



DTCC Derivatives and Collateral Forum 2016

Uncleared Margin in APAC – Where are we now and what's next?

October 2016

**C L I F F O R D
C H A N C E**



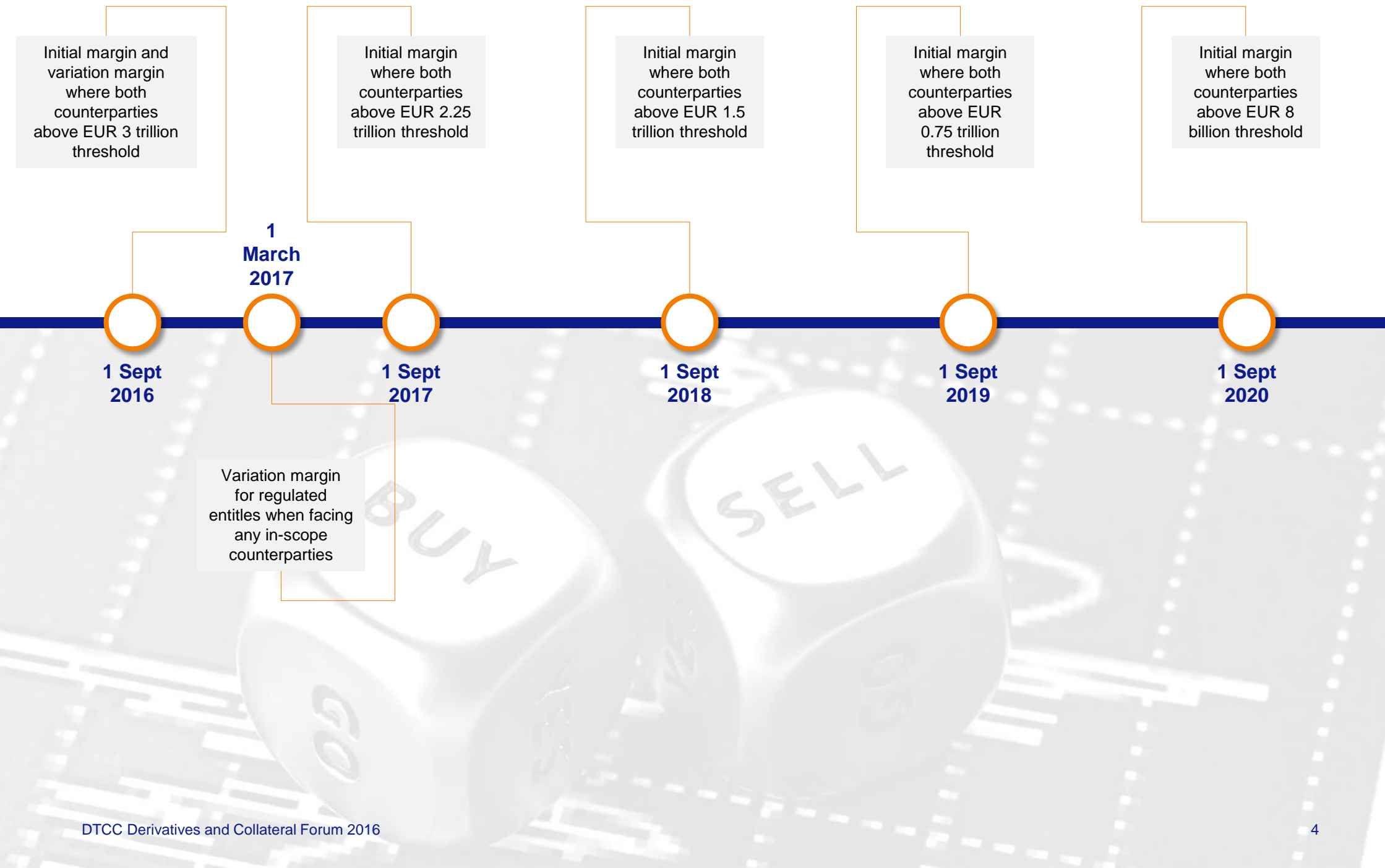
Uncleared Margin in APAC – Where are we now?



