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Annex I

Derivatives Initial Margin Rules

Terms appearing in bold and italics are defined in Appendix I.

1. What is the Uncleared Margin Rule (Background)? In response to the global financial crisis of 2008, regulators agreed to strengthen the safety and transparency of the Non-Cleared Derivatives market. The United States ("US") and the European Union ("EU") and other jurisdictions around the world have been adopting regulations affecting Non-Cleared Derivatives (respectively, the "US Rules" and "EU Rules", and together, the "Rules"). The Rules include (among others) the requirement to post initial margin in addition to variation margin with respect to Non-Cleared Derivatives. Dealers were subject to the Rules effective September 1, 2016, while other counterparties, including clients were subject to the Rules as of March 1, 2017 for specific instruments (e.g. foreign exchange options, foreign exchange swaps and non-deliverable forwards). Clients whose average aggregate notional amount ("AANA") calculation is above the $/€50 billion threshold, may be required to begin exchanging initial margin with their counterparties beginning September 1, 2021 ("Phase V"). The final phase-in, which is scheduled for September 1, 2022, will require clients whose AANA is over $/€8 billion to begin exchanging margin ("Phase VI").[1]

2. Who is Subject to Initial Margin Requirements? Under the US Rules, ***covered swap entities*** are required to post and collect initial margin from other swap entities and counterparties who are ***financial end users*** with ***material swaps exposure*** for Covered Transactions (as defined below).

Under the EU Rules, ***Financial Counterparties*** ("FC"), ***Non-Financial Counterparties*** that exceed the clearing threshold ("NFC+") and entities that *would* be a FC/FC- or NFC+ if established in the EU ("TCE (FC/FC-)" and "TCE (NFC+)", respectively) are required to post and collect initial margin with one another for Covered Transactions if they exceed the Average Aggregate N***otional Amount (AANA) threshold*** for Non-Cleared Derivatives as outlined in question 4.

"Swap Entities" shall mean, collectively, ***covered swap entities***, FC, FC-, NFC+, TCE (FC), TCE(FC-) and TCE (NFC+).

However, the Rules exempt the counterparties listed below (the "Exempted Counterparties") from initial margin requirements:

[1] On July 23, 2019, the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO) revised the framework for margin requirements for non-centrally cleared derivatives by extending the final implementation phase until September 1, 2021. Additionally, BCBS-IOSCO have also introduced an additional implementation phase that will require covered swaps entities (*see, Section 2*) whose AANA calculation is above $50 billion to be phased in on September 1, 2020. **Update:** Due to the impact of the Covid-19 virus, on April 3, 2020 the BCBS-IOSCO extended the final two implementation phases of the margin requirements by one year. The press release regarding the deferral of Phase V and Phase VI is available at https://www.iosco.org/news/pdf/IOSCONEWS560.pdf. As discussed above, the new Phase V" begins September 1, 2021 (i.e. counterparties whose AANA is above $/€50 billion) and new Phase VI (i.e. counterparties whose AANA is above $/€8 billion) begins September 1, 2022. The updated BCBS-IOSCO implementation schedule is available at https://www.bis.org/bcbs/publ/d499.pdf.For consistency purposes, this document assumes jurisdictions referenced herein will adopt both the July 23, 2019 BCBS-IOSCO revisions and April 3, 2020 delay.

Exempted Counterparties	
US Rules	**EU Rules**
(i) ***Commercial end-users***, including treasury affiliates (that qualify for the end-user exception to mandatory clearing) acting as agent; (ii) financial institutions (i.e., small banks, savings associations, Farm Credit System institutions, credit unions) with total assets of USD$ 10 billion or less; (iii) certain financial cooperatives hedging the risks associated with originating loans for their members; and (iv) certain captive finance companies.	(i) ***Non-financial counterparties*** below clearing thresholds ("NFC-"); (ii) ***third country entities*** that would be an NFC- if established in the EU; (iii) entities not established in the EU trading with each other if there is no "***direct, substantial and foreseeable effect***" within the EU; (iv) certain covered bond issuers or covered pools (subject to certain conditions); (v) ***central counterparties*** that are (a) also authorized as credit institutions in accordance with Directive 2013/36/EU and (b) entering into Non-Cleared Derivatives during a default management process; (vi) ***multilateral development banks***; (vii) ***public sector entities***; and (viii) the European Financial Stability Facility and the European Stability Mechanism.

