

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 (OSFI)	Canada (Quebec AMF)	EU	UK	Hong Kong (HKMA)	Hong Kong (SFC)	India (VM Only)	Japan	Mexico	Singapore	South Africa	South Korea	Switzerland	US (CFTC)	US (PR)	US (SEC)
Issuing Regulatory Jurisdiction	Australia																		
	Brazil																		
	Canada (OSFI)																		
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	EU																		
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	Singapore																		
	South Africa																		
	South Korea																		
	Switzerland																		
	US (CFTC)																		
	US (PR)																		
US (SEC)					*DE, FR, ES														

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, UK PRA and FCA.	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. https://www.apra.gov.au/sites/default/files/2022-04/CPS%2026%20Margining%20and%20Risk%20Mitigation%20for%20non-centrally%20cleared%20derivatives%20-%20marked%20up.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.	https://www.apra.gov.au/sites/default/files/2022-04/CPS%2026%20Margining%20and%20Risk%20Mitigation%20for%20non-centrally%20cleared%20derivatives%20-%20marked%20up.pdf , Page 27
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)		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.
Canada (Quebec AMF)	Jurisdictions that are deemed equivalent by the covered institution.	"The AMF permits covered institutions to comply with the margin exchange requirements applicable to their covered counterparties rather than the expectations set out in this guideline, insofar as the covered institutions deem those requirements to be equivalent. Although the AMF does not intend to validate the equivalence beforehand, it reserves the right to conduct an in-depth equivalence review as part of its supervisory actions. Therefore, the AMF expects covered institutions to document the requirements applicable to their counterparties where the covered institutions choose to comply with them." https://lautorite.qc.ca/en/professionals/insurers/guidelines/credit-market-and-insurance-risk/guideline-on-margins-for-over-the-counter-derivatives-not-cleared-by-a-central-counterparty
EU	Australia	Commission Implementing Decision (EU) 2021/1106 of 5 July 2021 on the recognition of the legal, supervisory and enforcement arrangements of Australia for derivatives transactions supervised by the Australian Prudential Regulation Authority as equivalent to certain requirements of Article 11 of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021D1106&qid=1625583932065
EU	Brazil	Commission Implementing Decision (EU) 2021/1103 of 5 July 2021 on the recognition of the legal, supervisory and enforcement arrangements of Brazil for derivatives transactions entered into by Brazilian institutions under the regulation of the Central Bank of Brazil as equivalent to certain requirements of Article 11 of Regulation (EU) No 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021D1103&qid=1625583932065
EU	Canada (OSFI)	Commission Implementing Decision (EU) 2021/1104 of 5 July 2021 on the recognition of the legal, supervisory and enforcement arrangements of Canada for derivatives transactions supervised by the Office of the Superintendent of Financial Institutions as equivalent to certain requirements of Article 11 of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021D1104&qid=1625583932065
EU	Hong Kong (HKMA)	Commission Implementing Decision (EU) 2021/1107 of 5 July 2021 on the recognition of the legal, supervisory and enforcement arrangements of Hong Kong for derivatives transactions supervised by the Hong Kong Monetary Authority as equivalent to certain requirements of Article 11 of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021D1107&qid=1625583932065
EU	Japan	https://ec.europa.eu/info/files/emir-equivalence-decisions_en
EU	Singapore	Commission Implementing Decision (EU) 2021/1105 of 5 July 2021 on the recognition of the legal, supervisory and enforcement arrangements of Singapore for derivatives transactions supervised by the Monetary Authority of Singapore as equivalent to certain requirements of Article 11 of Regulation (EU) No 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021D1105&qid=1625583932065
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
Hong Kong (HKMA)	UK	Commission Implementing Decision (EU) 2021/1108 of 5 July 2021 on the recognition of the legal, supervisory and enforcement arrangements of the United States of America for derivatives transactions supervised by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Farm Credit Administration and the Federal Housing Finance Agency as equivalent to certain requirements of Article 11 of Regulation (EU) No 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021D1108&qid=1625583932065 , 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/2020/2020091e1.pdf

