

**Subject: Regulatory Capital Rule**  
**Date: August 14, 2017**

**To: Chief Executive Officers of All National Banks and Federal Savings Associations; Federal Branches and Agencies of Foreign Banks; Department and Division Heads; All Examining Personnel; and Other Interested Parties**

### **Description: Treatment of Certain Centrally Cleared Derivative Contracts**

#### **Summary**

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (OCC) today issued interagency guidance on the regulatory capital treatment of certain centrally cleared derivative contracts in light of recent changes to the rulebooks of certain central counterparties. The variation margin for certain centrally cleared derivative contracts and netting sets of centrally cleared derivative contracts is considered a settlement payment for the exposure that arises from marking the cleared derivative contracts to fair value (settled-to-market contracts).

#### **Note for Community Banks**

This guidance applies to all national banks and federal savings associations (collectively, banks) that have entered into centrally cleared derivative contracts.

#### **Highlights**

- For a derivative contract structured such that on specified dates any outstanding exposure is settled and the terms are reset so that the fair value of the contract is zero, the remaining maturity for the OCC's regulatory capital rule purpose equals the time until the next reset date.<sup>1</sup>
- For the purpose of the regulatory capital rule, if, after accounting and legal analysis, a bank determines that (i) the variation margin payment on a centrally cleared settled-to-market contract settles any outstanding exposure on the contract, and (ii) the terms are reset so that fair value of the contract is zero, the remaining maturity on the contract equals the time until the next exchange of variation margin on the contract.
- In conducting its legal analysis to determine whether variation margin may be considered settlement of outstanding exposure under the regulatory capital rule, a bank should evaluate whether the transferor of the variation margin has relinquished all legal claims to the variation margin and whether the payment of variation margin constitutes settlement under the central counterparty's rulebook, any other applicable agreements governing the derivative contract, and applicable laws or regulations.<sup>2</sup>

#### **Further Information**

Please contact Margot Schwadron, Director of Capital Policy, or Guowei Zhang, Capital Policy Risk Expert, at (202) 649-6370.

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#### **Related Link**

- [Regulatory Capital Treatment of Certain Centrally Cleared Derivative Contracts Under Regulatory Capital Rules \(PDF\)](#)

<sup>1</sup> Refer to 12 CFR 3.34, table 1, footnote 2. Also refer to 12 CFR 3.132, table 2, footnote 2.

<sup>2</sup> For example, a central counterparty's rulebook may require a bank to satisfy additional obligations, such as payment of other expenses and fees, in order to recognize payment of variation margin as satisfying settlement under the rulebook. The bank's legal and accounting analysis should take all such requirements into account.