Non-Cleared OTC Derivatives

NOMURA
Connecting Markets East & West

Variation Margin Implementation FAQs

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The purpose of this FAQ list is to provide some context and additional detail on the implementation of global regulations which cover the trading of non-centrally cleared OTC derivatives.

If you fall within the scope of the margin regulations, which are currently final in Japan, Australia, Canada and the US, you will need to ensure various practices are put into place so trading relationships are not impacted when the Variation Margin regulations come into effect on 1 March 2017. EU rules are also expected to be final before 1 March 2017.

The FAQs in this document only cover Variation Margin rule requirements and nuances our clients are asking us questions about. Regulations for posting initial margin do apply to Nomura and other large banking institutions of a particular size.

The FAQs are not offered as legal advice or guidance. We encourage you to consult your legal counsel with respect to whether and how the new margin rules apply to you and your specific trading activities.

Frequently asked questions

01 What are the non-cleared derivative margin regulations (margin rules)?

All of the regulations require that Variation Margin is exchanged on new in-scope non-cleared OTC derivative transactions executed after 1 March 2017 between two in-scope counterparties.

The Basel Commission on Banking Supervision (BCBS) and International Organisation of Securities Commissions (IOSCO) released a joint final policy framework on “Margin requirements for non-centrally cleared derivatives” in September 2013 (revised in 2015)

The framework calls for consistent global implementation, however the rules will be implemented by national regulators during 2015- 2016 and may differ in substance or timing across jurisdictions.

Final margin rules have been adopted in Japan, Australia, Canada and the US. Rules in other jurisdictions are at various stages of development.

In the EU, final rules are expected to be implemented in early 2017 - after formal approval by the European Parliament and Council.

02 What margin rules apply to Nomura?

Nomura has various trading entities in different jurisdictions across the world. Nomura will be disclosing all of the jurisdictions whose rules apply to each entity via the ISDA Amend Self-disclosure tool (more than one jurisdiction’s rules may apply to certain entities). The self-disclosure tool aims to extract the minimum set of regulatory information for each trading entity to ensure counterparties can agree compliant documentation to trade and exchange regulatory margin in-line with all of the regulations that apply to a particular relationship.

A paper version of Nomura’s self-disclosure under the margin rules will also be made available to those of our trading counterparts who are not using the ISDA Amend service.

03 How do I know if I am in scope for the regulations?

Each jurisdiction’s regulation differs with regards to the entity types and products covered. In general, financial counterparties are subject to variation margin. The regulations contain the detailed calculations and counterparty classifications to help determine whether the regulations apply to your trading entity – please work with your own legal counsel to determine your scope and disclose whether you are in or out of scope of the regulations directly to regvariationmargin@nomura.com.

04 What transactions are subject to Variation Margin rules?

The regulations generally apply to all non-centrally cleared OTC derivatives, which include Interest Rate, Credit, Commodity, FX and Equity derivative products. However non-cleared derivatives are defined inconsistently by different regulators and therefore some products are exempted from Regulatory Margin requirements in certain jurisdictions.

Nomura would, in general, like to exchange VM on all in-scope and where we do so currently, out of scope products.

05 Are transactions executed before 1 March 2017 subject to Variation Margin rules?

The regulations apply to new trades only – Counterparties can elect to either:

- Amend their existing CSA to be regulatory compliant for all transactions
- Replicate and amend their existing CSA and maintain two VM CSAs. The current CSA would apply to legacy trades and the new (regulatory compliant) CSA would apply to new trades from 1 March 2017.
- Execute a New 2016 VM CSA which would either replace the existing CSA where one exists (to cover all trades), or where there is no existing CSA, create a new CSA to cover all trades or new trades only.

Nomura would encourage counterparts to maintain a single agreement to cover all transactions where possible. This is for reasons of operational efficiency and simplicity of the document architecture.

06 What documentation is required to ensure trading is not interrupted from 1 March 2017?

Assuming an ISDA Master Agreement is already in place for our derivatives trading relationship, a VM rule compliant CSA must be in place before 1 March 2017.

The regulations require that the CSAs include minimum regulatory standards such as zero thresholds, low minimum transfer amount and restrictions on the eligible collateral that can be used.

The documentation can be entered into through either a bilateral negotiation or via the ISDA Protocol.

The bilateral negotiation will entail the exchange of VM CSA documentation, agreement on the terms by both parties and execution of the document by signing the CSA.

The ISDA Protocol, which will launch on MarkIT's ISDA Amend tool, will allow users to implement regulatory compliant documentation without the formalities of bilaterally signing VM CSAs. Terms are entered into the tool and agreed through an automated matching process. Once agreed, the terms are legally binding.

Nomura will be able to provide more details on the ISDA protocol once it is live.

07 What is the ISDA Regulatory Margin Self-disclosure Letter?

The ISDA Regulatory Margin Self-disclosure Letter is intended to provide market participants a standard form for providing information related to the regulatory regimes which apply to entities involved in non-cleared derivatives trading. This information is vital to ensuring CSAs that are agreed adhere to all regulatory jurisdictions that apply to a given trading relationship.

Each counterparty will provide, among other things, the entity's legal entity identifier (LEI), legal name, parent entity group, applicable jurisdictions and its Average Aggregate Notional Amount ("AANA"). The AANA is used to determine if the entities in the counterparty group fall in scope of the regulations – an average aggregate notional in non-cleared derivatives of less than approximately 8 billion dollars across the group would exempt all entities in that group from Variation Margin regulations. Conversely, if a counterparty group is in scope, all entities within that group are in scope even if an individual entity falls below the threshold.

Nomura would like to encourage all counterparties to review and complete the pdf version or the electronic version in ISDA Amend as soon as possible. Once completed, please e-mail regvariationmargin@nomura.com

08 What are the minimum set of terms that must be in the regulatory compliant VM CSA?

The following provides some general highlights of CSA terms within the VM CSA which the regulators are standardizing – for a full list of terms, please see the ISDA 2016 Credit Support Annex for VM from the ISDA book store.

- The regulatory compliant VM CSAs must cover at least the regulatory in-scope product population (according to all applicable jurisdictions).
- Variation margin thresholds for posting and collecting VM must be zero
- The total MTA (minimum transfer amount) across both VM and IM must not exceed approximately 500,000 USD.
- In some jurisdictions (US and EU), variation margin must be exchanged by T+1 where T is the date of the trade. This implies that collateral must be settled on the day of the margin call itself.
- VM must be delivered in eligible collateral types with appropriate haircuts and to the extent applicable, appropriate valuation percentages.

09 How will Nomura work with counterparties to ensure readiness?

Nomura has initiated a global project team and employed the help of vendors to help ensure all of our counterparties who want to re-paper with Nomura can do so before the 1 March 2017 so that trading is not interrupted.

Nomura will be managing an outreach effort to agree document execution preferences and a timeline to complete negotiations.

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