Office of the
Comptroller of the Currency

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Minimum Variation Margin Requirements: Initial Examinations for Compliance With Final Rule Establishing Margin Requirements for Non-Cleared Swaps and Non-Cleared Security-Based Swaps

Summary
The Office of the Comptroller of the Currency (OCC) is providing guidance regarding initial examinations of OCC-supervised institutions for compliance with certain provisions of the interagency rule ("final rule") establishing initial and variation margin requirements for non-cleared swaps and non-cleared security-based swaps (collectively, "non-cleared swaps"). Specifically, this guidance addresses the OCC's expectations for compliance by national bank swap dealers with minimum variation margin requirements that will become applicable on March 1, 2017.

To

Chief Executive Officers and Compliance Officers of National Banks and Federal Savings Associations, Federal Branches and Agencies, Department and Division Heads, All Examining Personnel, and Other Interested

Note for Community Banks

This guidance has no impact on community banks with $10 billion or less in total assets.

Highlights

- The OCC expects national banks, federal savings associations, and other swap market participants subject to the OCC's supervisory oversight to have governance processes that assess and manage their current and potential future credit exposure to non-cleared swap counterparties, as well as any other market risks arising from such transactions.

- The OCC further expects national banks and national bank subsidiaries registered with the Commodity Futures Trading Commission as swap dealers ("covered swap entities") to make good faith efforts to comply with the final rule's variation margin requirements in a timely manner.

- The OCC recognizes the scope and scale of changes necessary for each covered swap entity to achieve effective compliance for each of its non-cleared swap transactions. During initial examinations for compliance with the variation margin requirements that will phase in under the final rule on March 1, 2017, OCC examiners will focus on evaluating a covered swap entity's management systems and program to come into compliance.

- Examiners will consider the covered swap entity's implementation plan, including actions taken to update documentation, policies, procedures, and processes, as well as training of appropriate staff and handling of early technical problems or other implementation challenges.

- The OCC expects covered swap entities to prioritize their efforts according to the size and risk inherent in the credit and market risk exposures presented by each counterparty. The OCC expects covered swap entities' to have achieved full compliance with respect to

  swap entities and financial end users that present significant exposures by March 1, 2017. For other counterparties, the OCC expects covered swap entities to make good faith efforts to comply with the final rule in a timely manner, and in no case later than September 1, 2017.

- The OCC's supervisory approach regarding the final rule is similar to the approach the OCC took in initial examinations for compliance with the TILA-RESPA Integrated Disclosure Rule, as well as other mortgage rules implementing provisions of the Dodd–Frank Wall Street Reform and Consumer Protection Act that went into effect in January 2014.Further Information

Background

On December 3, 2015, the OCC issued Bulletin 2015-49, "Margin Requirements for Non-Cleared Swaps and Non-Cleared Security-Based Swaps." This bulletin made the final rule available on the OCC website.

The effective date for the final rule was April 1, 2016. However, the phase-in of the minimum margin requirements did not begin until September 1, 2016. Under the final rule, the largest swap counterparties (those with more than $3 trillion in outstanding swap activity) were required to implement both the initial and variation margin requirements for non-cleared swap trades between those largest swap counterparties by September 1, 2016. On March 1, 2017, the phase-in schedule will begin to encompass all covered swap entities, regardless of the volume of outstanding swap activity, for the exchange of variation margin for all transactions with other swap entities and financial end-user counterparties.

Further Information

Please contact Jamey Basham, Assistant Director, Legislative and Regulatory Activities, at (202) 649-5490; or Ang Middleton, Risk Specialist, Treasury & Market Risk, at (202) 649-6416, for additional information.

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Related Link

- OCC Bulletin 2015-49, "Margin Requirements for Non-Cleared Swaps and Non-Cleared Security-Based Swaps"