"Covered Transactions" means all Non-Cleared Derivatives except for the exempted transactions listed below:

Exempted Transactions[2]	
US Rules	**EU Rules**
(i) Physically-settled foreign exchange forwards; (ii) physically-settled foreign exchange swaps; and (iii) transactions, such as security options and security index options, that are excluded from the definition of "Swap".[3]	(i) Physically-settled foreign exchange forwards; (ii) physically-settled foreign exchanges swaps; (iii) currency swaps; (iv) hedging swaps related to regulated covered bonds; and (v) until January 4, 2020, single stock equity options and index options.

Note: Physically-settled foreign exchange forwards and physically settled foreign exchange swaps still need to be included when calculating AANA.

3. What is the purpose of an AANA Calculation? Under the Rules AANA is calculated to determine whether a counterparty may be required to post and collect initial margin by a specific phase-in date (please see question 6 for phase-in thresholds by jurisdiction for 2021 and 2022).[4]

4. How is AANA Calculated? AANA is calculated differently depending on the client's jurisdiction. Please see below a summary of the US and EU AANA calculation methods under the Rules.[5] This calculation is required on an annual basis.

[2] Transactions that are exempted varies by jurisdiction and so you should consult the rules of the applicable jurisdiction.
[3] 17 C.F.R. § 1.3 – Definitions. *Swap* (2)(ii).
[4] *See* Footnote #1 above.
[5] The calculation methods under the US Rules and EU Rules are set forth in full in the definitions of "Material Swaps Exposure" and "Notional Threshold Amount" respectively, in Appendix 1 below. If your domicile is a country other than the US or EU please calculate your AANA exposure using your home country's methodology.

The following calculation methods should be used in **Phase V** under the US Rules and EU Rules:

US Rules: Average Daily Aggregate Notional Amount	**EU Rules: Aggregate Month-End Average Notional Amount**
(i) Calculate the sum of the notional amounts of all non-cleared swaps, non-cleared security-based swaps, foreign exchange forwards and foreign exchange swaps for each business day in March, April, and May of the current calendar year for the 50 billion calculation.[6] (ii) Divide the sum by the number of business days during that 3-month period.	(i) Calculate the sum of the notional amounts of all non-cleared over-the-counter derivative contracts for the last business day in March, April and May of the current calendar year. (ii) Divide the sum by 3 (the number of months in the period).

Note: Inter-affiliate transactions only need to be counted once.

While the AANA calculation methods under the **EU Rules remain consistent in both Phase V and Phase VI**, the US Rules' AANA calculation method varies depending on whether the Commodity Futures Trading Commission (CFTC) margin requirements or the US Prudential (USPR) margin requirements apply. The following calculation methods should be used in **Phase VI** under the US Rules:

US Prudential Margin Rules: Average Daily Aggregate Notional Amount	**CFTC Margin Rules: Aggregate Month-End Average Notional Amount[7]**
(iii) Calculate the sum of the notional amounts of all non-cleared swaps, non-cleared security-based swaps, foreign exchange forwards and foreign exchange swaps for each business day in June, July, and August of the current calendar year.[8] (iii) Divide the sum by the number of business days during that 3-month period.	(iv) Calculate the sum of the notional amounts of all non-cleared over-the-counter derivative contracts for the last business day in March, April and May of the current calendar year.[9] (iv) Divide the sum by 3 (the number of months in the period).

Note: Inter-affiliate transactions only need to be counted once.

[6] 12 C.F.R. § 45.1(e) (**Office of the Comptroller of the Currency**); 12 C.F.R. § 237.1(e) (**Board of Governors of the Federal Reserve System**); 12 C.F.R. § 349.1(e) (**Federal Deposit Insurance Corporation**); 12 C.F.R. § 624.1(e) (**Farm Credit Administration**); 12 C.F.R. § 1221.1(e) (**Federal Housing Finance Agency**). Certain limited exceptions apply with respect to the swaps that need to be counted as set forth in the definition of "Material swaps exposure" under 17 C.F.R. § 23.151. Further, for the avoidance of doubt, transactions, such as security options and security index options, that are excluded from the definition of "Swap" under 17 C.F.R. § 1.3, do not need to be included in the US AANA calculation.

