

(ii) Once annually for each swap portfolio that includes no more than 100 swaps at any time during the calendar year.

(4) Each swap dealer or major swap participant shall establish, maintain, and follow written procedures reasonably designed to resolve any discrepancies in the material terms or valuation of each swap identified as part of a portfolio reconciliation or otherwise with a counterparty that is neither a swap dealer nor major swap participant in a timely fashion. A difference between the lower valuation and the higher valuation of less than 10 percent of the higher valuation need not be deemed a discrepancy.

(c) *Reporting.* Each swap dealer and major swap participant shall promptly notify the Commission and any applicable prudential regulator, or with regard to swaps defined in section 1a(47)(A)(v) of the Act, the Commission, the Securities and Exchange Commission, and any applicable prudential regulator, of any swap valuation dispute in excess of \$20,000,000 (or its equivalent in any other currency) if not resolved within:

(1) Three (3) business days, if the dispute is with a counterparty that is a swap dealer or major swap participant; or

(2) Five (5) business days, if the dispute is with a counterparty that is not a swap dealer or major swap participant.

(d) *Reconciliation of cleared swaps.* Nothing in this section shall apply to a swap that is cleared by a derivatives clearing organization.

(e) *Recordkeeping.* A record of each swap portfolio reconciliation consistent with § 23.202(a)(3)(iii) shall be maintained in accordance with § 23.203.

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#### § 23.503 Portfolio compression.

(a) *Portfolio compression with swap dealers and major swap participants—(1) Bilateral offset.* Each swap dealer and major swap participant shall establish, maintain, and follow written policies and procedures for terminating each fully offsetting swap between a swap dealer or major swap participant and another swap dealer or major swap par-

ticipant in a timely fashion, when appropriate.

(2) *Bilateral compression.* Each swap dealer and major swap participant shall establish, maintain, and follow written policies and procedures for periodically engaging in bilateral portfolio compression exercises, when appropriate, with each counterparty that is also a swap dealer or major swap participant.

(3) *Multilateral compression.* Each swap dealer and major swap participant shall establish, maintain, and follow written policies and procedures for periodically engaging in multilateral portfolio compression exercises, when appropriate, with each counterparty that is also a swap dealer or major swap participant. Such policies and procedures shall include:

(i) Policies and procedures for participation in all multilateral portfolio compression exercises required by Commission regulation or order; and

(ii) Evaluation of multilateral portfolio compression exercises that are initiated, offered, or sponsored by any third party.

(b) *Portfolio compression with counterparties other than swap dealers and major swap participants.* Each swap dealer and major swap participant shall establish, maintain, and follow written policies and procedures for periodically terminating fully offsetting swaps and for engaging in portfolio compression exercises with respect to swaps in which its counterparty is an entity other than a swap dealer or major swap participant, to the extent requested by any such counterparty.

(c) *Portfolio compression of cleared swaps.* Nothing in this section shall apply to a swap that is cleared by a derivatives clearing organization.

(d) *Recordkeeping.* (1) Each swap dealer and major swap participant shall make and maintain a complete and accurate record of each bilateral offset and each bilateral or multilateral portfolio compression exercise in which it participates.

(2) All records required to be maintained pursuant to this section shall be maintained in accordance with § 23.203 and shall be made available promptly upon request to any representative of

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the Commission or any applicable prudential regulator, or with regard to swaps defined in section 1a(47)(A)(v) of the Act, to any representative of the Commission, the Securities and Exchange Commission, or any applicable prudential regulator.

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**§ 23.504 Swap trading relationship documentation.**

(a) (1) *Applicability.* The requirements of this section shall not apply to:

(i) Swaps executed prior to the date on which a swap dealer or major swap participant is required to be in compliance with this section;

(ii) Swaps executed on a board of trade designated as a contract market under section 5 of the Act or to swaps executed anonymously on a swap execution facility under section 5h of the Act, *provided that* such swaps are cleared by a derivatives clearing organization and all terms of the swaps conform to the rules of the derivatives clearing organization and § 39.12(b)(6) of this chapter; and

(iii) Swaps cleared by a derivatives clearing organization.

(2) *Policies and procedures.* Each swap dealer and major swap participant shall establish, maintain, and follow written policies and procedures reasonably designed to ensure that the swap dealer or major swap participant executes written swap trading relationship documentation with its counterparty that complies with the requirements of this section. The policies and procedures shall be approved in writing by senior management of the swap dealer and major swap participant, and a record of the approval shall be retained. Other than confirmations of swap transactions under § 23.501, the swap trading relationship documentation shall be executed prior to or contemporaneously with entering into a swap transaction with any counterparty.

(b) *Swap trading relationship documentation.* (1) The swap trading relationship documentation shall be in writing and shall include all terms governing the trading relationship between the swap dealer or major swap participant and its counterparty, including, without limitation, terms ad-

ressing payment obligations, netting of payments, events of default or other termination events, calculation and netting of obligations upon termination, transfer of rights and obligations, governing law, valuation, and dispute resolution.

(2) The swap trading relationship documentation shall include all confirmations of swap transactions under § 23.501.

(3) The swap trading relationship documentation shall include credit support arrangements, which shall contain, in accordance with applicable requirements under Commission regulations or regulations adopted by prudential regulators and without limitation, the following:

(i) Initial and variation margin requirements, if any;

(ii) Types of assets that may be used as margin and asset valuation haircuts, if any;

(iii) Investment and rehypothecation terms for assets used as margin for uncleared swaps, if any; and

(iv) Custodial arrangements for margin assets, including whether margin assets are to be segregated with an independent third party, in accordance with § 23.701(e), if any.

(4) (i) The swap trading relationship documentation between swap dealers, between major swap participants, between a swap dealer and major swap participant, between a swap dealer or major swap participant and a financial entity, and, if requested by any other counterparty, between a swap dealer or major swap participant and such counterparty, shall include written documentation in which the parties agree on the process, which may include any agreed upon methods, procedures, rules, and inputs, for determining the value of each swap at any time from execution to the termination, maturity, or expiration of such swap for the purposes of complying with the margin requirements under section 4s(e) of the Act and regulations under this part, and the risk management requirements under section 4s(j) of the Act and regulations under this part. To the maximum extent practicable, the valuation of each swap shall be based on recently-executed transactions, valuations provided by