

Summary of Equivalence Determinations for Non-Cleared Margin Requirements

The below chart represents ISDA's high-level understanding of the current state of substituted compliance across the different margin jurisdictions with respect to one another. For more information on each, please reference Page 2. This content is subject to change.

		Jurisdiction/Regulator for which equivalence determination has been made														
		Australia	Brazil	Canada	EU	UK	Hong Kong	Japan	Mexico	Singapore	South Africa	South Korea	Switzerland	US (CFTC)	US (PR)	US (SEC)
Issuing Regulatory Jurisdiction	Australia	Green	Red	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
	Brazil	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
	Canada	Green	Green	Grey	Yellow	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Yellow	Red
	EU	Green	Green	Green	Grey	Red	Red	Red	Red	Red	Red	Red	Red	Yellow	Yellow	Red
	UK	Green	Green	Green	Green	Grey	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red
	Hong Kong (HKMA)	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green
	Hong Kong (SFC)	Yellow	Red	Yellow	Yellow	Yellow	Grey	Yellow	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Yellow	Red
	Japan	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green
	Mexico	Green	Green	Green	Green	Green	Green	Green	Grey	Red	Red	Red	Red	Red	Red	Red
	Singapore	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Red	Green	Green	Green	Green	Green
	South Africa	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green
	South Korea	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Yellow	Yellow	Yellow	Yellow
	Switzerland	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green
	US (CFTC)	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Red	Red
US (PR)	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Red	
US (SEC)	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	

Key:	Fully Equivalent	Equivalent with Exceptions	No Equivalence
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DISCLAIMER: These charts provide summary information and are intended as an information resource only; they do not contain legal advice and should not be considered a guide to or explanation of all relevant issues or considerations in connection with the impact of margin rules on derivative transactions. You should consult your legal advisors and any other advisor you deem appropriate in considering the issues discussed in these charts. ISDA assumes no responsibility for any use to which any of these materials or any other documentation published by ISDA may be put.

Issuing Regulatory Jurisdiction	Jurisdiction/Regulator for which equivalence determination has been made	Equivalence Decision or Relevant Additional Information
Australia	Canada, EU, Hong Kong, Japan, Singapore, Switzerland.	Substituted compliance is not permitted for a transaction where the APRA covered entity and the covered counterparty are both members of the same margining group, http://www.apra.gov.au/sites/default/files/prudential_standard_cps_226_margining_and_risk_mitigation_for_non-centrally_cleared_derivatives.pdf - Page 27
Australia	US (PR), US (CFTC). APRA will also assess whether the US SEC's margin requirements should be recognized for substituted compliance.	http://www.apra.gov.au/sites/default/files/prudential_standard_cps_226_margining_and_risk_mitigation_for_non-centrally_cleared_derivatives.pdf - Page 27
Australia	UK PRA and FCA, provided that their margin requirements are substantively unchanged following the UK's withdrawal from the European Union.	https://www.apra.gov.au/margining-and-risk-mitigation-non-centrally-cleared-derivatives
Brazil	Jurisdictions that meet the minimum standards established by BCBS-IOSCO.	<p>Page 14, Chapter 4 of: Resolution CMN 4.662 (english). The margin requirements shall be considered met by a covered institution in transactions with foreign counterparties if the following conditions are satisfied:</p> <p>I. the covered institution is required to provide a margin for the covered transactions, as per article 7, in keeping with the requirements established in the regulations of the foreign jurisdiction in which its counterparty is incorporated; and</p> <p>II. the requirements established in the regulations of the foreign jurisdiction are compatible with the minimum standards established by the Basel Committee on Banking Supervision (BCBS) and by IOSCO.</p>
Canada		OSFI guidance and equivalence decisions are granted on an individual-application basis and are not public. ISDA understands that OSFI has granted equivalence determinations to applicants in respect of the EU, US CFTC and USPR requirements.
EU	US (CFTC)	Equivalency does not cover SEC-registered security-based swap dealers or security based swap participants (US CFTC), https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D1857&from=EN , page 2 paragraph 7
EU	US (CFTC)	Equivalency only applies to those OTC derivatives products that are subject to both EU and US CFTC regulations, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D1857&from=EN , page 3 paragraph 13
EU	US (CFTC)	https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D1857&from=EN
EU	Japan	https://ec.europa.eu/info/files/emir-equivalence-decisions_en
Hong Kong (HKMA)	UK	https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20190318e2.pdf ; https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2020/20200911e1.pdf
Hong Kong (HKMA)	Australia, Brazil, Canada, EU, India, Japan, South Korea, Russia, Singapore, Switzerland, UK, US (CFTC), US PR	Substituted compliance is permitted for those jurisdictions who are WGMR members and whose margin rules have taken effect until the MA has completed a comparability assessment. https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2020/20200911e1.pdf
Hong Kong (SFC)	Australia, Brazil, Canada, EU, Hong Kong, India, Japan, South Korea, Russia, Singapore, Switzerland, UK as from the time it withdraws from the EU, US (CFTC), US PR	<p>Per paragraph 50, § Available when a licensed person enters into a non-centrally cleared OTC derivative transaction with:</p> <p>(i) a counterparty which is subject to the margin requirements of a WGMR member jurisdiction²⁸;</p> <p>(ii) a comparability determination in respect of the counterparty's margin requirements has been issued by the SFC or HKMA; or</p> <p>(iii) an AI which avails itself of substituted compliance under the HKMA margin regime²⁹ to follow the margin requirements of the AI's home jurisdiction</p> <p>§ Licensed person must notify the SFC of its intention to adhere to the counterparty's margin requirements before it begins to do so (para. 50(a))</p> <p>§ Margin collected by the licensed corporation should be subject to the asset eligibility requirements and haircut set by the SFC (FN 17, 20)</p> <p>§ Licensed person is still required to obtain approval in writing from the SFC before using an IM model (para. 98)</p> <p>https://www.sfc.hk/edistributionWeb/gateway/EN/consultation/conclusion?refNo=18CPS</p>
Japan (FSA)	US (CFTC), Canada, Australia, Hong Kong, Singapore, EU	No English translation available for FSA guidance, https://www.fsa.go.jp/news/30/20190425/20190425.html
Singapore	Australia, Canada, EU, Hong Kong, India, Japan, South Korea, Mexico, Russia, Singapore, Switzerland, US (CFTC), US PR	<p>https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/Response-to-Feedback-Recd-Policy-Consultation-on-Margin-Requirements-for-NonCentrally-Cleared-OTC-Derivatives-Contracts.pdf,</p> <p>https://www.mas.gov.sg/regulation/guidelines/guidelines-on-margin-requirements-for-non-centrally-cleared-otc-derivatives-contracts</p>
South Africa	Jurisdictions that have implemented margin requirements based upon the BCBS-IOSCO framework.	Page 5: https://www.resbank.co.za/Lists/News%20and%20Publications/Attachments/9975/2.%20Joint%20Standard%20on%20Margin%20Requirements.pdf
South Korea	Jurisdictions that has published draft rules or has implemented regulations for margin	South Korea plans to issue comparability decisions at a later date. Until then, a foreign country's margin regulation is recognized as equivalent to the Guidelines if the country's supervisory authority has published draft margin regulations or reflected its margin regulations in the legal framework, but substituted compliance may not be applied in transactions with Korean Financial companies http://www.fss.or.kr/fss.hdownload?path=/law/pt/&file=2180383_20190423170653286_0.doc&file=190423_%BA%F1%3%BB%BB%EA+%C0%E5%8F%DC%6%4%BB%F%BB%F3%7%80%B0%5%B7%A1+%C1%F5%B0%5%B1%DD+%B1%B3%8%AF%F1%A6%B5%B5%BF%A1+%B4%EB%7%D1+%B0%A1%30%CC%85%B5%86%F3%CO%CE%28%B9%F8%BF%AA%BA%BB%29_F.doc
Switzerland	EU	https://www.finma.ch/en/-/media/finma/dokumente/dokumentencenter/myfinma/4dokumentation/finma-aufsichtsmittelungen/20160707-finma-aufsichtsmittelung-01-2016.pdf?la=en
Switzerland	UK	Provisionally recognized: https://www.finma.ch/en/-/media/finma/dokumente/dokumentencenter/myfinma/4dokumentation/finma-aufsichtsmittelungen/20190221-finma-aufsichtsmittelung-01-2019.pdf?la=en