[7] Effective February 4, 2021, the Commodity Futures Trading Commission (CFTC) margin requirements amended the definition of *Material Swaps* Exposure within 17 C.F.R. § 23.151 to align it with the AANA calculation methodology used by the EU Rules.

[8] 12 C.F.R. § 45.1(e)(7) and § 45.2 – *Material Swaps Exposure* (**Office of the Comptroller of the Currency**); 12 C.F.R. § 237.1(e)(7) and § 237.2 – *Material Swaps Exposure* (**Board of Governors of the Federal Reserve System**); 12 C.F.R. § 349.1(e)(7) and § 349.2 – *Material Swaps Exposure* (**Federal Deposit Insurance Corporation**); 12 C.F.R. § 624.1(e)(7) and § 624.2 – *Material Swaps Exposure* (**Farm Credit Administration**); 12 C.F.R. § 1221.1(e)(7) and § 1221.2 – *Material Swaps Exposure* (**Federal Housing Finance Agency**).

[9] Certain limited exceptions apply with respect to the swaps that need to be counted as set forth in the definition of "Material swaps exposure" under 17 C.F.R. § 23.151. Further, for the avoidance of doubt, transactions, such as security options and security index options, that are excluded from the definition of "Swap" under 17 C.F.R. § 1.3, do not need to be included in the US AANA calculation.

5. How is AANA at the consolidated corporate group calculated? Under the US Rules, AANA calculations are based on the consolidated corporate group which consists of an entity and its margin affiliates.[10] An entity is a "margin affiliate" of another entity for purposes of AANA calculation if: (i) either entity consolidates the other entity on its financial statements prepared in accordance with U.S. Generally Accepted Accounting Principles ("GAAP") (or would be required to consolidate the other entity on its financial statements if GAAP had applied); or (ii) both entities are consolidated with a third entity on financial statements prepared in accordance with applicable accounting principles (or would be consolidated on the financial statements of a third entity if GAAP had applied).[11]

Under the EU Rules, AANA calculations are based on the "***group***" as defined in the EU Accounting Directive.[12] Under the EU Accounting Directive "***group***" means a ***parent undertaking*** and all its ***subsidiary undertakings***. "***Parent undertaking***" means "an undertaking which controls one or more ***subsidiary undertakings***" and "***subsidiary undertaking***" means "an undertaking controlled by a ***parent undertaking***, including any ***subsidiary undertaking*** of an ultimate parent undertaking".

We suggest you contact your legal department as well as your accounting department to determine which entities make up your consolidated corporate group for your organization. Once determined you will need to gather the AANA calculation for all in-scope entities and add them together to get an estimated AANA. This consolidated calculation will then determine whether your organization will be required to post initial margin under the applicable initial margin rules.

6. What are the phase-in thresholds for other jurisdictions in addition to the thresholds in the US and EU?[13]

Jurisdiction	Phase V (September 1, 2020) AANA Threshold	Phase VI (September 1, 2021) AANA Threshold
US	USD$ 50 billion	USD$ 8 billion
EU	EUR€ 50 billion	EUR€ 8 billion
UK	EUR€ 50 billion	EUR€ 8 billion
Australia	AUD$ 75 billion	AUD$ 12 billion
Hong Kong	HKD$ 375 billion	HKD$ 60 billion
Japan	JPY¥ 7 trillion	JPY¥ 1.1 trillion
Singapore	SGD$ 80 billion	SGD$ 13 billion
Switzerland	CHF 50 billion	CHF 8 billion
Korea	KRW ₩70 trillion	KRW ₩10 trillion
Brazil	R$ 160 billion	R$ 25 billion
Canada	CAD 73 billion	CAD 12 billion

7. How Much Initial Margin will be Required? The amount of required initial margin must be calculated and this process will be coordinated between your investment manager(s) and the swap dealer(s). Swap Entities must calculate, collect and post initial margin before the end of the business day following the day a Covered Transaction is entered into. Any changes in the initial margin amount thereafter (and any changes in variation margin amounts) must be assessed daily subject to a minimum transfer amount no greater than USD$/EUR€ 500,000. A Swap Entity can calculate the required initial margin amount using either (1) a risk-based model approved by the entity's regulator, or (2) a standardized table provided in the Rules. The Rules allow Swap Entities to utilize vendor-supplied initial margin models, but each Swap Entity must independently implement the model and seek individual regulatory