Global Implementation of Margin Rules




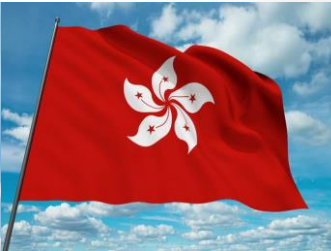



BCBS-IOSCO Timeline



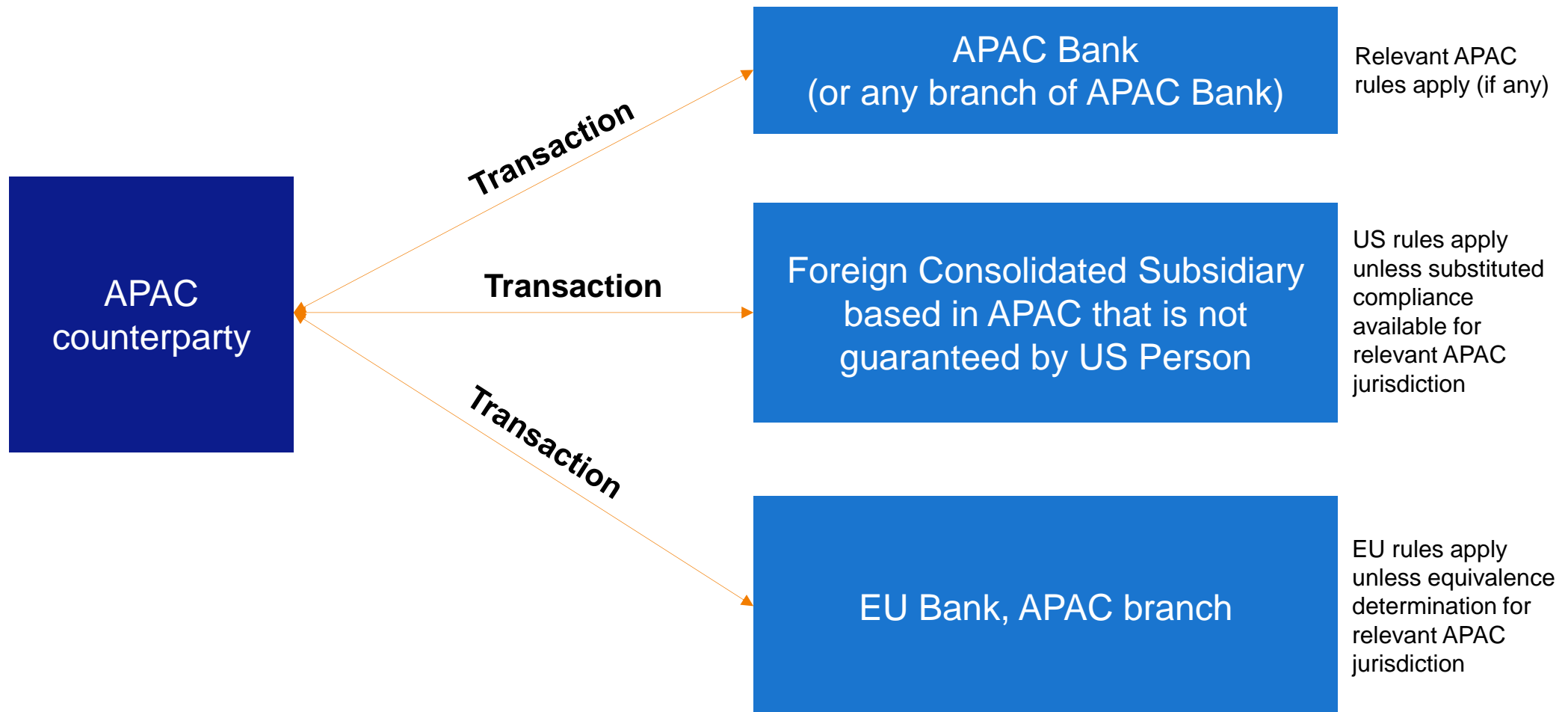


Key issues for APAC counterparties







Timing

					
Timing	<ul style="list-style-type: none"> On 31 March 2016, the Japanese FSA published the final regulations on margin requirements On 25 July 2016, the Japanese FSA issued a new supplementary provision of the Japanese FSA's margin regulations Margin regulations became effective on 1 September 2016 	<ul style="list-style-type: none"> HKMA Rules applicable to Authorized Institutions (AIs) in consultation The final rules from the SFC (for Licensed Corporations) are expected to be published on 1 November 2016. 	<ul style="list-style-type: none"> MAS has published a policy consultation paper MAS proposes to provide a six-month transition period following the respective VM or IM commencement date (as appropriate) to begin compliance On 22 August 2016, MAS announced the deferment of the implementation schedule beyond 1 September 2016 and will announce a revised phase-in schedule for Singapore in due course The final rules are expected to be published on 1 November 2016 	<ul style="list-style-type: none"> In February 2016, APRA completed its consultation on margin rules contained in a new cross-industry prudential standard (known as "CPS 226") On 22 August 2016, APRA released a letter to all APRA regulated institutions notifying them of APRA's intention to defer the implementation of phase-in of margin until after 1 September 2016 The final version of CPS 226 is expected to be published on 4 October 2016 	<ul style="list-style-type: none"> On 8 March 2016, the ESAs submitted the final draft RTS to the EC for endorsement The EC is expected to finalise its review of the ESA's RTS Opinion on 4 October 2016 and will publish the final RTS on the same day, which will trigger the relevant scrutiny periods The European Parliament is expected to complete that scrutiny within one month and the EC in the course of November The RTS could be published in the Official Journal at the end of November Phase 1 participants are expected to begin exchanging IM and VM by mid January



