ISDA Safe, Efficient Markets

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CALCULATING PHASE 5 AND PHASE 6 AANA FOR U.S. REGULATIONS

THE U.S. NON-CLEARED MARGIN REGULATIONS REQUIRE DIFFERENT CALCULATION PERIODS AND METHODOLOGIES TO DETERMINE WHETHER A PARTY IS IN-SCOPE FOR INITIAL MARGIN

To assist market participants that may be subject to Phase 5 and Phase 6 initial margin (IM) requirements in the U.S., ISDA has prepared a summary of the U.S. requirements[1] for calculating the average aggregate notional amount (AANA) for September 1, 2021 and September 1, 2022 compliance dates. The requirements for calculating AANA in the U.S. deviate from the requirements in other jurisdictions for Phase 5, and US Prudential Regulators' (USPR) AANA calculation requirements will continue to deviate from other jurisdictions in Phase 6.

This summary focuses on the formal requirements and timing for U.S. AANA calculations. It is important to stress that you should also estimate your AANA early and advise counterparties if you may be in scope.

Who is subject to U.S. non-cleared margin regulations?

Under the regulations for the margining of non-cleared derivatives established by the CFTC[2] (CFTC Rules) and the USPR[3] (USPR Rules), a party trading derivatives products covered by these rules may be subject to requirements to exchange variation margin (VM) and IM.

In general, the U.S. rules apply directly to registered swap dealers[4] (SDs) and major swap participants[5] and indirectly to "financial end users".[6] If a financial end user has an AANA of in-scope, non-cleared derivatives transactions greater than USD 8 billion, then the IM requirements will apply (in addition to VM). (The U.S. rules use the term "material swaps exposure" to refer to an AANA greater than USD 8 billion.)

The definition of "financial end user" includes various types of financial entities, and both U.S. and non-U.S. entities. If you are a party already exchanging VM with counterparties that are SDs subject to the U.S. rules, then you may also be indirectly subject to U.S. regulatory IM requirements. Therefore, it is necessary to calculate the AANA for your consolidated group of entities to determine whether it exceeds the U.S. threshold for Phase 5 or Phase 6. The AANA calculation must be conducted at the principal level, i.e. aggregated across investment managers, if applicable.

[1] This summary does not include the rules of the SEC, because they do not include an AANA test.
[2] CFTC Final Rules, January 6, 2016 and CFTC Amended Final Rules, January 5, 2021
[3] Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Farm Credit Administration; Federal Housing Finance Agency Final Rules
[4] Swap Dealer Registry
[5] Currently there are no provisionally registered major swap participants.
[6] The USPR rules will also apply to registered security-based swap dealers and major security-based swap participants that are prudentially regulated.

		USPR		CFTC	
AANA Calculation Method		Daily averaging – each business day		Daily averaging (Phase 5) – each business day Month-end average (Phase 6) – last business day of the month	
	Compliance Date	AANA	AANA Calc Period	AANA	AANA Calc Period
Phase 5	1-Sep-21	USD 50 billion	March, April, May 2021	USD 50 billion	March, April, May 2021
Phase 6	1-Sep-22	USD 8 billion	June, July, Aug 2021	USD 8 billion	March, April, May 2022

How do I calculate the AANA for IM Phases 5 and 6 in the U.S.?

Step 1: Identify all the legal entities that are part of your consolidated group – each a "margin affiliate" or "affiliate", as defined in the relevant U.S. rules.

- A company is a [margin] affiliate of another company if: (1) either company consolidates the other on a financial statement prepared in accordance with U.S. Generally Accepted Accounting Principles, the International Financial Reporting Standards, or other similar standards, (2) both companies are consolidated with a third company on a financial statement prepared in accordance with such principles or standards, or (3) for a company that is not subject to such principles or standards, if consolidation as described in paragraph (1) or (2) of this definition would have occurred if such principles or standards had applied.

Step 2: Identify the *uncleared* transactions in all AANA covered products for each of the entities in your consolidated group for each relevant business day during the AANA calculation period.