[10] 17 C.F.R. § 23.161(a)(1); 17 C.F.R. § 23.151 – Material swaps exposure.
[11] 17 C.F.R. § 23.151 – Margin affiliate.
[12] Commission Delegated Regulation (EU) 2016/2251 – Articles 28(2) & 39(1)(c).
[13] Many jurisdictions have yet to propose or codify an AANA threshold for the additional phase-in (or new 'Phase V' referenced in Section 6) that begins on September 1, 2020 in accordance with the July 23, 2019 BCBS-IOSCO statement discussed in Footnote #1 above. The table in Section 6 provides thresholds that have been proposed, but not adopted, by certain jurisdictions, and will be updated as each jurisdiction codifies the relevant AANA threshold for Phase V. For now, each jurisdiction for which a Phase V threshold has not been proposed or adopted will be marked as "***TBD***".

approval for its use of the model. Swap Entities are expected to develop dispute resolution mechanisms to reconcile discrepancies in their initial margin calculations. Initial margin must be exchanged where the amount of margin required on a consolidated basis exceeds an agreed threshold amount (the Rules allow a maximum threshold amount of USD$/EUR€ 50 million, but your threshold may vary by dealer). The initial margin amount may be reduced by the threshold amount, provided that the reduction does not include any portion of the initial margin threshold amount already applied in connection with other Non-Cleared Derivatives with the counterparty or its margin affiliates.

8. What Types of Collateral will be Eligible for Posting to Meet Initial Margin Requirements? Under the Rules, collateral for initial margin may consist of cash, gold, certain government bonds, corporate bonds, investment funds backed by sovereign bonds and certain listed equities. The value of the collateral may be subject to haircuts to the market value of collected collateral but under the US Rules no haircuts apply for USD$ cash or collateral in the currency of underlying swap or another major currency; cash collateral under the EU Rules is subject an 8% haircut if it is posted in a currency other than the termination currency.

9. Must Posted Collateral be Held in Segregated Accounts? Yes. Under the US Rules initial margin must be segregated and held by a custodian that is independent of the counterparties to the transaction.[14] The custodian must act pursuant to a custody agreement that prohibits rehypothecation (with certain limited exceptions) and is a valid agreement under the laws of all relevant jurisdictions including in the event of bankruptcy.[15]

Under the EU Rules, initial margin must be protected from the default or insolvency of the collecting counterparty by segregating it either on the books and records of a third-party holder or custodian or through other legally binding arrangements.[16] If the initial margin is held by the collateral provider, the collateral must be held in insolvency-remote custody accounts.[17] When non-cash collateral is held by the posting counterparty or by a third-party holder or custodian, the collecting counterparty is required to always provide the posting counterparty with the option to segregate its collateral from the assets of the other posting counterparties.[18] Non-cash collateral has to be segregated as follows:[19]

1. If the collateral is held by the collecting counterparty on a proprietary basis, it must be segregated from the rest of the proprietary assets of the collecting counterparty;
2. If the collateral is held by the posting counterparty on a non-proprietary basis, it must be segregated from the rest of the proprietary assets of the collecting counterparty;
3. If the collateral is held on the books and records of a custodian or other third-party holder, it must be segregated from the proprietary assets of that third-party holder or custodian.

Substitution is permitted under certain circumstances and rehypothecation is not permitted except when a third-party holder is using cash initial margin for reinvestment purposes.[20]

10. Will Counterparties be Required to Enter into New Custodial Relationships? It depends. Two forms of custodial arrangements are available for counterparties to choose from: third-party accounts and a tri-party construct. Third-party accounts allow the counterparties to retain more control over the transmission of margin amounts but providing the necessary approvals for compliance may become time and labor intensive under the forthcoming daily requirements. Alternatively, a tri-party construct outsources the monitoring and posting activities to an agent which may result in more efficiency. This decision would be decided on a per account basis with the corresponding investment manager.

11. What Documentation will be Necessary for Compliance with the New Initial Margin Rules? Compliance with the Rules will require counterparties to negotiate and complete a variety of documentation before the applicable initial margin phase-in date. These include: (1) a bilateral initial margin credit support annex or collateral transfer/security agreement for each counterparty pair,

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[14] 12 C.F.R. §§ 45.7(b), 237.7(b), 349.7(b), 624.7(b), 1221.7(b); 17 C.F.R. § 23.157(b).
[15] 12 C.F.R. §§ 45.7(c)(1), 237.7(c)(1), 349.7(c)(1), 624.7(c)(1), 1221.7(c)(1); 17 C.F.R. § 23.157(c)(1).
[16] Commission Delegated Regulation (EU) 2016/2251 – Article 19(3).
[17] *Id.* at Article 19(1).
[18] *Id.* at Article 19(5).
[19] *Id.* at Article 19(4).
[20] *Id.* at Article 19(2) & 20.

