

A DIFFERENT PERSPECTIVE: A HUMBLE DERIVATIVES LAWYER'S

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Uncleared Swaps Public Service Announcement

PSA: If your Plan could have more than \$8 billion in uncleared derivative notional exposure this PSA is for you! An important regulatory measurement period is fast approaching.

Uncleared Swap Initial Margin requirements are changing! Please pardon this unusual Perspectives post. Although we typically choose topics for NISA Perspectives that may be of interest to the majority of our readers, this time we are using our distribution list and harnessing the power of our Perspectives readership to share a Public Service Announcement for Plan sponsors with an average aggregate notional amount (AANA) of more than \$8b.

While this PSA only affects a portion of you (apologies for cluttering your inbox), it has recently come to NISA's attention that some potentially impacted Plans are not aware of these very important changes.

If your Plan doesn't have \$8b of uncleared derivative notional exposure ... Congratulations, you can stop reading ... go ahead hit delete, it won't hurt my feelings! For those of you still with me, Uncleared Margin Requirements (UMR) are fast approaching. Starting September 1, 2022, margin requirements for *uncleared* derivatives will require exchange of initial margin between market participants that have an AANA of uncleared derivatives in excess of \$8b.

The U.S. prudential regulators are prescribing that the AANA of uncleared derivatives for a given Plan be calculated over a 3-month period (June 2021- August 2021) across each bilateral trading relationship. The European regulators and the CFTC have a different measurement period (March 2022-May 2022). To

calculate an AANA of uncleared derivatives, all over-the-counter swaps, swaptions, security-based swaps, FX swaps, and FX forwards need to be included (over-the-counter equity options are excluded permanently under the U.S. rules and temporarily under the EU rules). Importantly, the AANA calculation is on a gross notional basis, so all positions must be counted (including FX).

If you estimate that your Plan's AANA of uncleared derivative exposure is near or above the \$8b threshold, please let us know as quickly as possible so that we can discuss next steps. Needless to say, if all of your Plan's uncleared derivatives exposure is managed by NISA, NISA has been planning for these periods for a while now.

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