Basel Committee on Banking Supervision

MGN

Margin requirements

MGN10

Definitions and application

Version effective as of 15 Dec 2019

First version in the format of the consolidated framework.

BANK FOR INTERNATIONAL SETTLEMENTS

Scope of coverage – instruments subject to the requirements

10.1 Appropriate margining practices should be in place with respect to all derivatives transactions that are not cleared by central counterparties (CCPs).[1]

Footnotes

[1] *These margining practices only apply to derivatives transactions that are not cleared by CCPs and do not apply to other transactions, such as repurchase agreements and security lending transactions that are not themselves derivatives but share some attributes with derivatives. In addition, indirectly cleared derivatives transactions that are intermediated through a clearing member on behalf of a non-member customer are not subject to these requirements as long as (a) the non-member customer is subject to the margin requirements of the clearing house or (b) the non-member customer provides margin consistent with the relevant corresponding clearing house's margin requirements.*

10.2 Except for physically settled foreign exchange (FX) forwards and swaps, the margin requirements apply to all non-centrally cleared derivatives. The margin requirements described in this standard do not apply to physically settled FX forwards and swaps. However, the Basel Committee and the International Organization of Securities Commissions (IOSCO) recognise that variation margining of such derivatives is a common and established practice among significant market participants. The Basel Committee and IOSCO recognise that the exchange of variation margin is a prudent risk management tool that limits the build-up of systemic risk. Accordingly, the Basel Committee and IOSCO agree that standards apply for variation margin to be exchanged on physically settled FX forwards and swaps in a manner consistent with the final policy framework set out in this document and that those variation margin standards are implemented either by way of supervisory guidance or national regulation. The Basel Committee and IOSCO note that the Basel Committee has updated the supervisory guidance for managing settlement risk in FX transactions.[2] The update to the supervisory guidance covers margin requirements for physically settled FX forwards and swaps. In developing variation margin standards for physically settled FX forwards and swaps, national supervisors should consider the recommendations in the Basel Committee supervisory guidance.

Footnotes

[2] *The Basel Committee has issued supervisory guidance for managing risks associated with the settlement of FX transactions: www.bis.org/publ/bcbs241.htm .*

10.3 Initial margin requirements for cross-currency swaps do not apply to the fixed physically settled FX transactions associated with the exchange of principal of cross-currency swaps. In practice, the margin requirements for cross-currency swaps may be computed in one of two ways. Initial margin may be computed by reference to the "interest rate" portion of the standardised initial margin schedule that is discussed below and presented in the appendix. Alternatively, if initial margin is being calculated pursuant to an approved initial margin model, the initial margin model need not incorporate the risk associated with the fixed physically settled FX transactions associated with the exchange of principal. All other risks that affect cross-currency swaps, however, must be considered in the calculation of the initial margin amount.[3] Finally, the variation margin requirements that are described below apply to all components of cross-currency swaps.

Footnotes

[3] *In the interest of clarity, the only payments to be excluded from initial margin requirements for a cross-currency swap are the fixed physically settled FX transactions associated with the exchange of principal (which have the same characteristics as FX forward contracts). All other payments or cash flows that occur during the life of the swap must be subject to initial margin requirements.*

10.4 Derivatives transactions between covered entities with zero counterparty risk require zero initial margin and may be excluded from the initial margin calculation. As an example, consider a European call option on a single stock. Suppose that one party, the option writer, agrees to sell a fixed number of shares to another party, the option purchaser, at a predetermined price at some specific future date, the contract's expiry, if the option purchaser wishes to do so. Suppose further that the option purchaser makes a payment to the option writer at the outset of the transaction that fully compensates the option writer for the possibility that it will have to sell shares at contract expiry at the predetermined price. In this case, the option writer faces zero counterparty risk while the option purchaser faces counterparty risk. The option writer has received the full value of the option at the outset of the transaction. The option purchaser, on the other hand, faces counterparty risk since the option writer may not be willing or able to sell shares to the option purchaser at the predetermined price at the expiry of the contract. In this case, the option writer would not be obliged to collect any initial margin from the option purchaser and the call option could be excluded from the initial margin calculation. Since the option purchaser faces counterparty risk, the option purchaser must collect initial margin from the option writer in a manner consistent with the requirements of this standard.