Be sure to refer to the chart above for the calculation period and calculation method for each regulatory regime for both Phase 5 and Phase 6. For Phase 6, you will calculate AANA with the USPR period of June, July, and August 2021 using the daily averaging method, and then calculate AANA with the CFTC period of March, April, May 2022 using the monthly averaging method. The relevant AANA will depend on whether the counterparty is a prudentially regulated swap dealer or security-based swap dealer (USPR rule applies) or a swap dealer without a prudential regulator (CFTC rule applies).

AANA covered products: swaps[7], security-based swaps[8], deliverable (physically settled) and non-deliverable FX swaps and forwards that are not centrally cleared.

- Physically settled FX swaps and forwards are included in the AANA calculation (but will not be included in the calculation of any IM amount).
- Equity options are not covered by the definition of swap or security-based swap.
- See ISDA table on product scope for margin rules for further information.

[7] Definition of Swap

[8] Definition of Security-Based Swap

- If a swap is eligible for an exemption from the clearing mandate[9], it may also be eligible to be excluded from the margin requirements (and thus the AANA calculation).
- Use the ISDA Grid Notional and Tenor Survey Results as a guide when determining notional for various in-scope products.

  Business day: Means any day other than a Saturday, Sunday or legal holiday.

Step 3: Calculate the total notional amount of AANA covered products identified in Step 2 for each relevant business day during the AANA calculation period

For your group's AANA covered products as of the end of each relevant business day (i) convert the notional amounts to USD and (ii) sum the notional amounts.

- The notional amounts for AANA-covered products between margin affiliates should only be counted once.
- The calculation is gross notional – offsetting positions cannot be netted.
- There are 64 business days during the Phase 5 U.S. AANA calculation period including March, April and May 2021, and 65 business days during the Phase 6 USPR AANA calculation period including June, July, and August 2021, so you should have 64 and 65 separate daily totals, respectively.
- For purposes of the CFTC Phase 6 calculation, you only need to sum the notional amounts as of the end of the last business day of each month in March, April, and May 2022, giving three daily totals.

Step 4: Calculate the AANA

Sum up the aggregate notional amounts for each relevant business day during the AANA calculation period and divide by the number of relevant business days in the period (i.e. three, 64 or 65) to get your final AANA.

Step 5: Notify your counterparties

If your AANA is greater than $50B (Phase 5) or $8B (Phase 6), then as soon as practicable following the last AANA calculation period date, notify all your derivatives counterparties that are SDs - even if you previously disclosed based on an indicative AANA calculation.

- Inform your SD counterparties that you are definitively "in-scope" for the U.S. regulations (USPR and/or CFTC), *and* provide them with the list of all the Legal Entity Identifiers[10] (LEIs) for all your margin affiliates that enter into uncleared derivatives, including the LEI of the parent.
- Conversely, if your U.S. AANA does not exceed $50B (Phase 5) or $8B (Phase 6) and you have previously advised your counterparties that you may be in-scope; kindly inform them you will not be in-scope for U.S. initial margin requirements in Phase 5 or USPR and/or CFTC initial margin requirements in Phase 6, as appropriate.

ISDA offers the following methods by which market participants can self-disclose to their counterparties:

1) Electronically deliver the ISDA Initial Margin Self-Disclosure Letter to other ISDA Amend participants via the ISDA Amend platform.
2) Provide the ISDA Initial Margin Self-Disclosure Letter to counterparties directly.

[9] See, for instance, section 23.150(b) of the CFTC rule.
[10] Global Legal Entity Identifier Foundation website

3) Participate in ISDA's multi-lateral IM self-disclosure exercise; information will be shared exclusively with other contributing entities from all IM phases. If you would like to participate, please send a note to RegIMSelfDisclosure@isda.org to receive the template and terms and conditions.

Important Note: For more information on global AANA calculation, please see ISDA's posting Compliance with Initial Margin (IM) Regulatory Requirements Following BCBS/IOSCO Guidance Statement.