(2) a trilateral account control agreement or similar documentation for each counterparty and custodian construct[21], (3) schedules for eligible collateral and (4) an agreement regarding the use of an initial margin calculation model[22]. You will need to complete the necessary documentation and set up a segregated account in order for an investment manager to move margin on your behalf. Without this they will be unable to continue trading Non-Cleared Derivatives in your account.

[21] You will likely be integral to the process of negotiating the control agreement.
[22] Swap Entities have the regulatory requirement to enter into such an agreement with the counterparty.

Appendix I – Definitions

1. "***Central Counterparty***" (as defined in Article 2(1) of the Commission Regulation 648/2012 of the European Parliament and of the Council of 4 July 2012, on OTC Derivatives, Central Counterparties and Trade Repositories), means a legal person that interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer.

2. "***Commercial End User***" (as explained in 81 Fed. Reg. 50606, note 10) is used to refer to a "non-financial end user" and "commercial end user" in the US regulations. Although the term "commercial end user" is not defined in the Dodd-Frank Act, it is used in this preamble to mean a company that is eligible for the exception to the mandatory clearing requirement for swaps under section 2(h)(7)(A) of the Commodity Exchange Act and section 3C(g)(1) of the Securities Exchange Act, respectively. This exception is generally available to a person that (1) is not a financial entity, (2) is using the swap to hedge or mitigate commercial risk, and (3) has notified the Commodity Futures Trading Commission ("CFTC") or Securities and Exchange Commission ("SEC") how it generally meets its financial obligations with respect to non-cleared swaps or security-based swaps, respectively. *See* 7 U.S.C. 2(h)(7)(A) and 15 U.S.C. 78c-3(g)(1); *see* also 80 FR 74848 note 70.

3. "***Covered Swap Entity***" is defined by each regulatory body. For the CFTC, covered swap entity (as defined in 17 C.F.R. § 23.151) means a swap dealer or major swap participant for which there is no prudential regulator. For the US Prudential Regulators, covered swap entity (as defined in 12 C.F.R. § 237.2 (Board); 12 C.F.R. § 45.2 (OCC); 12 C.F.R. § 349.2 (FDIC); 12 C.F.R. § 624.2 (FCA); 12 C.F.R. § 1221.2 (FHFA)) refers to the swap dealers and major swap participants which each agency regulates.

4. "***Direct, Substantial and Foreseeable Effect***" (as set forth in the Commission Delegated Regulation (EU) No 285/2014 – Article 2) an over-the-counter derivative contract shall be considered as having a direct, substantial and foreseeable effect within the EU (i) when at least one entity not established in the EU benefits from a guarantee provided by a financial counterparty established in the EU which covers all or part of its liability resulting from that over-the-counter derivative contract, to the extent that the guarantee meets certain conditions and (ii) where the two entities not established in the EU enter into the over-the-counter derivative contract through their branches in the EU and would qualify as financial counterparties if they were established in the EU.

5. "***Financial Counterparty***" (as defined in Article 2(8) of the Commission Regulation 648/2012 of the European Parliament and of the Council of 4 July 2012, on OTC Derivatives, Central Counterparties and Trade Repositories), means an investment firm authorised in accordance with Directive 2004/39/EC, a credit institution authorised in accordance with Directive 2006/48/EC, an insurance undertaking authorised in accordance with Directive 73/239/EEC, an assurance undertaking authorised in accordance with Directive 2002/83/EC, a reinsurance undertaking authorised in accordance with Directive 2005/68/EC, a UCITS and, where relevant, its management company, authorised in accordance with Directive 2009/65/EC, an institution for occupational retirement provision within the meaning of Article 6(a) of Directive 2003/41/EC and an alternative investment fund managed by AIFMs authorised or registered in accordance with Directive 2011/61/EU.

