February 16, 2024

DERIVATIVES SUBJECT TO NON-CLEARED MARGIN RULES
(INITIAL AND VARIATION MARGIN)

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.

Instrument Type	CFTC/ USPR	SEC[1]	EMIR/UK[2]	Japan	Canada (OSFI/ AMF)	Switzerland (FMIA)	Singapore	Hong Kong (HKMA/ SFC)	Australia	Korea	Brazil	South Africa	India[3]	Saudi Arabia	Mexico[4]	Indonesia
Interest Rate	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes (VM only)	Yes	Yes	Yes
Foreign Exchange ("FX"), except:	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes (VM only)	Yes	Yes	Yes
- FX spot	No	No	No[5]	No	No[6]	No[7]	No	No[8]	No	No	No	No	No	No	No	No

1 This chart examines products under the SEC's margin posting and collecting rules for uncleared security-based swaps and does not address margin for capital calculations or segregation requirements thereunder.
2 The UK product scope aligns with the EU RTS.
3 Reserve Bank of Indian (RBI) issued the Master Direction - RBI (VM) Directions with effect on 1 December 2022. IM rules have not been issued by RBI.
4 In all cases, non-centrally cleared OTC derivatives transactions in which the counterparty is a non-financial entity (corporate), whether national or foreign, that has the purpose of hedging their own risks, are exempted from IM and VM.
5 US and EU/UK definitions of "spot" are not identical. Under MiFID1 there is no harmonized EU definition of "spot". However, under MiFID2 FX spot is defined in Article 10 of the Commission Delegated Regulation (EU) 2017/565 as a transaction that is settled within 2 trading days (or such longer period generally accepted as market standard) or, where the FX contract is used for the main purpose of the sale or purchase of certain securities, the transaction is settled within 5 trading days or such shorter period generally accepted in the market as the standard period for settlement of the relevant security.
6 OSFI Guideline E-22 ("OSFI E-22") does not define FX spot, but a separate OSFI advisory defines FX Spot as "the purchase of one currency for another, with immediate delivery according to local market convention (usually T+2BD)".
7 US and Swiss definitions of "spot" are not identical. Under the Financial Market Infrastructure Act ("FMIA"), "spot" means transactions that are settled either immediately or following expiry of the deferred settlement deadline within 2 business days (or such longer settlement deadline as is market standard).
8 Generally defined to cover transactions settling within 2 business days or such longer settlement period deadline as is market standard.

Instrument Type	CFTC/ USPR	SEC[1]	EMIR/UK[2]	Japan	Canada (OSFI/ AMF)	Switzerland (FMIA)	Singapore	Hong Kong (HKMA/ SFC)	Australia	Korea	Brazil	South Africa	India[3]	Saudi Arabia	Mexico[4]	Indonesia
physically settled FX swaps	No[9]	No	Limited VM, not IM[10]	No[11]	No[12]/Yes[13]	No[14]	No	No/ Limited VM[15], not IM	No	No	No	No	No	No	VM yes, Limited IM[16]	VM, not IM
- physically settled FX forwards	No[17]	No	Limited VM, not IM[18]	No[19]	No	No[20]	No	No/ Limited VM[21], not IM	No	No	No	No	No	No	No	VM, not IM

9 Supervisory guidelines (separate from the margin rules) provide that banks should exchange variation margin for physically settled swaps and forwards.

10 EMIR Revised Margin RTS (Article 31a EU Margin RTS added by Commission delegated regulation (EU) 2021/236) makes the application of VM for FX forwards and swaps mandatory only when entered into between firms which are 'Institutions' under the Capital Requirements Regulation. Article 31a of the UK BTS contains a derogation from VM for physically-settled FX forwards and swaps when one of the parties is not an institution, as defined in point (3) of Article 4(1) of Regulation EU No 575/2013, or would not qualify as an institution if established in the UK.

11 Currently out of scope from the definition of "OTC Derivatives" under the Financial Instruments and Exchange Act ("FIEA").

