

RESCINDED

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Replaced - See OCC 2020-66

Margin and Capital Requirements for Covered Swap Entities: Notice of Proposed Rulemaking

Summary

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (the Board), the Federal Deposit Insurance Corporation (FDIC), the Farm Credit Administration, and the Federal Housing Finance Agency (collectively, the agencies) seek comment on a proposed rule that would amend their regulations regarding the minimum margin and capital requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants (Swap Margin Rule). The OCC's Swap Margin Rule applies to certain national banks, federal savings associations, and federal branches and agencies of foreign banking organizations (collectively, banks).

To

Chief Executive Officers of All National Banks, Federal Savings Associations, and Federal Branches and Agencies; Department and Division Heads; All Examining Personnel; and Other Interested Parties

Note for Community Banks

The OCC expects the proposed rule to have minimal impact on community banks.

Highlights

The Swap Margin Rule was issued in 2015 with a phased compliance schedule stretching from 2016 to 2020. The Swap Margin Rule currently includes special requirements for the exchange of initial margin for inter-affiliate swaps. The agencies are proposing to amend these current requirements:

- First, by repealing the Swap Margin Rule's section requiring a covered bank to collect initial margin from its affiliates. Covered

banks will continue to collect or post (as applicable) variation margin with their affiliates, to collateralize fully the firm's ongoing market risk exposure under each inter-affiliate swap. The removal of the separate initial margin component would harmonize the treatment of inter-affiliate swaps in the Swap Margin Rule with the approach settled on by other U.S. and foreign regulators. It would eliminate a growing impediment to the continuing ability of covered banks to utilize prudent risk management strategies for their customer-facing swap dealing business across different U.S. and foreign derivatives markets. The Board administers other, specific provisions in the Federal Reserve Act that regulate bank-affiliate transactions and continue to apply to bank-affiliate swap transactions.

- Second, by extending the compliance date of the Swap Margin Rule by one year, to September 1, 2021, for smaller counterparties to meet initial margin requirements. This change applies to counterparties with an average daily aggregate notional amount of non-cleared swaps of less than \$50 billion and is consistent with the recent revisions to the implementation schedule of the international derivatives margin framework of the Basel Committee on Banking Supervision and the International Organization of Securities Commissions.

In addition, the Swap Margin Rule's requirements generally apply only to a non-cleared swap entered into on or after the applicable compliance date. A non-cleared swap entered into prior to an entity's applicable compliance date is grandfathered by this regulatory provision and is generally not subject to the margin requirements in the Swap Margin Rule (legacy swap). A legacy swap may become subject to the Swap Margin Rule if it is later amended or novated on or after the applicable compliance date. The proposed rule would also preserve the status of legacy swaps that are amended to

- replace interest rate provisions relying on the London Interbank Offered Rate (LIBOR) and other interbank offered rates (IBOR) with an alternative reference rate. This change addresses the uncertainty for swap entities about how their LIBOR- or IBOR-

based swap contracts will operate if LIBOR is discontinued without a reliable benchmark rate.

- carry out routine life-cycle activities, such as technical amendments and compression exercises for risk management.
- reflect changes to technical, administrative, operational, or other non-economic terms of a swap contract.

Finally, the proposed rule would make certain non-substantive, clarifying amendments to the Swap Margin Rule's

- documentation requirements for the exchange of initial margin, which may not become applicable for smaller counterparty relationships until after the counterparty begins trading swaps with a covered bank and exhausts its initial margin threshold amount credit; and
- provisions regarding the OCC's, Board's, and FDIC's restrictions on and requirements for certain non-cleared swaps and certain other qualified financial contracts of U.S. global systemically important banking organizations and their subsidiaries and the U.S. operations of foreign global systemically important banking organizations.

Further Information

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Related Link

- "[Margin and Capital Requirements for Covered Swap Entities](#)" (PDF)