Scope of coverage – covered entities

10.5 All covered entities (ie financial firms and systemically important non-financial entities) that engage in non-centrally cleared derivatives must exchange initial and variation margin as appropriate to the counterparty risks posed by such transactions.[4]

Footnotes

[4] *The Basel Committee and IOSCO note that different treatment is applied with respect to transactions between affiliated entities, as described under MGN10.13 below.*

10.6 Covered entities include all financial firms and systemically important non-financial firms. Central banks, sovereigns,[5] multilateral development banks, the Bank for International Settlements, and non-systemic, non-financial firms are not covered entities.[6]

Footnotes

[5] *Subject to national discretion, public sector entities (PSEs) may be treated as sovereigns for the purpose of determining the applicability of margin requirements. In considering whether a PSE should be treated as a sovereign for the purpose of determining the applicability of margin requirements, national supervisors should consider the counterparty credit risk of the PSE, as reflected by, for example, whether the PSE has revenue-raising powers and the extent of guarantees provided by the central government.*

[6] *Multilateral development banks (MDBs) exempted from this requirement are those that are eligible for a zero risk-weight under the Basel capital framework (see CRE20).*

10.7 The precise definition of financial firms, non-financial firms and systemically important non-financial firms will be determined by appropriate national regulation. Only non-centrally cleared derivatives transactions between two covered entities are governed by this standard.

10.8 All covered entities must exchange, on a bilateral basis, initial margin with a threshold not to exceed €50 million. The threshold is applied at the level of the consolidated group to which the threshold is being extended and is based on all non-centrally cleared derivatives between the two consolidated groups.[7]

Footnotes

[7] *Investment funds that are managed by an investment advisor are considered distinct entities that are treated separately when applying the threshold as long as the funds are distinct legal entities that are not collateralised by or are otherwise guaranteed or supported by other investment funds or the investment advisor in the event of fund insolvency or bankruptcy.*

10.9 The requirement that the threshold be applied on a consolidated group basis is intended to prevent the proliferation of affiliates and other legal entities within larger entities for the sole purpose of circumventing the margin requirements. The following example describes how the threshold would be applied by an entity that is facing three distinct legal entities within a larger consolidated group.

10.10 Suppose that a firm engages in separate derivatives transactions, executed under separate legally enforceable netting agreements, with three counterparties, A1, A2, A3. A1, A2 and A3, all belong to the same larger consolidated group such as a bank holding company. Suppose further that the initial margin requirement (as described in MGN20) is €100 million for each of the firm's netting sets with A1, A2 and A3. Then the firm dealing with these three affiliates must collect at least €250 million (250=100+100+100–50) from the consolidated group. Exactly how the firm allocates the €50 million threshold among the three netting sets is subject to agreement between the firm and its counterparties. The firm may not extend a €50 million threshold to each netting set with, A1, A2, A3, so that the total amount of initial margin collected is only €150 million (150=100-50+100-50+100–50).

10.11 Furthermore, the requirement to apply the threshold on a fully consolidated basis applies to both the counterparty to which the threshold is being extended and the counterparty that is extending the threshold. As a specific example, suppose that in the example above the firm (as referenced above) is itself organised into, say, three subsidiaries F1, F2 and F3 and that each of these subsidiaries engages in non-centrally cleared derivatives transactions with A1, A2 and A3. In this case, the extension of the €50 million threshold by the firm to A1, A2 and A3 is considered across the entirety of the firm, ie F1, F2, and F3, so that all subsidiaries of the firm extend in the aggregate no more than €50 million in an initial margin threshold to all of A1, A2 and A3.

10.12 The implementation of this approach requires appropriate cooperation between home and host supervisors. As the threshold is applied on a consolidated basis, only the home supervisor of the consolidated group will necessarily be able to verify that the group does not exceed this threshold with all of its counterparties. The host supervisors of subsidiaries of a group would not be able to assess whether the local subsidiaries under their responsibility comply with the threshold allocated by the group to each of its subsidiaries. Communication between the home consolidated supervisors and host supervisors is therefore necessary to ensure that the latter have access to information on the threshold allocated to the local subsidiary under their responsibility.

Treatment of transactions with affiliates

10.13 Transactions between a firm and its affiliates should be subject to appropriate regulation in a manner consistent with each jurisdiction's legal and regulatory framework. Local supervisors should review their own legal frameworks and market conditions and put in place initial and variation margin requirements as appropriate.

Interaction of national regimes in cross-border transactions

10.14 Regulatory regimes should interact so as to result in sufficiently consistent and non-duplicative regulatory margin requirements for non-centrally cleared derivatives across jurisdictions.

10.15 It is recommended that home and host country supervisors closely cooperate to identify conflicts and inconsistencies between regimes with respect to cross-border application of margin requirements. It is further recommended that authorities coordinate their approaches via multilateral or bilateral channels to reduce such issues, to the extent possible.

10.16 The margin requirements in a jurisdiction may be applied to legal entities established in that local jurisdiction, which would include locally established subsidiaries of foreign entities, in relation to the initial and variation margins that they collect. Home-country supervisors may permit a covered entity to comply with the margin requirements of a host-country margin regime with respect to its derivatives activities, provided that the home-country supervisor considers the host-country margin regime to be consistent with the margin requirements described in this framework. A branch is part of the same legal entity as the headquarters; it may be subject to either the margin requirements of the jurisdiction where the headquarters is established or the requirements of the host country.