12 While excluded from exchange of VM and IM, physically settled FX swaps and forwards must be counted toward the CAD $12 billion notional threshold when determining an entity's Covered Entity status under OSFI E-22. OSFI has issued an advisory (separate from the margin rules) providing that banks, bank holding companies and trust and loan companies should exchange VM for physically settled FX swaps and forwards.

13 Physically settled FX swaps are excluded under OSFI E-22, but not under AMF's Guideline on Margins for Over-the-Counter Derivatives Not Cleared by a Central Counterparty.

14 For FMIA purposes, physically settled FX swaps shall be understood as defined in Art. 84 of the Financial Market Infrastructure Ordinance ("FMIO"). Please note that there may be different definitions of "currency swaps" under US, EU and Swiss law.

15 Only when entered into between a licensed person and (i) an authorized institution as defined in section 2(1) of the Banking Ordinance (Cap 155); (ii) a licensed corporation; or and entity that carries on a business outside Hong Kong and is engaged predominantly in banking, securities or derivatives business, or asset management; and both counterparties exceed HK$60 billion notional threshold of non-centrally cleared OTC derivatives.

16 All types of FX swaps are exempted from IM when the relevant agreement establishes the exchange of notional amounts, the exemption applies only in respect to the settlement associated with said exchange and provided that the calculation of IM amount is carried out by using an internal model.

17 Supervisory guidelines provide that banks should exchange variation margin for physically settled swaps and forwards.

18 EMIR Revised Margin RTS (Article 31a EU Margin RTS added by Commission delegated regulation (EU) 2021/236) makes the application of VM for FX forwards and swaps mandatory only when entered into between firms which are 'Institutions' under the Capital Requirements Regulation. Article 31a of the UK BTS contains a derogation from VM for physically-settled FX forwards and swaps when one of the parties is not an institution, as defined in point (3) of Article 4(1) of Regulation EU No 575/2013, or would not qualify as an institution if established in the UK.

19 Currently out of scope from the definition of "OTC Derivatives" under the FIEA.

20 For FMIA purposes, physically settled FX swaps shall be understood as defined in Art. 84 FMIO. Please note that there may be different definitions of "currency swaps" under US, EU and Swiss law.

21 Only when entered into between a licensed person and (i) an authorized institution as defined in section 2(1) of the Banking Ordinance (Cap 155); (ii) a licensed corporation; or and entity that carries on a business outside Hong Kong and is engaged predominantly in banking, securities or derivatives business, or asset management; and both counterparties exceed HK$60 billion notional threshold of non-centrally cleared OTC derivatives.

Instrument Type	CFTC/ USPR	SEC[1]	EMIR/UK[2]	Japan	Canada (OSFI/ AMF)	Switzerland (FMIA)	Singapore	Hong Kong (HKMA/ SFC)	Australia	Korea	Brazil	South Africa	India[3]	Saudi Arabia	Mexico[4]	Indonesia
- principal payments on cross-currency swaps	VM, not IM	No	VM, not IM	VM, not IM	VM, not IM[22]	VM potentially, not IM[23]	No[24]	No/VM, not IM	No[25]	No	VM, not IM	VM, not IM	VM, not IM	VM, not IM	VM yes, Limited IM[26]	No[27]
Securities																
- swap based on single security or narrow index[28] of securities	N/A[29,30] /Yes[31]	Yes[32]	Yes	Yes	Yes	Yes	Yes[33]	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes

22 AMF has excluded fixed physically settled foreign exchange transactions associated with the exchange of principal payments of cross-currency swaps.

23 Cross-currency swaps are more likely to be viewed as transactions where the interest component prevails over the FX component so that they would not fall under the exemption for physically settled FX swaps and forwards. If the margining rules are generally interpreted in line with BIS/IOSCO principles, though, principal payments could be exempted from IM.

24 The Singapore Guidelines provide that the margin requirements do not apply to a fixed physically settled FX transaction associated with the exchange of principal of a cross-currency swap.

25 Prudential Standard CPS 226 ("CPS226") provides in a footnote to the rule that deals with the obligation to exchange VM that the fixed physically settled FX transactions associated with the exchange of principal in cross-currency swaps may be excluded from the calculation of VM. All other risks must be included. In respect of IM, if the model approach is adopted to calculate IM, then the fixed physically settled FX transactions associated with the exchange of principal can be excluded from the calculation. All other risks must be included.