Issuing Regulatory Jurisdiction	Jurisdiction/Regulator for which equivalence determination has been made	Equivalence Decision or Relevant Additional Information
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	Per paragraph 50, § Available when a licensed person enters into a non-centrally cleared OTC derivative transaction with: (i) a counterparty which is subject to the margin requirements of a WGMR member jurisdiction28; (ii) a comparability determination in respect of the counterparty's margin requirements has been issued by the SFC or HKMA; or (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 § 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)) § Margin collected by the licensed corporation should be subject to the asset eligibility requirements and haircut set by the SFC (FN 17, 20) § Licensed person is still required to obtain approval in writing from the SFC before using an IM model (para. 98) https://www.sfc.hk/edistributionWeb/gateway/EN/consultation/conclusion?refNo=18CPS
India	Jurisdictions that meet comparability as assessed by the Domestic Covered Entity	"A Domestic Covered Entity and its counterparty in the foreign jurisdiction [Foreign Covered Entity] may decide to comply with these Directions, or the margin requirements implemented by the foreign jurisdiction provided the margining framework in the foreign jurisdiction is assessed by the Domestic Covered Entity to be comparable to the requirements in these Directions." (Page 9, Section 8), https://rbidocs.rbi.org.in/rdocs/notification/PDFs/93MDVARIATIONMARGIN29E1715A212F48B89160C223B91ABF74.PDF
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	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 , https://www.mas.gov.sg/regulation/guidelines/guidelines-on-margin-requirements-for-non-centrally-cleared-otc-derivatives-contracts , https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Fund-Management/Regulations-Guidance-and-Licensing/Guidelines/Guidelines-on-Margin-Requirements-for-NonCentrally-Cleared-OTC-Derivatives-Contracts-8-Apr-2020.pdf
South Africa	Jurisdictions that have implemented margin requirements based upon the BCBS-IOSCO framework.	Page 5 in "Joint Standard Margin Requirements": https://www.resbank.co.za/en/home/publications/publication-detail-pages/prudential-authority/PA-financial-sector-regulation/Margin-Requirements/Joint-Standards/2020/9975
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.hpdownload?path=/law/ptl/&file=2180383_20190423170653286_0.doc&file=190423_%B4%F1%3%BB%EA+%C0%E5%BF%DC%4%BB%F3%7%80%B0%5%B7%A1+%C1%F5%B0%5%B1%DD+%B1%B3%8%AF%9%A6%B5%B5%BF%A1+%B4%EB%7%D1+%B0%A1%00%CC%B5%E5%B6%F3%0%CE%28%B9%F8%BF%AA%BA%BB%29_F.doc
Switzerland	EU	https://www.finma.ch/en/-/media/finma/dokumente/dokumentcenter/myfinma/4dokumentation/finma-aufsichtsmittelungen/20160707-finma-aufsichtsmittelung-01-2016.pdf?la=en
Switzerland	UK	Provisionally recognized: https://www.finma.ch/en/-/media/finma/dokumente/dokumentcenter/myfinma/4dokumentation/finma-aufsichtsmittelungen/20190221-finma-aufsichtsmittelung-01-2019.pdf?la=en
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

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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=csl/final/pdfs/19/19-08.pdf , https://www.cftc.gov/PressRoom/PressReleases/8320-20 , https://www.cftc.gov/csl/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)	UK	"IT IS HEREBY DETERMINED AND ORDERED, pursuant to rule 3a71-6 under the Exchange Act, that a Covered Entity (as defined in paragraph (g)(1) of this Order) may satisfy the requirements under the Exchange Act that are addressed in paragraphs (b) through (f) of this Order so long as the Covered Entity is subject to and complies with relevant requirements of the United Kingdom and with the conditions of this Order, as amended or superseded from time to time." Page 195: https://www.sec.gov/rules/other/2021/34-92529.pdf
US (SEC)	EU (Spain)	"IT IS HEREBY DETERMINED AND ORDERED, pursuant to rule 3a71-6 under the Exchange Act, that a Covered Entity (as defined in paragraph (f)(1) of this Order) may satisfy the requirements under the Exchange Act that are addressed in paragraphs (b) through (e) of this Order so long as the Covered Entity is subject to and complies with relevant requirements of the Kingdom of Spain and the European Union and with the conditions of this Order, as amended or superseded from time to time." https://www.sec.gov/rules/other/2021/34-93412.pdf
US (SEC)	EU (Germany)	"IT IS HEREBY DETERMINED AND ORDERED, pursuant to rule 3a71-6 under the Exchange Act, that a Covered Entity (as defined in paragraph (f)(1) of this Order) may satisfy the requirements under the Exchange Act that are addressed in paragraphs (b) through (e) of this Order so long as the Covered Entity is subject to and complies with relevant requirements of the Federal Republic of Germany and the European Union and with the conditions to this Order, as may be amended or superseded from time to time." Page 42: https://www.sec.gov/rules/other/2020/34-90765.pdf
US (SEC)	EU (France)	"IT IS HEREBY DETERMINED AND ORDERED, pursuant to rule 3a71-6 under the Exchange Act, that a Covered Entity (as defined in paragraph (g)(1) of this Order) may satisfy the requirements under the Exchange Act that are addressed in paragraphs (b) through (f) of this Order so long as the Covered Entity is subject to and complies with relevant requirements of the French Republic and the European Union and with the conditions of this Order, as amended or superseded from time to time." Page 138: https://www.sec.gov/rules/other/2021/34-92484.pdf
US (SEC)	Switzerland	"IT IS HEREBY DETERMINED AND ORDERED, pursuant to rule 3a71-6 under the Exchange Act, that a Covered Entity (as defined in paragraph (e)(1) of this Order) may satisfy the requirements under the Exchange Act that are addressed in paragraphs (b) through (d) of this Order so long as the Covered Entity is subject to and complies with relevant requirements of the Swiss Confederation and with the conditions to this Order, as amended or superseded from time to time." Page 40: https://www.sec.gov/rules/other/2021/34-93284.pdf

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