minimums outlined in the revised proposal.

A swap entity is required to monitor the market value and eligibility of all collateral that it collects to satisfy the initial margin requirements. To the extent the market value of such collateral declines or collected collateral is no longer eligible, the swap entity must promptly collect or obtain additional eligible collateral from its counterparty as necessary to comply with the margin requirements.

Phase-In Period

The revised proposal applies to all uncleared swaps to which a swap entity becomes a party on or after the relevant compliance dates set forth in the table below.

Swap entities must comply with the variation margin requirements by December 1, 2015. The compliance date on which initial margin requirements would apply depends on the average daily aggregate notional amount of uncleared swaps, FX forwards and FX swaps for the swap entity and its affiliates (collectively, the “**swap entity group**”) and the particular counterparty and its affiliates (collectively, the “**counterparty group**”). The applicable compliance date will be triggered where the swap entity group and counterparty group each exceed the specified threshold.

Initial Margin Phased-In Compliance Schedule	
Compliance Date	Initial Margin Trigger Level*
December 1, 2015	June – August 2015: \$4 trillion
December 1, 2016	June – August 2016: \$3 trillion
December 1, 2017	June – August 2017: \$2 trillion
December 1, 2018	June – August 2018: \$1 trillion
December 1, 2019	For any other swap entities with respect to uncleared swaps entered into with any other counterparties that do not fall into any of the above categories.
* “Initial Margin Trigger Level” for each row above means both the swap entity group and the counterparty group each have an average daily aggregate notional amount of uncleared swaps, FX forwards and FX swaps that exceeds the amount specified.	

Once a swap entity and its counterparty hit the initial margin trigger level, the swap entity and its counterparty remain subject to the uncleared swaps margin rules regardless of any future changes in the swaps exposure of the swap entity, the counterparty or the affiliates of either.

Documentation

The revised proposal requires a swap entity to execute trading documentation regarding credit support and dispute resolution arrangements with each counterparty that is either a swap entity or financial end user.

“Foreign covered swap entity” means:

Any swap entity that is not:

- an entity organized under the laws of the United States or any State, including a U.S. branch, agency or subsidiary of a non-U.S. bank;
- a branch or office of an entity organized under the laws of the United States or any State; or
- an entity that is controlled, directly or indirectly, by an entity that is organized under the laws of the United States or any State.

“Foreign uncleared swap” means:

Any uncleared swap with respect to which neither the counterparty to the foreign covered swap entity nor any guarantor of either party’s obligations is:

- an entity organized under the laws of the United States or any State, including a U.S. branch, agency or subsidiary of a non-U.S. bank;
- a branch or office of an entity organized under the laws of the United States or any State; or
- a swap entity that is controlled, directly or indirectly, by an entity that is organized under the laws of the United States or any State.

Third-Party Custody and Segregation

Under the revised proposal, any collateral *posted* by a swap entity, *other than variation margin*, must be held by one or more unaffiliated third-party custodians and any *required* initial margin *collected* by a swap entity must be held by one or more unaffiliated third-party custodians. The revised proposal requires the unaffiliated third-party custodian to act pursuant to a custody agreement that:

- prohibits the custodian from rehypothecating, repledging, reusing or otherwise transferring the funds; and
- is legal, valid, binding and enforceable under the laws of all relevant jurisdictions.

The custody agreement may permit the posting party to substitute or direct any reinvestment of posted collateral subject to restrictions on the types of funds that may be substituted or in which the funds may directly be reinvested.

The Prudential Regulators request comment on the circumstances under which one-time rehypothecation, repledge or reuse of initial margin posted by a financial end user would be permissible under the BCBS/IOSCO final policy framework and whether this would be a commercially viable option for market participants.