6. "***Financial End User***" (as defined in 17 C.F.R. § 23.151) means (1) A counterparty that is not a swap entity and that is: (i) A bank holding company or a margin affiliate thereof; a savings and loan holding company; a US intermediate holding company established or designated for purposes of compliance with 12 C.F.R. § 252.153; or a nonbank financial institution supervised by the Board of Governors of the Federal Reserve System under Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 USC. 5323); (ii) A depository institution; a foreign bank; a Federal credit union or State credit union as defined in section 2 of the Federal Credit Union Act (12 USC. 1752(1) and (6)); an institution that functions solely in a trust or fiduciary capacity as described in section 2(c)(2)(D) of the Bank Holding Company Act (12 USC. 1841(c)(2)(D)); an industrial loan company, an industrial bank, or other similar institution described in section 2(c)(2)(H) of the Bank Holding Company Act (12 USC. 1841(c)(2)(H)); (iii) An entity that is state-licensed or registered as: (A) A credit or lending entity, including a finance company; money lender; installment lender; consumer lender or lending company; mortgage lender, broker, or bank; motor vehicle title pledge lender; payday or deferred deposit lender; premium finance company; commercial finance or lending company; or commercial mortgage company; except entities registered or licensed solely on account of financing the entity's direct sales of goods

or services to customers; (B) A money services business, including a check casher; money transmitter; currency dealer or exchange; or money order or traveler's check issuer; (iv) A regulated entity as defined in section 1303(20) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 USC. 4502(20)) or any entity for which the Federal Housing Finance Agency or its successor is the primary federal regulator; (v) Any institution chartered in accordance with the Farm Credit Act of 1971, as amended, 12 USC. 2001 et seq. that is regulated by the Farm Credit Administration; (vi) A securities holding company; a broker or dealer; an investment adviser as defined in section 202(a) of the Investment Advisers Act of 1940 (15 USC. 80b-2(a)); an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 USC. 80a-1 et seq.), a company that has elected to be regulated as a business development company pursuant to section 54(a) of the Investment Company Act of 1940 (15 USC. 80a-53(a)), or a person that is registered with the US Securities and Exchange Commission as a security-based swap dealer or a major security-based swap participant pursuant to the Securities Exchange Act of 1934 (15 USC. 78a et seq.). (vii) A private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 USC. 80-b-2(a)); an entity that would be an investment company under section 3 of the Investment Company Act of 1940 (15 USC. 80a-3) but for section 3(c)(5)(C); or an entity that is deemed not to be an investment company under section 3 of the Investment Company Act of 1940 pursuant to Investment Company Act Rule 3a-7 (§ 270.3a-7 of this title) of the Securities and Exchange Commission; (viii) A commodity pool, a commodity pool operator, a commodity trading advisor, a floor broker, a floor trader, an introducing broker or a futures commission merchant; (ix) An employee benefit plan as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income and Security Act of 1974 (29 USC. 1002); (x) An entity that is organized as an insurance company, primarily engaged in writing insurance or reinsuring risks underwritten by insurance companies, or is subject to supervision as such by a State insurance regulator or foreign insurance regulator; (xi) An entity, person, or arrangement that is, or holds itself out as being, an entity, person, or arrangement that raises money from investors, accepts money from clients, or uses its own money primarily for investing or trading or facilitating the investing or trading in loans, securities, swaps, funds, or other assets; or (xii) An entity that would be a financial end user described in paragraph (1) of this definition or a swap entity if it were organized under the laws of the United States or any State thereof. (2) The term "financial end user" does not include any counterparty that is: (i) A sovereign entity; (ii) A multilateral development bank; (iii) The Bank for International Settlements; (iv) An entity that is exempt from the definition of financial entity pursuant to section 2(h)(7)(C)(iii) of the Act and implementing regulations; (v) An affiliate that qualifies for the exemption from clearing pursuant to section 2(h)(7)(D) of the Act; or (vi) An eligible treasury affiliate that the Commission exempts from the requirements of §§ 23.150 through 23.161 by rule.

7. "***Group***" (as defined in Article 2(11) of the Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings…) means a ***parent undertaking*** and all its ***subsidiary undertakings***.