26 Non-deliverable FX swaps are exempted from initial margin requirements provided the Banco de México has approved the bank, broker dealer or investment fund to calculate IM using an internal model.

27 For cross-currency swap transactions with a portion of principal exchange settled physically, the initial margin calculation is based on the interest rate portion as per the Initial Margin Calculation Table.

28 When referred to herein, index means an index or a basket.

29 However, (1) a swap linked to an exempted security (other than a municipal security) is a CFTC-regulated swap; (2) a swap based on a single security or a narrow index of securities with a composite FX feature is a mixed swap and will be subject to CFTC margin rules until the SEC's margin rules become effective. Once the SEC's margin rules become effective, non-legacy mixed swaps will be margined by a non-bank SD/SBSD under SEC rules.

30 A swap based on a security or narrow index of securities is a security-based swap and therefore subject to the SEC's jurisdiction rather than the CFTC's jurisdiction.

31 "Securities" for this purpose excludes a broad index. Also, (1) a swap linked to an exempted security (other than a municipal security) is a CFTC-regulated swap; (2) a swap based on a single security with a composite FX feature is a mixed swap and will be subject to CFTC margin rules only to the extent that SEC regulation does not apply.

32 A security-based swap includes a swap that is based on a single security. If a security-based swap has a composite FX feature it is a mixed swap.

33 Under the MAS Guidelines on Margin Requirements for Non-Centrally Cleared Derivatives Contracts which were revised on April 8, 2020, a securities-based derivatives contract (other than an equity option or an equity index option contract is expressly excluded from VM and IM requirements until February 29, 2020 only, and then came into scope.

Instrument Type	CFTC/ USPR	SEC[1]	EMIR/UK[2]	Japan	Canada (OSFI/ AMF)	Switzerland (FMIA)	Singapore	Hong Kong (HKMA/ SFC)	Australia	Korea	Brazil	South Africa	India[3]	Saudi Arabia	Mexico[4]	Indonesia
- swap based on broad index of securities	Yes[34]	No[35]	Yes	Yes	Yes	Yes	Yes[36]	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
- option based on a security or a narrow index of securities	No	No	Yes[37]	Yes	Yes	Yes[38]	No[39]	Yes[40]	Yes	Yes[41]	Yes	Yes	No	Yes	VM, Limited IM[42]	Yes

34 Broad index refers to a product with more than 9 components that satisfies certain other conditions, including weighting requirements (only relevant for US rules).

35 Security-based swaps include swaps that are based on a narrow-based index, but not a broad-based index. Broad index refers to a product with more than 9 components that satisfies certain other conditions, including weighting requirements (only relevant for US rules).

36 Under the MAS Guidelines on Margin Requirements for Non-Centrally Cleared Derivatives Contracts which were revised on April 8, 2020, a securities-based derivatives contract (other than an equity option or an equity index option contract) is expressly excluded from VM and IM requirements until February 29, 2020 only, and then came into scope.

37 Per draft regulatory technical standard proposed December 20, 2023, VM and IM requirements for single-stock equity option and index option derivatives are deferred until January 4, 2026 (Commission Delegated Regulation (EU) 2021/236 Art. 38(1)) and are accompanied by an ESA Opinion of non-enforcement action until entry into force of the amendment or a long-term solution. On December 18, 2023, the UK PRA and the UK FCA published a policy statement relating to CP13/23 which extends the exemption for single-stock and index equity options from bilateral margining requirements until January 4, 2026.

38 Per FINMA Guidance 09/2023 issued December 20, 2023, FINMA has extended the transitional period, in *Art. 131 para. 5bis* of the FINMA Ordinance such that the duty to exchange collateral applies from 1 January 2026 for non-centrally cleared OTC derivatives transactions that are options on individual equities, index options or similar equity derivatives such as derivatives on baskets of equities.

39 Under the MAS Guidelines on Margin Requirements for Non-Centrally Cleared Derivatives Contracts which were revised on April 8, 2020, equity option or equity index option contracts are expressly excluded from VM and IM requirements.

