

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 | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green |
| | EU | Green | Green | Green | Grey | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green |
| | UK | Green | Green | Green | Green | Grey | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green |
| | Hong Kong (HKMA) | Green | Green | Green | Green | Green | Grey | Green | Green | Green | Green | Green | Green | Green | Green | Green |
| | Hong Kong (SFC) | Green | Green | Green | Green | Green | Green | Grey | Green | Green | Green | Green | Green | Green | Green | Green |
| | Japan | Green | Green | Green | Green | Green | Green | Green | Grey | Green | Green | Green | Green | Green | Green | Green |
| | Mexico | Green | Green | Green | Green | Green | Green | Green | Green | Grey | Green | Green | Green | Green | Green | Green |
| | Singapore | Green | Green | Green | Green | Green | Green | Green | Green | Green | Grey | Green | Green | Green | Green | Green |
| | South Africa | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Grey | Green | Green | Green | Green |
| | South Korea | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Grey | Green | Green | Green |
| | Switzerland | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Grey | Green | Green |
| | US (CFTC) | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Grey | Green |
| US (PR) | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Grey | |
| US (SEC) | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | Green | |

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|------|------------------|----------------------------|----------------|
| Key: | Fully Equivalent | Equivalent with Exceptions | No Equivalence |
|------|------------------|----------------------------|----------------|

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 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%C3%BB%BB%EA+%C0%E5%8F%DC%C6%C4%BB%FD%BB%F3%C7%B0%B0%05%B7%A1+%C1%F5%B0%05%B1%DD+%B1%B3%8A%AF%C1%A6%B5%B5%BF%A1+%B4%EB%7D1+%B0%A1%0C%0C%B5%85%B6%F3%0C%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 |
| UK | EU | UK authorities are granting a partial equivalence decision in relation to the intragroup exemption in regard to activities subject to non-cleared margin requirements under EMIR (Article 11). With this decision, UK firms can seek or apply for an exemption from margin requirements for transactions with an EEA State entity in the same group. Granting this decision means these exposures can qualify as intragroup UK authorities https://www.gov.uk/government/publications/hm-treasury-equivalence-decisions-for-the-eea-states-9-november-2020/hm-treasury-equivalence-decisions-for-the-eea-states-9-november-2020 . |
| UK | EU | https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2020/cp1320app8.pdf |
| UK | Japan | https://www.gov.uk/government/publications/ukjapan-agreement-for-a-comprehensive-economic-partnership-cs-japan-no12020 |
| UK | US (CFTC) | https://www.cftc.gov/PressRoom/PressReleases/7876-19 |
| 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 (CFTC) | UK | "Accordingly, DSIO will not recommend that the Commission take enforcement action against a swap dealer registered with the Commission if it relies on the EU Comparability Determinations during such transition period despite the fact that the UK is no longer a member of the EU...This DSIO relief in the event of a Soft Brexit will expire upon the earlier of (i) the effective date of any such technical amendments to the EU Comparability Determinations, or (ii) the expiration of the transition period during which the EU laws and regulations relevant to the EU Comparability Determinations continue to apply in the UK as if it were a member of the EU." [Please note that this relief expires on December 31, 2020, and the CFTC has extended this relief.] https://www.cftc.gov/system/files?file=csfi/final/pdfs/19/19-08.pdf , https://www.cftc.gov/PressRoom/PressReleases/8320-20 , https://www.cftc.gov/cs/20-39/download |
| 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 |
| US (SEC) | EU (Germany) | "certain German firms that are registered with the Commission as security-based swap dealers and major security-based swap participants conditionally may satisfy certain requirements under the Securities Exchange Act of 1934 by complying with comparable German and European Union (EU) requirements." https://www.sec.gov/rules/other/2020/34-90765.pdf ; https://www.sec.gov/news/press-release/2020-332 |
| US (SEC) | EU (France) | "The French application similarly seeks substituted compliance for French security-based swap entities based on compliance with French and EU requirements...the French proposed order also makes a proposed substituted compliance determination with respect to non-prudentially regulated firms' capital, margin, recordkeeping, reporting, notification, and securities count requirements under the Exchange Act." [Please note this is only a proposal and public comment period is available for 25 days after publication.] https://www.sec.gov/rules/other/2020/34-90766.pdf ; https://www.sec.gov/news/press-release/2020-332 |

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