Issuing Regulatory Jurisdiction	Jurisdiction/Regulator for which equivalence determination has been made	Equivalence Decision or Relevant Additional Information
Switzerland	US (CFTC)	https://www.finma.ch/en/~media/finma/dokumente/dokumentcenter/myfinma/4dokumentation/finma-aufsichtsmittelungen/20190924-finma-aufsichtsmittelung-03-2019.pdf?la=en
US (CFTC)	Australia	https://www.cftc.gov/PressRoom/PressReleases/7902-19?utm_source=govdelivery
US (CFTC)	Japan	Original equivalence decision amended to include inter-affiliate swaps comparability. Japan is now fully equivalent. https://www.cftc.gov/PressRoom/PressReleases/7899-19 (Updated and amended as of 2019) Full original 2016 equivalence: https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/japanmargin_factsheet090816.pdf
US (CFTC)	EU	https://www.cftc.gov/PressRoom/PressReleases/pr7629-17
US (CFTC)	EU	"In my opinion, this broad comparability determination means that we will defer to our European counterparts when market participants elect to follow the EU's margin rules, even when transactions involve "NFC Minus" entities that are financial end-users under CFTC rules." https://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo34
US (SEC)		"Rule 908(c) under Regulation SBSR permits the Commission to determine that participants in U.S. security-based swap markets may satisfy the security-based swap reporting and public dissemination requirements under Exchange Act sections 13(m) and 13A and the rules and regulations thereunder by complying with comparable non-U.S. requirements...Rule 0-13 under the Exchange Act describes the procedures for seeking a substituted compliance determination under Rule 3a71-6 and/or Rule 908(c). An application must be submitted to the Office of the Secretary either in paper or electronic format." https://www.sec.gov/page/exchange-act-substituted-compliance-and-listed-jurisdiction-applications-security-based-swap https://www.sec.gov/files/staff-guidance-substituted-compliance-applications.pdf https://www.sec.gov/files/information-memo-substituted-compliance-questionnaire.pdf

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