40 Single-stock options, equity basket options and equity index options are out of scope until further notice with HKMA. On January 15, 2024, the SFC announced its intention to defer the effective date for the margin requirements for non-centrally cleared OTC derivatives set out in the Securities and Futures Commission (SFC) Code of Conduct to apply to non-centrally cleared single-stock options, equity basket options and equity index options, to 4 January 2026 (extending the date from the originally scheduled date of 4 January 2024).

41 Under the FSS guidelines, margin requirements for equity options, including options based on an equity, equity-index and equity-basket, shall be exempted until January 4, 2024, and then come into scope (Guideline Section II Article 1 Footnote 4).

42 The party that makes the payment of the respective premium to guarantee the execution of the option is exempted from providing IM.

Instrument Type	CFTC/ USPR	SEC	EMIR/UK	Japan	Canada (OSFI /AMF)	Switzerland (FMIA)	Singapore	Hong Kong (HKMA /SFC)	Australia	Korea	Brazil	South Africa	India	Saudi Arabia	Mexico	Indonesia
- option based on a broad index of securities	No	No	Yes[43]	Yes	Yes	Yes[44]	No[45]	Yes[46]	Yes	Yes	Yes[47]	Yes	No	Yes	VM, Limited IM[48]	Yes
- forward based on one or more securities	No[49]	No[50]	Yes	Some[51]	Yes	Yes	Yes[52]	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Commodities, except:	Yes	N/A	Yes	Yes[53]	Yes	Yes	Some[54]	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes

43 Per draft regulatory technical standard proposed December 20, 2023, VM and IM requirements for single-stock equity option and index option derivatives are deferred until January 4, 2026 (Commission Delegated Regulation (EU) 2021/236 Art. 38(1)) and are accompanied by an ESA Opinion of non-enforcement action until entry into force of the amendment or a long-term solution. On December 18, 2023, the UK PRA and the UK FCA published a policy statement relating to CP13/23 which extends the exemption for single-stock and index equity options from bilateral margining requirements until January 4, 2026.

44 Per FINMA Guidance 09/2023 issued December 20, 2023, FINMA has extended the transitional period, in *Art. 131 para. 5bis* of the FINMA Ordinance such that the duty to exchange collateral applies from 1 January 2026 for non-centrally cleared OTC derivatives transactions that are options on individual equities, index options or similar equity derivatives such as derivatives on baskets of equities.

45 Under the MAS Guidelines on Margin Requirements for Non-Centrally Cleared Derivatives Contracts which were revised on April 8, 2020, equity option or equity index option contracts are expressly excluded from VM and IM requirements.

46 Single-stock options, equity basket options and equity index options are out of scope until further notice with HKMA. On January 15, 2024, the SFC announced its intention to defer the effective date for the margin requirements for non-centrally cleared OTC derivatives set out in the Securities and Futures Commission (SFC) Code of Conduct to apply to non-centrally cleared single-stock options, equity basket options and equity index options, to 4 January 2026 (extending the date from the originally scheduled date of of 4 January 2024).

47 Central Bank of Brazil circular No. 3,902 of May 30, 2018: Article 3, Paragraph 5 provides that for purposes of the minimum initial margin calculation, transactions where the institution does not pose credit risk to its counterparty, as happens in an option contract where such institution acts as the purchaser of the option, should not be included.

48 The party that makes the payment of the respective premium to guarantee the execution of the option is exempted from providing IM.

49 A forward on securities would be out of scope as a swap, security-based swap or mixed swap if the parties had a bona fide intention to physically settle that forward. Otherwise, the forward may be a swap, security-based swap or mixed swap.

50 A forward on securities would be out of scope as a swap, security-based swap or mixed swap if the parties had a bona fide intention to physically settle that forward. Otherwise, the forward may be a swap, security-based swap or mixed swap.

51 Currently physically settled forwards on securities (limited to those that do not have a feature of cash-settlement in cases of the termination of the trade or an offsetting order of another trade) are out of scope from the definition of "OTC Derivatives" under the FIEA.