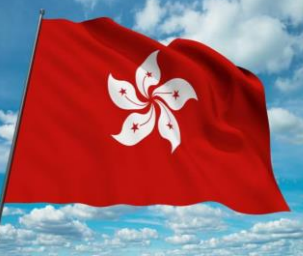



APAC counterparty trading with Regulated Entities



Scope

						
Interest Rate	✓	✓	✓	✓	✓	✓
FX (Physically settled FX swaps/forwards)	✓ ✗	✓ VM	✓ ✗	✓ VM	✓ ✗	✓ VM
Equity (Options/forwards)	✓ ✗	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Commodities	✓	✓	✓	✓	✓	✓
Credit	✓	✓	✓	✓	✓	✓
Cleared derivatives on unrecognised CCP	✓	✗	✓	✓	✓	

Treatment of non-netting jurisdictions

					
<ul style="list-style-type: none"> ■ For VM, post net and collect gross ■ For IM, collect only 	<ul style="list-style-type: none"> ■ No requirement to post IM or VM ■ No requirement to post or collect if “not possible” and below 2.5% threshold 	<ul style="list-style-type: none"> ■ No requirement to post or collect if “netting is not likely to be effective” and “protection of posted collateral are questionable” 	<ul style="list-style-type: none"> ■ Margin rules do not apply 	<ul style="list-style-type: none"> ■ Total exemption when MAS Covered Entities face counterparties whose bankruptcy laws do not support netting 	<ul style="list-style-type: none"> ■ An APRA covered entity is not required to post or collect VM or IM with counterparties from non-netting jurisdictions

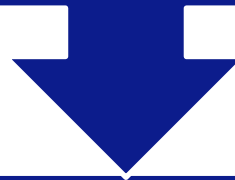


Uncleared Margin in APAC – What's next?

What APAC institutions need to do

(1) Determine size of derivatives book

- (a) Counterparties will ask APAC institutions for representation on size of derivatives book
- (b) Size of derivatives book will determine when initial margin requirements apply



(2) Determine relevant rules applicable to counterparty

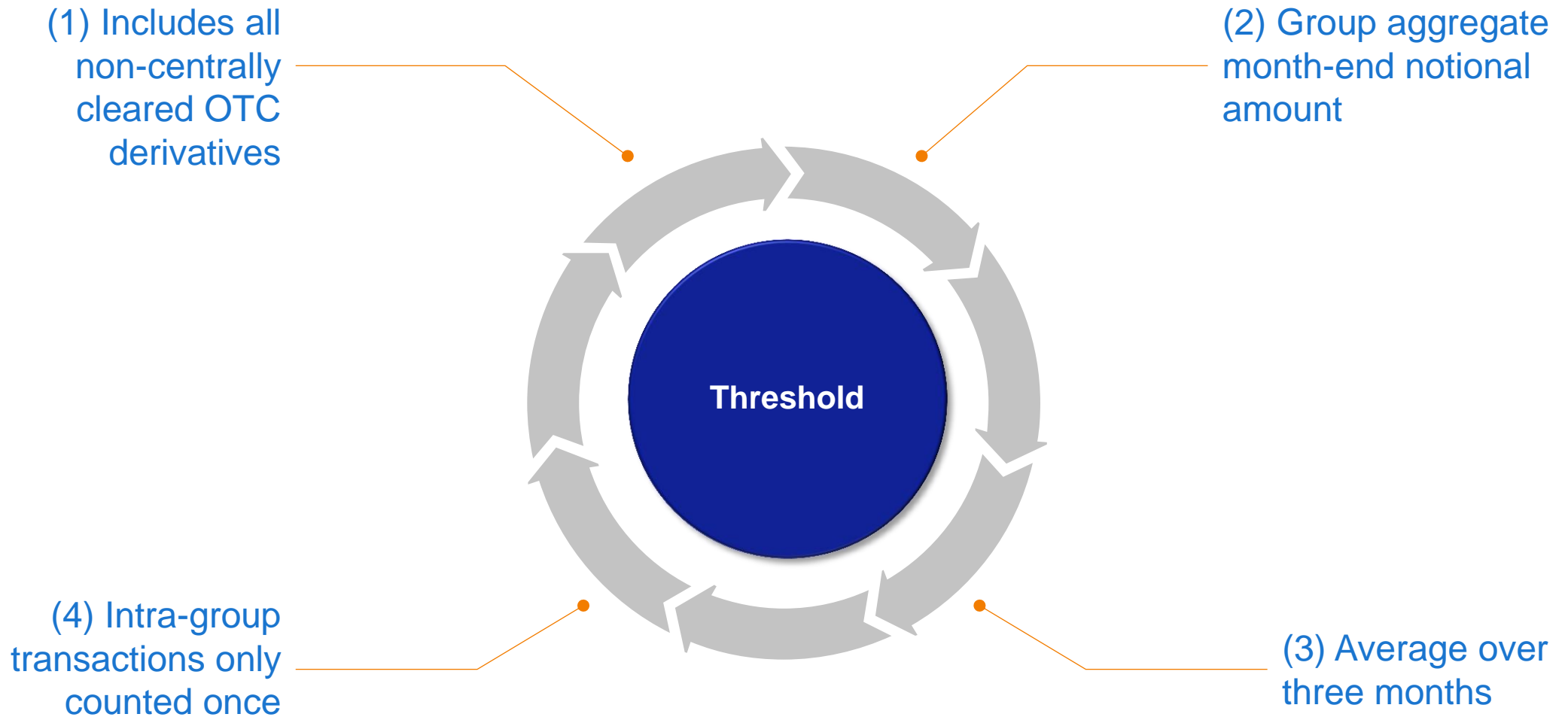
- (a) Determine which set of margin rules will be applicable
- (b) Determine when initial margin will begin to apply to transactions