Extraterritorial Application

Similar to the original proposal, the revised proposal expressly excludes from the scope of the margin requirements any “foreign uncleared swap” of a “foreign covered swap entity,” each as defined in the sidebar. Such foreign uncleared swaps could include uncleared swaps between a foreign covered swap entity and a counterparty that is a non-U.S. bank or a non-U.S. subsidiary of a U.S. bank or bank holding company, so long as that subsidiary is not itself a swap entity and provided that neither party is guaranteed by a U.S. entity. However, a foreign uncleared swap does not include a swap between a foreign covered swap entity and a non-U.S. branch of a U.S. bank or a U.S. branch or subsidiary of a non-U.S. bank.

In addition, the revised proposal permits a swap entity that does not have its obligations guaranteed by an entity organized under any laws of the United States or any State under an uncleared swap and that is (i) a non-U.S. swap entity; (ii) a non-U.S. bank or U.S. branch or agency of a non-U.S. bank; or (iii) a non-U.S. subsidiary of a depository institution, Edge corporation or agreement corporation to satisfy the requirements of the rule

Role of Guarantees in the Extraterritorial Application of the Margin Rules

The Prudential Regulators requested comment on whether:

- a guarantee by a U.S. person should affect the availability of substituted compliance; and
- whether the Prudential Regulators should clarify and define the concept of “guarantee,” potentially including cross-default provisions, keepwell agreements and liquidity puts, to better ensure that uncleared swaps that may pose a risk to U.S. institutions are included in the scope of the margin rules.

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through substituted compliance with a non-U.S. regulatory framework for uncleared swaps where the Prudential Regulators have jointly made, by public order, a comparability determination. The Prudential Regulators, using an outcomes-based approach, will make these determinations on a jurisdiction-by-jurisdiction basis, either conditionally or unconditionally. Although the revised proposal provides a process for swap entities to request a determination, it appears that the Prudential Regulators may also make a determination without a specific request. Additionally, once the Prudential Regulators make a favorable comparability determination for a non-U.S. regulatory framework, any swap entity that could comply with such framework is permitted to do so.

Capital Requirements

Swap entities regulated by a Prudential Regulator, such as domestic and foreign banks, must comply with risk-based and leverage capital requirements that are already applicable to such entities. The Prudential Regulators believe that the regulatory capital rules address the safety and soundness risks posed by a swap entity’s uncleared swap positions and that these regulatory capital rules have been strengthened since the original proposal through the adoption of a revised capital framework. As a result, no additional swap entity-specific capital rules are included in the revised proposal. This will result in potentially significant differences in required capital for a swap entity with prudential regulators and those regulated by the CFTC or the SEC.

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Summary Comparison of Margin Proposals for Uncleared Derivatives

	Prudential Regulator Revised Proposal	BCBS / IOSCO Final Policy Framework	Prudential Regulator Original Proposal
Counterparties Covered	<ul style="list-style-type: none"> All swap dealers (“SDs”), security-based swap dealers (“SBSDs”), major swap participants (“MSPs”) and major security-based swap participants (“MSBSPs”) that are prudentially regulated (collectively “Swap Entities”) 	<ul style="list-style-type: none"> All financial firms and non-financial firms that are systemically important, as those terms are defined by national regulators 	<ul style="list-style-type: none"> All Swap Entities
Margin Requirements	<ul style="list-style-type: none"> Swap Entities must collect and post initial margin for transactions with other Swap Entities or with financial end users with material swap exposure Swap Entities must collect and pay variation margin for transactions with other Swap Entities or with financial end users Swap Entities must collect initial and variation margin for transactions with other counterparties as the Swap Entity determines appropriate to address the credit risk posed by the counterparty and the risks of such swaps or security-based swaps 	<ul style="list-style-type: none"> Financial firms and systemically important non-financial firms must exchange initial and variation margin 	<ul style="list-style-type: none"> Swap Entities must collect initial and variation margin for transactions with other Swap Entities or financial end users³ Swap Entities must set credit exposure limits and collect margin from commercial end users if exposure exceeds those limits
Products Covered	<ul style="list-style-type: none"> Uncleared swaps (excluding the fixed exchange of principal portion of cross-currency swaps) and uncleared security-based swaps FX swaps and FX forwards are not subject to margin under section 1a(47) of the Commodity Exchange Act and the Treasury Secretary’s determination 	<ul style="list-style-type: none"> All uncleared OTC derivatives, but only variation margin for physically settled FX forwards and swaps 	<ul style="list-style-type: none"> Uncleared swaps and uncleared security-based swaps FX swaps and FX forwards are not subject to margin under section 1a(47) of the Commodity Exchange Act and the Treasury Secretary’s determination

³ Note that the definition of “financial end user” was different in the original proposal than it is in the revised proposal.