52 Under the MAS Guidelines on Margin Requirements for Non-Centrally Cleared Derivatives Contracts which were revised on July 29, 2019, securities-based derivatives contracts are expressly excluded from VM and IM requirements until February 29, 2020 only, and then come into scope.

53 A Specified OTC Commodity Derivative Business Operator under the Commodity Derivatives Act, which is also a covered entity under the margin rules of the Japanese Financial Services Agency ("JFSA"), is required to include all non-centrally cleared OTC commodity derivatives for IM and VM calculation.

54 The Singapore Guidelines provide that the margin requirements **do not** apply to a commodity derivatives contract entered into for commercial purpose. This refers to a derivatives contract that satisfies all of the following:
(a) the contract is for the sale and purchase of one or more commodities for the purpose of fulfilling the needs of the day to day operations of the business of one or more of the parties of the contract, whether or not the contract contains some form of cash-settle option of a portion of the contract in specific agreed circumstances (referred to as the "settlement option");

Instrument Type	CFTC/ USPR	SEC	EMIR/UK	Japan	Canada (OSFI/ AMF)	Switzerland (FMIA)	Singapore	Hong Kong (HKMA/ SFC)	Australia	Korea	Brazil	South Africa	India	Saudi Arabia	Mexico	Indonesia
physically settled forwards	No	N/A	Some[55]	No	Some[56]	Some[57]	Some [58]	No	Yes	No	No (except for gold)	No	No	Yes	Yes	Yes
physically settled contracts other than forwards	Yes	N/A	Some[59]	Some[60]	Some[61]	Some[62]	Some[63]	Yes	Yes	Yes	Yes	No[64]	No	Yes	Yes	Yes

(b) subject to the settlement option, the seller of the underlying commodity has, under the terms of the contract, an obligation to deliver the underlying commodity;
(c) subject to the settlement option, the buyer of the underlying commodity has, under the terms of the contract, an obligation to take physical delivery of the underlying commodity.
In the "*Response to Feedback Received on Proposed Margin Requirements for Non-Centrally Cleared OTC Derivatives Contrac*ts", MAS clarified that the exemption is meant to cover commodity derivatives contracts that are commonly entered into for the purpose of fulfilling the day to day needs of business operations, such as entering into advance purchase schedules of raw materials for a manufacturing business.

55 Physically settled commodity contracts are in-scope if: (a) they are traded on a regulated market, MTF or OTF except for wholesale energy products traded on an OTF that must be physically settled (Section C(6) Annex I MiFID); (b) they have the characteristics of other derivative financial instruments as specified in Article 7 of Commission Delegated Regulation (EU) 2017/565 (Section C(7) Annex I MiFID). Wholesale energy products that must be physically settled are defined in Article 5 of Commission Delegated Regulation (EU) 2017/565. Under Article 7 of Commission Delegated Regulation (EU) 2017/565, a physically settled commodity contract which is not a spot contract and which is not for commercial purposes shall be considered as having the characteristics of other derivative financial instruments where it meets certain criteria, in particular: it is traded on a third country trading venue that performs a similar function to a regulated market, an MTF or an OTF; it is equivalent to such a contract as with regards to the price, the lot, the delivery date and other contractual terms; or it is standardised so that the price, the lot, the delivery date and other terms are determined principally by reference to regularly published prices, standard lots or standard delivery dates.

56 The margin obligations of OSFI E-22 do not apply to physically settled commodity transactions. However, these transactions are not excluded by the AMF.

57 Per Art. 94, paragraph 3, the margin obligation under FMIA will only apply to physically settled commodity contracts if additional conditions are met; i.e. that they are traded on a trading venue or organized trading facility or may be settled in cash at a party's discretion.

58 To the extent that the products **<u>are</u>** "commodity derivatives contracts entered into for commercial purpose", they will **<u>not</u>** be subject to the margin requirements.