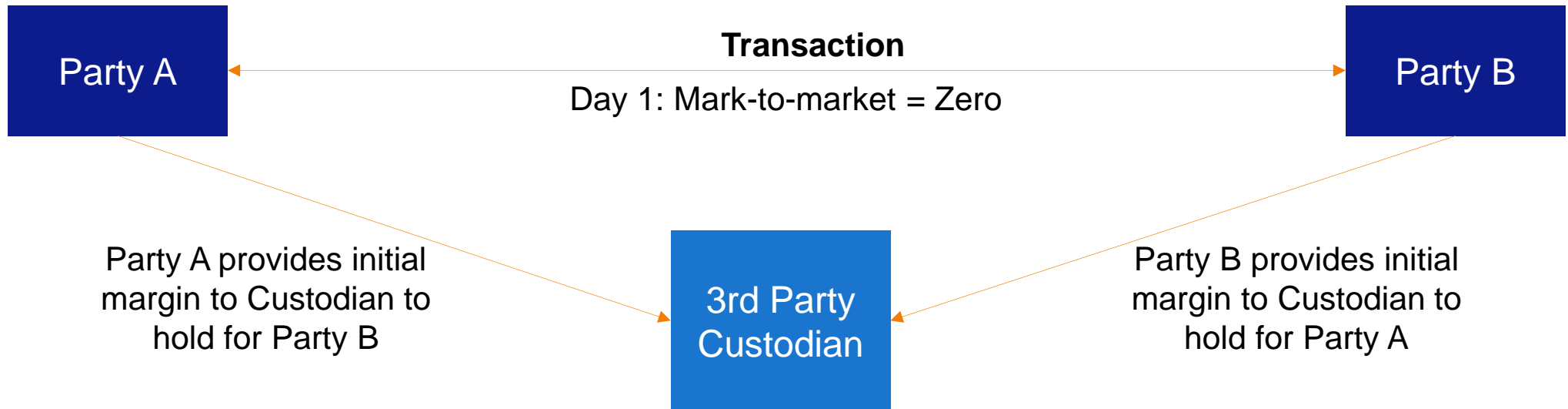
(3) Negotiation of new collateral documents

- (a) If VM applies, will need either a new or amended Credit Support Annex with counterparty
- (b) If IM applies, will need new Credit Support Deed with counterparty and Tri-party Account Control Agreement with custodian and counterparty

Threshold Calculation



Initial Margin



(1) Based on future exposure (calculated based on approved model)

(2) Both counterparties required to provide initial margin to each other

(3) Initial margin provided on security interest basis

(4) Initial margin must be held by 3rd Party Custodian (no rehypothecation)

Implementation Challenges

**Counterparty
categorisation
– needed for
all relevant
jurisdictions**

Timing issues
– “last to release”
issue

**Cross-border
harmonisation
issues** – will there
be material
differences between
jurisdictions and will
there be substituted
compliance /
recognition?

**Move from
title transfer
collateral to
security
interest
collateral** –
jurisdiction specific
issues (perfection,
registration,
enforcement, local
law opinions)

**Local
custody and
segregation
of IM**

Questions?



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