	Prudential Regulator Revised Proposal	BCBS / IOSCO Final Policy Framework	Prudential Regulator Original Proposal
Unilateral or Bilateral Margin	<ul style="list-style-type: none"> ▪ Bilateral – both parties post margin to each other 	<ul style="list-style-type: none"> ▪ Bilateral – both parties post margin to each other 	<ul style="list-style-type: none"> ▪ Unilateral – the Swap Entity must collect margin from counterparty
Initial Margin Calculation Methodology	<ul style="list-style-type: none"> ▪ Models, which must account for liquidation time horizon (99% confidence interval over a 10-day horizon); or ▪ Standardized grid (allows for recognition of risk offsets through the use of a net-to-gross ratio in certain cases where portfolio of uncleared swaps is subject to same eligible master netting agreement) ▪ If models are available, choice of whether to use a model or standard calculation is made by the Swap Entity ▪ Swap Entity must make consistent choices between a model and the standardized schedule over time for all transactions within the same well-defined asset class (no “cherry picking”) 	<ul style="list-style-type: none"> ▪ Models, which must account for liquidation time horizon (99% confidence interval over a 10-day horizon); or ▪ Standardized margin schedule (with limited provisions for netting) ▪ Participants must make consistent choices between a model and the standardized schedule over time for all transactions within the same well-defined asset class (no “cherry picking”) 	<ul style="list-style-type: none"> ▪ Models, which must account for liquidation time horizon (99% confidence interval over a 10-day horizon); or ▪ Standardized grid (with no offsets) ▪ If models are available, the choice of whether to use a model or a standard calculation is made by the Swap Entity
Eligible Models	<ul style="list-style-type: none"> ▪ Models must be approved by the applicable regulator 	<ul style="list-style-type: none"> ▪ Models must be approved by the relevant supervisory authority ▪ Third-party models must be approved for use within each jurisdiction and by each institution seeking to use the model 	<ul style="list-style-type: none"> ▪ Models must be approved by the applicable regulator
Portfolio Margining in a Model	<ul style="list-style-type: none"> ▪ Allowed within, but not across, the seven broad risk categories (agricultural commodities, energy commodities, metal commodities, other commodities, credit, equity and FX/interest rates), so long as the relevant uncleared swaps or uncleared security-based swaps are executed under the same eligible master netting agreement. 	<ul style="list-style-type: none"> ▪ May account for diversification, hedging and risk offsets within but not across well-defined asset classes (currency and interest rate derivatives may be portfolio margined together as part of a single asset class) ▪ May consider all of the derivatives that are approved for model use that are subject to a single, legally enforceable 	<ul style="list-style-type: none"> ▪ Allowed within, but not across, the four broad risk categories (commodity, credit, equity and FX/interest rates), so long as the relevant uncleared swaps or uncleared security-based swaps are executed under the same qualifying master netting agreement. ▪ Seeks comment on, but does not initially address the offsetting of risk within or