59 Physically settled commodity contracts are in-scope if: (a) they are traded on a regulated market, MTF or OTF except for wholesale energy products traded on an OTF that must be physically settled (Section C(6) Annex I MiFID); (b) they have the characteristics of other derivative financial instruments as specified in Article 7 of Commission Delegated Regulation (EU) 2017/565 (Section C(7) Annex I MiFID). Wholesale energy products that must be physically settled are defined in Article 5 of Commission Delegated Regulation (EU) 2017/565. Under Article 7 of Commission Delegated Regulation (EU) 2017/565, a physically settled commodity contract which is not a spot contract and which is not for commercial purposes shall be considered as having the characteristics of other derivative financial instruments where it meets certain criteria, in particular: it is traded on a third country trading venue that performs a similar function to a regulated market, an MTF or an OTF; it is equivalent to such a contract as with regards to the price, the lot, the delivery date and other contractual terms; or it is standardised so that the price, the lot, the delivery date and other terms are determined principally by reference to regularly published prices, standard lots or standard delivery dates.

60 Physically settled commodity options will not be subject to the margin requirements; however, if an option, when exercised, forms a forward transaction that can be settled in cash in the case where an offsetting transaction is executed (even when the forward transaction can also be settled physically if no such offsetting is made), such option will be in-scope.

61 The margin obligations of OSFI E-22 do not apply to physically settled commodity transactions. However, these transactions are not excluded by the AMF.

62 Per Art. 94, paragraph 3, the margin obligation under FMIA will only apply to physically settled commodity contracts if additional conditions are met; i.e. that they are traded on a trading venue or organized trading facility or may be settled in cash at a party's discretion.

63 To the extent that the products **<u>are</u>** "commodity derivatives contracts entered into for commercial purpose", they will **<u>not</u>** be subject to the margin requirements.

64 All physically-settled commodity derivatives, regardless of whether they are used for commercial purposes or not, are excluded from the margin requirements.

Instrument Type	CFTC/ USPR	SEC	EMIR/UK	Japan	Canada (OSFI/AMF)	Switzerland (FMIA)	Singapore	Hong Kong (HKMA/ SFC)	Australia	Korea	Brazil	South Africa	India	Saudi Arabia	Mexico	Indonesia
Credit																
- based on single name	N/A[65]/ Yes	Yes[66]	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes (VM only)	Yes	IM Limited, VM Yes[67]	Yes
- based on a narrow index	N/A[68]/ Yes	Yes[69]	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No[70]	Yes	IM Limited, VM Yes	Yes
- based on a broad index	Yes[71]	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No[72]	Yes	IM Limited, VM Yes	Yes
Other (e.g. weather)	Yes	No	Some[73]	Yes[74]	Yes	Yes[75]	Yes	Yes[76]	Yes[77]	Yes[78]	Yes	Yes	No	Yes	Yes	Yes

65 A credit swap based on a single name is a security-based swap and therefore subject to the SEC's jurisdiction rather than the CFTC's.

66 A credit swap based on a single name (security) is a security-based swap and therefore subject to the SEC's jurisdiction rather than the CFTC's.

67 Credit derivatives are exempted from IM when the bank, broker dealer or investment fund is the buyer of the derivative. In this case, the Entity or bank, broker dealer or investment fund will not have the obligation to provide Initial Margins, notwithstanding that it will still have the obligation to take the Initial Margin from their counterparties

68 A credit swap based on a narrow index is a security-based swap and therefore subject to the SEC's jurisdiction rather than the CFTC's.

69 A credit swap based on a narrow index is a security-based swap and therefore subject to the SEC's jurisdiction rather than the CFTC's.

70 According to the Reserve Bank of India (Credit Derivatives) Directions, 2022, VM requirements apply to non-centrally cleared credit derivative contracts undertaken pursuant to the Master Direction – Reserve Bank of India (Credit Derivatives) Directions, 2022 (Notification No. FMRD.DIRD.11/14.03.004/2021-22 dated February 10, 2022) which permits trading of single-name CDS contracts only.

71 If a credit swap on a broad index has a mandatory physical settlement provision that would require the delivery of, and therefore the purchase and sale of, a non-exempted security or a loan in the event of a credit event, that credit swap is a mixed swap. If a credit swap on a broad index has a mandatory cash settlement provision or provides for cash settlement in accordance with the Credit Derivatives Determinations Committees and Auction Settlement Supplement or Auction Settlement CDS Protocol, that credit swap is a swap.

