

# ISDA Webinar for Pension Funds on US Margin Rules for Uncleared Swaps

**February 1, 2016**

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# Margin Requirements

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## Swap Margin Rules

- Final rules issued in US by banking regulators, CFTC (rules of banking regulators and CFTC largely the same)
- Final rules expected in EU, Japan, other jurisdictions
- SEC rule is pending but timing is uncertain
- Will require posting and collection of variation margin (“VM”) and potentially initial margin (“IM”)
- Final US rules do not distinguish between different types of pension funds

# Initial Margin

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- If one party is below threshold (described below), IM is not required
- Disclosure to dealers
  - Required by September 2016
  - ISDA "self-disclosure form": Need to disclose
    - status under threshold test (described below)
    - counterparty-specific information to determine applicable regulatory jurisdiction(s)

# Initial Margin (continued)

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## ➤ Threshold:

- Sep 2016 - \$3 trillion in average aggregate swap notional as of March, April and May of 2016
- Sep 2020 - \$8 billion in average aggregate swap notional as of June, July and August of 2019

## ➤ Includes uncleared swaps, security-based swaps, physically settled FX swaps and forwards but not swaps with corporate end users or exempt small financial institutions

## ➤ Calculation of threshold is across all affiliates

- Test for “affiliate”: consolidation under accounting standards

# Initial Margin (continued)

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## Segregation:

- Need to segregate initial margin received from dealer.
- No rehypothecation permitted
- Requires use of independent third party custodian.
- Custodial arrangements need to be enforceable, including in bankruptcy.

# Variation Margin

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- VM required March 2017 for swaps with dealers
- Netting: If dealer cannot determine that swap agreement is an "eligible master netting agreement" (i.e. that netting is enforceable), counterparty must post collateral on a gross basis
  - Recognition of netting
  - FDICIA representation

# Variation Margin (continued)

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- Possible changes to documents as a result of VM requirements:
  - Zero threshold
  - VM delivered same day as call for VM
  - Collection and posting
  - Eligible collateral – includes certain securities but specified haircuts apply
  - 8% haircut for currency mismatch
  - Minimum transfer amount

# Variation Margin (continued)

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## ➤ Variation Margin Documentation

- ISDA protocol
  - New CSA
  - Amend existing CSA terms to make them regulatory compliant and otherwise preserve existing agreed terms
- New regulation-compliant VM CSA forms to be published
  - New regulation-compliant IM CSA forms will also be published
- Self-disclosure form – relevant for classification
- Bilateral amendments



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