	Prudential Regulator Revised Proposal	BCBS / IOSCO Final Policy Framework	Prudential Regulator Original Proposal
		<p>netting agreement</p> <ul style="list-style-type: none"> ▪ Incorporation of diversification, hedging and risk offsets will require approval by the relevant supervisory authority 	among asset classes
Thresholds	<ul style="list-style-type: none"> ▪ No thresholds for variation margin ▪ Minimum transfer amount of \$650,000 ▪ \$65 million threshold for initial margin between any two consolidated groups 	<ul style="list-style-type: none"> ▪ No thresholds for variation margin ▪ €50 million threshold for initial margin between any two consolidated groups 	<ul style="list-style-type: none"> ▪ No thresholds allowed for trades between two Swap Entities or between a Swap Entity and a high-risk financial end user ▪ Minimum transfer amount of \$100,000 ▪ Initial and variation margin thresholds allowed for swaps between a Swap Entity and a low-risk financial end user, which will be the lesser of: <ul style="list-style-type: none"> ▪ a specific dollar amount, which will be set between \$15 million and \$45 million in the final rule; and ▪ a percentage of the Swap Entity's capital, which will be set between 0.1 and 0.3 percent in the final rule
Eligible Collateral	<ul style="list-style-type: none"> ▪ For variation margin, only cash denominated in U.S. dollars or the currency in which payment obligations are required to be settled under the swap ▪ For initial margin: <ul style="list-style-type: none"> ▪ cash; ▪ U.S. Treasury securities; ▪ other U.S. government agency securities; ▪ U.S. government-sponsored enterprise debt securities subject to certain conditions; 	<ul style="list-style-type: none"> ▪ Should be highly liquid and able to hold value in periods of financial stress. Includes, but is not limited to: <ul style="list-style-type: none"> ▪ cash; ▪ high-quality government and central bank securities; ▪ high-quality corporate bonds; ▪ high-quality covered bonds; ▪ equities included in major stock indices; and 	<ul style="list-style-type: none"> ▪ Between two Swap Entities or a Swap Entity and a financial end user, solely in the form of: <ul style="list-style-type: none"> ▪ cash; ▪ U.S. government obligations; and ▪ senior GSE debt obligations or any obligation that is an "insured obligation" of a Farm Credit System bank (for initial margin requirements only) ▪ Haircuts apply

	Prudential Regulator Revised Proposal	BCBS / IOSCO Final Policy Framework	Prudential Regulator Original Proposal
	<ul style="list-style-type: none"> ▪ any major currency; ▪ European Central Bank or certain sovereign entities' securities ▪ any security issued or fully guaranteed by the Bank for International Settlements, IMF or a multilateral development bank; ▪ certain other securities; and ▪ gold ▪ Haircuts apply to initial margin only 	<ul style="list-style-type: none"> ▪ gold ▪ Haircuts apply 	
Interaffiliate Swaps	<ul style="list-style-type: none"> ▪ No exemption 	<ul style="list-style-type: none"> ▪ Decision left to national supervisors 	<ul style="list-style-type: none"> ▪ Not discussed
Margin Requirements for Swaps Entered into Before Margin Rules are Effective	<ul style="list-style-type: none"> ▪ Generally, apply only to sw aps entered into on or after the rules become effective ▪ Sw aps entered into prior to the effective date that are covered by an eligible master netting agreement that covers sw aps entered into on or after the effective date must comply w ith the requirements, if the Sw ap Entity calculates variation margin on an aggregate basis for the agreement 	<ul style="list-style-type: none"> ▪ Apply only to new sw aps entered into after the rules become effective under the applicable phase-in periods 	<ul style="list-style-type: none"> ▪ Generally, apply only to sw aps entered into on or after the rules become effective ▪ A Sw ap Entity may choose to, for a particular master netting agreement, either exclude all sw aps entered into before, on, or after effectiveness of the rule, or include all sw aps under a master agreement entered into before, on, or after effectiveness of the rule
Collection Rules Effectiveness Date	<ul style="list-style-type: none"> ▪ Variation margin requirements effective on December 1, 2015 ▪ Initial margin requirements subject to phase-in from December 1, 2015 to December 1, 2019 	<ul style="list-style-type: none"> ▪ Variation margin requirements effective on December 1, 2015 ▪ Initial margin requirements subject to phase-in from December 1, 2015 to December 1, 2019 	<ul style="list-style-type: none"> ▪ 180 days after publication of the final rules in the Federal Register