

**MEMO# 30593**

February 23, 2017

# **Prudential Regulators Issue Guidance Regarding the Variation Margin Compliance Date for Uncleared Swaps**

[30593] February 23, 2017 TO: ICI Members

ICI Global Members

Derivatives Markets Advisory Committee

ICI Global Trading & Markets Committee

Registered Fund CPO Advisory Committee

Securities Operations Advisory Committee SUBJECTS: Derivatives

Trading and Markets RE: Prudential Regulators Issue Guidance Regarding the Variation Margin Compliance Date for Uncleared Swaps

Today, the Federal Reserve Board and Office of the Comptroller of the Currency (“OCC”) issued guidance (“Guidance”) regarding the March 1 deadline for the exchange of variation margin for uncleared, over-the-counter swaps.<sup>[1]</sup> The Guidance, in response to requests from ICI and other market participants, expresses the Board and OCC’s expectation that prudentially-regulated swap entities (“covered swap entities”) should prioritize their compliance efforts surrounding the March 1 variation margin deadline according to the size and risk of their counterparties (e.g., regulated funds).<sup>[2]</sup>

Specifically, the Guidance states that Federal Reserve Board examiners and OCC examiners, in exercising discretion in initially examining compliance with the variation margin requirements, should be guided by the following principles:

- Priority should be given to covered swap entities’ compliance efforts based on the size of and risk inherent in the credit and market risk exposures each counterparty (e.g., regulated funds) presents. A covered swap entity is expected to comply with the variation margin requirements of the final rule with respect to counterparties (e.g., regulated funds) that present significant exposures as of March 1, 2017. With respect to other counterparties, examiners should focus on a covered swap entity’s good faith efforts to comply with the variation margin requirements of the final rule as soon as possible, and in no case later than September 1, 2017;
- Examiners should recognize the scope and scale of changes necessary for each covered swap entity to achieve effective compliance for each of its uncleared swap transactions. During initial examinations for compliance with the variation margin requirements, examiners should evaluate a covered swap entity’s management

systems and program for compliance;

- A covered swap entity is expected to have governance processes that assess and manage its current and potential future credit exposure to uncleared swap counterparties, as well as any other market risk arising from such transactions; and
- Examiners should consider the covered swap entity's implementation plan, including actions taken to update documentation, policies, procedures, and processes, as well as its training program for staff on how to handle technical problems or other implementation challenges.

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#### endnotes

[1] See Board of Governors of the Federal Reserve System, SR Letter 17-03 “Initial Examinations for Compliance with Minimum Variation Margin Requirements for Non-Cleared Swaps and Non-Cleared Security-Based Swaps” (Feb. 23, 2017), *available at* <https://www.federalreserve.gov/bankinfo/srletters/sr1703.htm>; Office of the Comptroller of the Currency, OCC Bulletin 2017-12 “Initial Examinations for Compliance with Final Rule Establishing Margin Requirements for Non-Cleared Swaps and Non-Cleared Security-Based Swaps” (Feb. 23, 2017), *available at* [https://www.occ.gov/news-issuances/bulletins/2017/bulletin-2017-12.html](https://www OCC.gov/news-issuances/bulletins/2017/bulletin-2017-12.html). See also Press Release of Board of Governors of the Federal Reserve System, Farm Credit Administration, Federal Deposit Insurance Corporation, Federal Housing Finance Agency, and Office of the Comptroller of the Currency (Feb. 23, 2017), *available at* <https://www.occ.gov/news-issuances/news-releases/2017/nr-ia-2017-21.html>.

[2] See ICI Memoranda No. 30551 (Jan. 30, 2017), *available at* [https://www.ici.org/my\\_ici/memorandum/memo30551](https://www.ici.org/my_ici/memorandum/memo30551), (summarizing and attaching ICI comment letter to prudential regulators and the Commodity Futures Trading Commission requesting relief from the variation margin deadline).

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