72 According to the Reserve Bank of India (Credit Derivatives) Directions, 2022, VM requirements apply to non-centrally cleared credit derivative contracts undertaken pursuant to the Master Direction – Reserve Bank of India (Credit Derivatives) Directions, 2022 (Notification No. FMRD.DIRD.11/14.03.004/2021-22 dated February 10, 2022) which permits trading of single-name CDS contracts only.

73 Cash-settled derivative contracts linked to a weather variable (e.g., temperature or levels of wind, precipitation, sunshine or snowfall) are specified as financial instruments under MiFID (Annex I, Subsection C (10) of Directive 2014/65/EU) and this is further elaborated in Article 7(3)(a) and Article 8(e) and of Commission Delegated Regulation 2017/565, which indicate that such contracts should be treated as derivatives – including for margin purposes - if they are not traded on an EU regulated market or equivalent third country venue.

74 To the extent that the products fall into the definition of "OTC Derivatives" under the FIEA.

75 To the extent that the product falls into the definition of "OTC Derivatives" under the FMIA.

76 To the extent that the product falls into the definition of "OTC derivative product" under the Securities and Futures Ordinance (Cap. 571) of Hong Kong.

77 To the extent that the product falls into the definition of "Derivative" under CPS226.

78 To the extent that the product falls into the definition of "OTC derivatives" under Article 5 of the Financial Investment Services and Capital Markets Act.

Instrument Type	CFTC/ USPR	SEC	EMIR/UK	Japan	Canada (OSFI/AMF)	Switzerland (FMIA)	Singapore	Hong Kong (HKMA/ SFC)	Australia	Korea	Brazil	South Africa	India	Saudi Arabia	Mexico	Indonesia
Security linked to an underlying index, commodity or reference asset	No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	No

In addition, the following applications or exclusions also apply:

Cleared and Exchanged Traded	CFTC	SEC	EMIR/UK	Japan	Canada (OSFI /AMF)	Switzerland (FMIA)	Singapore[79]	Hong Kong (HKMA/SFC)	Australia	Korea	Brazil	South Africa	India	Saudi Arabia	Mexico	Indonesia
Derivatives traded on a futures exchange	No[80]	No[81]	No	No	No[82]	No	No	No[83]	No	No	No	No	No	No	No	No[84]
Derivatives cleared on a recognized CCP	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Derivatives cleared on an unrecognized CCP	Yes[85]	No[86]	No	Yes[87]	No	Yes	No	No	No[88]	No[89]	Yes[90]	Yes	No	No	Yes	No

79 The Singapore Guidelines define "uncleared derivatives contract" as a derivatives contract that is not, or is not intended to be, cleared or settled by a person operating a clearing facility through which parties to a contract substitute, through novation or otherwise, the credit of the person operating the clearing facility for the credit of the parties.
80 The definition of swap excludes "any contract of sale of a commodity for future delivery … [or] securities future product" Commodity Exchange Act §1a(47)(B)(i).
81 The definition of swap excludes "any contract of sale of a commodity for future delivery … [or] securities future product" Commodity Exchange Act §1a(47)(B)(i).
82 Provided it is cleared through a CCP.
83 Provided the futures market is recognised under the Securities and Futures Ordinance (Cap. 571) of Hong Kong.
84 Provided it is cleared through a CCP.
85 Subject to margin requirements, unless the foreign CCP is exempted by the CFTC.
86 Although the SEC can exempt a foreign CCP, the SEC's margin rules do not refer to those security-based swaps being not subject to the margin rules as is the case with the CFTC's margin rules
87 Subject to margin requirements, unless the unrecognized CCP is licensed by the JFSA
88 In Australia, no distinction is made between recognized and unrecognized CCPs.
89 Korean margin guideline makes reference to "foreign central counterparties" defined under Article 186-3 of the Enforcement Decree of the Financial Investment Services and Capital Markets Act.
90 Subject to margin requirements, unless the unrecognized CCP is licensed by the BCB.