

MEMO# 30594

February 23, 2017

IOSCO Issues Statement Regarding the Variation Margin Compliance Date for Uncleared Derivatives

[30594] 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: IOSCO Issues Statement Regarding the Variation Margin

Compliance Date for Uncleared Derivatives

Today, the Board of the International Organization of Securities Commissions (“IOSCO”) issued a statement (“Statement”) regarding the March 1 deadline for the exchange of variation margin for uncleared, over-the-counter derivatives in accordance with minimum standards adopted under domestic laws in various jurisdictions.[\[1\]](#) IOSCO believes that its members (i.e., international securities regulators), to the extent permitted, should consider taking appropriate measures to ensure fair and orderly markets during the introduction and application of the variation margin requirements.[\[2\]](#)

The Statement also notes that, although IOSCO remains committed to the prescribed deadline, differences in implementation timing across jurisdictions could raise operational and competitive challenges for the industry. IOSCO understands that some market participants, especially smaller financial firms, buy-side firms, asset managers, pension funds, and insurance companies, likely will not be in a position to fully comply with the new requirements by March 1. If this is the case, there could be a reduction in those entities’ ability to hedge positions and potentially could impact liquidity. IOSCO believes that this result would undermine its objective to develop, implement and promote adherence to internationally recognized and consistent standards of regulation, oversight and enforcement to protect investors, maintain fair, efficient and transparent markets, and address systemic risks.

Therefore, IOSCO believes that its members, together with other relevant authorities, should consider taking appropriate measures to ensure fair and orderly markets during the introduction and application of the variation margin requirements.

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endnotes

[1] See The Board of the International Organization of Securities Commissions, “Statement on Variation Margin Implementation” (Feb. 23, 2017), *available at* <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD556.pdf>. For a summary of the EU’s OTC margin rules, please see ICI Memorandum No. 30491 (Dec. 20, 2016), *available at*: <https://www.iciglobal.org/iciglobal/pubs/memos/memo30491>. For a summary of the Prudential Regulators’ OTC margin rules, please see ICI Memorandum No. 29484 (Nov. 12, 2015), *available at* https://www.ici.org/my_ici/memorandum/memo29484. For a summary of the CFTC’s OTC margin rules, please see ICI Memorandum No. 29587 (Dec. 22, 2015), *available at*: https://www.ici.org/my_ici/memorandum/memo29587.

[2] The Statement follows earlier statements from European Supervisory Authorities (“ESAs”) and prudential regulators on the variation margin requirements. See Variation Margin Exchange under the EMIR RTS on OTC Derivatives (Feb. 23, 2017), *available at* https://www.esma.europa.eu/sites/default/files/library/esas_communication_on_industry_request_on_forbearance_variation_margin_implementation.docx_0.pdf (expressing the ESAs’ expectation that national competent authorities will conduct a case-by-case assessment on the degree of compliance and progress, taking into account take the size of the exposure to the counterparty plus its default risk, when applying their risk-based supervisory powers in enforcing the variation margin rules); 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> and 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> (expressing the Board and OCC’s expectation that prudentially-regulated swap entities should prioritize their compliance efforts surrounding the March 1 variation margin deadline according to the size and risk of their counterparties); 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>.

should not be considered a substitute for, legal advice.