TEIGLAND-HUNT LLP

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T-H ALERT

ISDA Publishes Variation Margin Protocol to Address Certain Margin Rules for Uncleared Swaps

Next Steps for Buy-Side Clients

Today ISDA published the ISDA 2016 Variation Margin Protocol, which is designed to amend ISDA Credit Support Annexes ("CSAs") to take account of certain new margin requirements for uncleared swaps. We encourage our buy-side clients to carefully consider their preferred approach to making necessary changes to their CSAs and recommend engaging with regulated counterparties about this process well in advance of any compliance deadline.

Overview. Recently adopted rules mandating margin for uncleared swaps will require many of our clients to amend the terms of their CSAs. The extent of the required changes will vary depending on the jurisdictions involved and the terms of existing CSAs. For example, some parties will need to amend provisions regarding eligible types of collateral and collateral transfer timing.

Scope of the Protocol. The ISDA 2016 Variation Margin Protocol[1] is one means by which counterparties can, where relevant, amend existing CSAs (or enter into new CSAs) to address these new margin requirements. The current version of this protocol addresses the variation margin requirements adopted by U.S. prudential regulators, the U.S. Commodity Futures Trading Commission, the Financial Services Agency of Japan and the Canadian Office of the Superintendent of Financial Institutions. It will likely be supplemented in the near future to address EU and Swiss margin regulations once those regulations are finalized.

Compliance Deadline; Timing Considerations. For most of our buy-side clients, the relevant compliance deadline for U.S. variation margin requirements is March 1, 2017. Given the vast number of agreements that will need to be amended to address these requirements, we expect regulated counterparties to contact buy-side clients in the coming weeks regarding their preferred approach to implementing necessary amendments. We encourage clients to consider the terms of their existing CSAs and expected trading activity to determine their own preferred approach. If negotiating a bilateral amendment to a CSA is deemed preferable to adhering to the ISDA 2016 Variation Margin Protocol, we recommend approaching regulated counterparties about executing such an amendment in the near future.

Regulatory Margin Self-Disclosure Letter. Buy-side clients should also expect outreach from regulated counterparties regarding the ISDA Regulatory Margin Self-Disclosure Letter.[2] This lengthy form was designed to allow market participants to exchange information in order to determine if, and when, their trading relationship will become subject to particular margin rulesets. We encourage clients to become familiar with this form so that they are able to review and complete it as necessary in a timely manner.

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[1] Available at https://www2.isda.org/functional-areas/protocol-management/protocol/29.

[2] Available at http://www.isda.org/publications/isdacredit-users.aspx.

If you have any questions regarding applicable margin regulations or the ISDA 2016 Variation Margin Protocol, please reach out to your primary T-H contact or one of the following:

Ryan Patino	***+1 212 269 1451***	***rpatino@t-hllp.com***
Alex Hunt	***+1 212 269 5371***	***ahunt@t-hllp.com***
Amanda Silverman	***+1 212 269 5374***	***asilverman@t-hllp.com***

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