

# CFTC: Mandatory Clearing Fact Sheet

BNP Paribas  
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**BNP PARIBAS**

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In December 2012, BNP Paribas (referred to as the “Firm” or “BNPP”), the parent company of the BNP Paribas Group (incorporated in France, authorised by the Autorité de Contrôle Prudentiel and regulated by the Autorité des Marchés Financiers in France) registered as a “swap dealer” with the Commodity Futures Trading Commission (CFTC) and is a member of the National Futures Association (NFA).

The CFTC has established a set of rules mandating certain transactions be subject to clearing on Derivatives Clearing Organizations (DCOs) approved by the CFTC. This regulation aims at reducing the overall counterparty risk linked to OTC derivatives activities. BNP Paribas is required to submit for clearing to a DCO all swaps the CFTC determines are required to be cleared, unless an exception or exemption applies.

## Scope

The mandatory clearing requirements apply to all in-scope over-the-counter (OTC) derivatives transactions (as described below) with counterparties that are U.S. Persons, U.S. Guarantees, U.S. Conduits and foreign branches (including Foreign Branches of U.S. Persons and Bona Fide Foreign Branches of U.S. swap dealers).<sup>1</sup>

## At which DCO should a particular swap be cleared?

BNP Paribas must ensure that an appropriate DCO has been agreed to with client at time of execution of the swap. This is applicable to both electronic and non-electronic trades. The client has the sole right to select the DCO. Prior to alleging/affirming trades, BNP Paribas must confirm that the agreed DCO is correct and that both BNP Paribas and the client are set-up at the selected DCO. Absent agreement on the DCO to be used, trading should not be allowed. The link below provides a list of all in scope CFTC DCOs:

<https://sirt.cftc.gov/sirt/sirt.aspx?Topic=ClearingOrganizations>

## What are the exceptions and exemptions to mandatory clearing?

There are currently three available exceptions from mandatory clearing:

- End-user exception
- Exception for “Eligible Treasury Affiliates”
- “Exempt Cooperatives”

Clients are eligible to represent themselves using one of the exemptions above through their elections to the Dodd-Frank (DF) Protocol (ISDA DF Protocol 2 or bilateral equivalent).

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<sup>1</sup> For questions regarding these terms, please reference the CFTC's Cross-Border Application of Swaps Provisions and the “U.S. Person” Interpretation section on [https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/crossborder\\_factsheet\\_final.pdf](https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/crossborder_factsheet_final.pdf)

## Which products are in scope for mandatory clearing?

All mandatory clearing determinations described in the tables below are effective under the CFTC rules.<sup>2</sup> Additionally, clients have the right to voluntarily clear their swap trades on DCOs.

### **The mandatory clearing obligation applies to the following Interest Rate products:**<sup>3</sup>

<u>Specification</u>	<b>Fixed-to-Floating Swap Class</b>			
1. Currency	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)	Yen (JPY)
2. Floating Rate Indexes	LIBOR	EURIBOR	LIBOR	LIBOR
3. Stated Termination Date Range	28 days to 50 years	28 days to 50 years	28 days to 50 years	28 days to 30 years
4. Optionality	No	No	No	No
5. Dual Currencies	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No

<u>Specification</u>	<b>Basis Swap Class</b>			
1. Currency	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)	Yen (JPY)
2. Floating Rate Indexes	LIBOR	EURIBOR	LIBOR	LIBOR
3. Stated Termination Date Range	28 days to 50 years	28 days to 50 years	28 days to 50 years	28 days to 30 years
4. Optionality	No	No	No	No
5. Dual Currencies	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No

<u>Specification</u>	<b>Forward Rate Agreement Class</b>			
1. Currency	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)	Yen (JPY)
2. Floating Rate Indexes	LIBOR	EURIBOR	LIBOR	LIBOR
3. Stated Termination Date Range	3 days to 3 years	3 days to 3 years	3 days to 3 years	3 days to 3 years
4. Optionality	No	No	No	No
5. Dual Currencies	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No

<u>Specification</u>	<b>Overnight Index Swap Class</b>		
1. Currency	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)
2. Floating Rate Indexes	FedFunds	EONIA	SONIA
3. Stated Termination Date Range	7 days to 2 years	7 days to 2 years	7 days to 2 years
4. Optionality	No	No	No
5. Dual Currencies	No	No	No
6. Conditional Notional Amounts	No	No	No

#### Eligible Derivatives Clearing Organizations for Interest Rate Swaps:

Chicago Mercantile Exchange, Inc., LCH.Clearnet Ltd., LCH.Clearnet LLC, and Singapore Exchange Derivatives Clearing Ltd.