8. "***Material Swaps Exposure***" (CFTC Regulations) for an entity (as defined in 17 C.F.R. § 23.151) means that, as of September 1 of any year, the entity and its margin affiliates have an average month-end aggregate notional amount of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for March, April and May of the current calendar year that exceeds $ 8 billion, where such amount is calculated only for the last business day of the month. Activities not carried out the in the regular course of business and willfully designed to circumvent calculation at month-end to evade meeting the definition of material swaps exposure shall be prohibited. An entity shall count the average month-end notional amount of an uncleared swap, an uncleared security-based swap, a foreign exchange forward, or a foreign exchange swap between the entity and a margin affiliate only one time. For purposes of this calculation, an entity shall not count a swap that is exempt pursuant to § 23.150(b) or a security-based swap that qualifies for an exemption under section 3C(g)(10) of the Securities Exchange Act of 1934 (15 USC. 78c-3(g)(4)) and implementing regulations or that satisfies the criteria in section 3C(g)(1) of the Securities Exchange Act of 1934 (15 USC. 78-c3(g)(4)) and implementing regulations.

9. ***"Material Swaps Exposure"*** (U.S. Prudential Regulations) for an entity means that an entity and its affiliates have an average daily aggregate notional amount of non-cleared swaps, non-cleared security-based swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for June, July, and August of the previous calendar year that exceeds $8 billion, where such amount is calculated only for business days. An entity shall count the average daily

aggregate notional amount of a non-cleared swap, a non-cleared security-based swap, a foreign exchange forward or a foreign exchange swap between the entity and an affiliate only one time. For purposes of this calculation, an entity shall not count a swap or security-based swap that is exempt pursuant to §349.1(d).

10. "***Multilateral Development Banks***" (as listed under Section 4.2 of Part 1 of Annex VI to Directive 2006/48/EC)
(a) the International Bank for Reconstruction and Development;
(b) the International Finance Corporation;
(c) the Intern-American Development Bank;
(d) the Asian Development Bank;
(e) the African Development Bank;
(f) the Council of Europe Development Bank;
(g) the Nordic Investment Bank;
(h) the Caribbean Development Bank;
(i) the European Bank for Reconstruction and Development;
(j) the European Investment Bank;
(k) the European Investment Fund; and
(l) the Multilateral Investment Guarantee Agency.

11. "***Non-Financial Counterparty***" (as defined in Article 2(9) of the Commission Regulation 648/2012 of the European Parliament and of the Council of 4 July 2012, on OTC Derivatives, Central Counterparties and Trade Repositories) means an undertaking established in the Union other than the entities referred to in points (1) and (8), including ***central counterparties*** and ***financial counterparties***.

12. "***Notional Threshold Amount***" is the AANA of Non-Cleared Derivatives that counterparties must exceed to be generally subject to the initial margin requirements under the EU Rules; under Commission Delegated Regulation (EU) 2016/2251 – Articles 36(1)(e), 39(1)(b) & 39(1)(c), the AANA threshold for the September 1, 2020 phase-in date is EUR€ 8 billion, calculated as the average of the total gross notional amount that is recorded on the last business day of March, April and May of the year 2020 (if a counterparty belongs to a group all the entities of the group must be included in the calculation). Though a counterparty may be generally subject to the initial margin requirements, it may not need to post initial margin for swaps entered into in the current year; under Commission Delegated Regulation (EU) 2016/2251 – Article 28(1) & 28(2), counterparties may provide in their risk management procedures that initial margin is not collected for all new Non-Cleared Derivatives entered into within a calendar year where one of the two counterparties has an aggregate month-end average notional amount of Non-Cleared Derivatives for the months of March, April and May of the preceding year of below EUR€ 8 billion (aggregate month-end average notional amount for this purpose is also calculated at the group level where the counterparty belongs to a group).[23]

13. "***Public Sector Entities***" (within the meaning of point (18) of Article 4 of Directive 2006/48/EC where they are owned by central governments) means non-commercial administrative bodies responsible to central governments, regional governments or local authorities, or authorities that in the view of the competent authorities exercise the same responsibilities as regional and local authorities, or non-commercial undertakings owned by central governments that have explicit guarantee arrangements, and may include self-administered bodies governed by law that are under public supervision.

14. "***Parent Undertaking***" (as defined in Article 2(11) of the Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings…) means an undertaking which controls one or more ***subsidiary undertakings***.

15. "***Subsidiary Undertaking***" (as defined in Article 2(11) of the Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings…) means an undertaking controlled by a ***parent undertaking***, including any ***subsidiary undertaking*** of an ultimate parent undertaking.

16. "***Third Country Entities***" means entities that are not established in the EU.

[23] *See,* footnote #6 above.