<sup>2</sup> Note the mandatory clearing determinations issued in 2013 initially applied to various Interest Rates products in USD/GBP/EUR/ JPY but were subsequently extended in 2016 to a number of other products in various currencies. Additionally, the CFTC is currently conducting an ongoing industry consultation on further mandatory clearing determinations. In 2022, we expect that there may be a new determination for trades referencing SOFR.

<sup>3</sup> <https://www.cftc.gov/sites/default/files/idc/groups/public/@otherif/documents/ifdocs/clearingrequirementcharts.pdf>



**The mandatory clearing obligation applies to the following Credit Default products:<sup>4</sup>**

<u>Specification</u>	<b>North American Untranchéd CDS Indices Class</b>
1. Reference Entities	Corporate
2. Region	North America
3. Indices	CDX.NA.IG CDX.NA.HY
4. Tenor	CDX.NA.IG: 3Y, 5Y, 7Y, 10Y CDX.NA.HY: 5Y
5. Applicable Series	CDX.NA.IG 3Y: Series 15 and all subsequent Series, up to and including the current Series CDX.NA.IG 5Y: Series 11 and all subsequent Series, up to and including the current Series CDX.NA.IG 7Y: Series 8 and all subsequent Series, up to and including the current Series CDX.NA.IG 10Y: Series 8 and all subsequent Series, up to and including the current Series CDX.NA.HY 5Y: Series 11 and all subsequent Series, up to and including the current Series
6. Tranchéd	No

<u>Specification</u>	<b>European Untranchéd CDS Indices Class</b>
1. Reference Entities	Corporate
2. Region	Europe
3. Indices	iTraxx Europe iTraxx Europe Crossover iTraxx Europe HiVol
4. Tenor	iTraxx Europe: 5Y, 10Y iTraxx Europe Crossover: 5Y iTraxx Europe HiVol: 5Y
5. Applicable Series	iTraxx Europe 5Y: Series 10 and all subsequent Series, up to and including the current Series iTraxx Europe 10Y: Series 7 and all subsequent Series, up to and including the current Series iTraxx Europe Crossover 5Y: Series 10 and all subsequent Series, up to and including the current Series iTraxx Europe HiVol 5Y: Series 10 and all subsequent Series, up to and including the current Series
6. Tranchéd	No

Eligible Derivatives Clearing Organizations for CDS:

Chicago Mercantile Exchange, Inc., ICE Clear Credit LLC, ICE Clear Europe Ltd., and LCH.Clearnet SA.

## Counterparty documentation

BNP Paribas requires that clients must have a Cleared Derivatives Execution Agreement (CDEA) with the firm prior to trading instruments which are subject to the CFTC mandatory clearing obligation. Clients must have all relevant clearing arrangements (i.e. a futures commission merchant) in place for clearing on a DCO. Additionally, the CDEA must be executed with counterparties that elect to voluntarily clear their swap trades on DCOs.

This CDEA requirement does not apply to in-scope transactions when facing a Swap Dealer who is a direct clearing member of a DCO and when trades intended to be cleared are executed on a Swap Execution Facility (SEF) platform.

<sup>4</sup> <https://www.cftc.gov/sites/default/files/idc/groups/public/@otherif/documents/ifdocs/clearingrequirementcharts.pdf>

## Can cleared swaps be amended?

Once a trade is cleared, the exposure of each counterparty faces the clearinghouse and not the original swap. The counterparty cannot “unwind” a cleared swap, as BNP Paribas does not have the exposure facing the client. Any offset of a cleared exposure needs to be executed as a new trade rather than as an amended trade.

## Where can I learn more about the CFTC’s clearing regulations?

<https://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemakings/ClearingRequirement/index.htm>

## FURTHER QUESTIONS

If you have any other comments or questions, please contact the Global Markets Americas Regulatory Management Team ([dl.gmusregandspecialprojects@us.bnpparibas.com](mailto:dl.gmusregandspecialprojects@us.bnpparibas.com)) or your usual relationship or sales contact.

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