

July 2, 2015

Senior Manager, OTC Derivatives Reform
Financial Market Infrastructure
Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000

JSCC Response to Consultation on Mandatory Central Clearing of OTC Interest Rate Derivative Transactions

Dear Sir/Madam,


JSCC is pleased to respond to the ASIC consultation on the proposals to implement mandatory central clearing in Australia.

In particular, JSCC is supportive of the Australian authorities' approach to the cross-border trading and central clearing, being one which recognises the potential impact where foreign entities may be subject to mandates in their own domestic jurisdiction. Potential regulatory conflicts are thus minimised.

Here also the concept of prescribed foreign CCPs enables regulation appropriate to the scale and nature of their respective activities in Australia. JSCC expresses its views in these responses from the standpoint of a prospective prescribed CCP, as described in the Treasury's draft amendments.

For ease of reference, responses in Annex 1 are made directly to the items scheduled in the List of proposals and questions of Consultation Paper 231, published on ASIC's website. Please contact us should you have any questions. We would be happy to discuss any of our responses.

Yours sincerely,


Mitsuhiro Hasegawa
Managing Director
Japan Securities Clearing Corporation



(株)日本証券クリアリング機構
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Annex 1

ASIC CP Question	JSCC Response
B1Q1 Do you agree with the proposed scope of entities that may be subject to mandatory central clearing?	JSCC is in agreement with the proposals within this section.
B1Q2 Do you agree with the proposed definitions of 'Australian clearing entity', 'foreign clearing entity', 'opt-in Australian clearing entity' and 'opt-in foreign clearing entity'?	JSCC has no specific comment on this question.
B1Q3 What is the likely impact of our proposals? (Please see page 4 for the information required.)	JSCC has no specific comment on this question.
B2Q1 Do you agree with our proposal to adopt the clearing threshold set by the Australian Government of \$100 billion gross notional outstanding in OTC derivatives, for entities other than those acting in a representative capacity?	JSCC has no specific comment on this question.
B2Q2 Do you agree with the proposed application of the clearing threshold in relation to transactions entered into on behalf of a trust or registered scheme?	JSCC has no specific comment on this question.
B2Q3 Do you agree with the proposed derivatives that must be included when calculating the clearing threshold?	JSCC has no specific comment on this question.
B2Q4 Do you agree with our proposals for determining whether an Australian financial entity or foreign financial entity is a clearing entity, and when a clearing entity ceases to be a clearing entity?	JSCC is in agreement with the proposals within this section.
B2Q5 Do you agree with our proposal to apply the clearing requirements on the first Monday three months on or after the second calculation date?	JSCC has no specific comment on this question.
B2Q6 What is the likely impact of our proposals? (Please see page 4 for the	JSCC has no specific comment on this question.
B3Q1 Do you agree with the proposal to apply the clearing requirements in each of the circumstances listed in proposals B3(a)(i)–B3(a)(v)?	JSCC is generally in agreement with the proposals within this section. However, JSCC recognizes there is a possibility for regulatory conflict to arise due to the cross-border application of the Australian clearing mandate as in B3(a)(iv) and (v). However, JSCC understands the framework for prescribed CCPs will provide adequate means to mitigate such conflict.
B3Q2 Do you agree with our proposed definition of 'foreign internationally-active dealer'?	As above, though JSCC recognizes the risk of cross-border conflicts arising from this definition, JSCC understands that prescribed CCPs will mitigate such issues.
B3Q3 Do you agree with our proposed approach to defining 'nexus derivative', and to allow foreign clearing entities to opt-in to centrally clear nexus derivatives?	JSCC has no specific comment on this question.
B3Q4 Do you see any practical challenges for clearing entities trying to determine whether they are trading with an entity that is subject to the clearing requirements in each of the circumstances listed in proposals B3(a)(i)–B3(a)(v)?	JSCC has no specific comment on this question.
B3Q5 What is the likely impact of our proposals? (Please see page 4 for the	JSCC has no specific comment on this question.

ASIC CP Question	JSCC Response
information required.)	
B4Q1 Do you agree with the proposed definitions of 'swap', 'fixed-to-floating swap', 'basis swap', 'forward rate agreement' and 'overnight index swap' in the draft derivative transaction rules (clearing) attached to this paper?	JSCC is in agreement with the proposals within this section.
B4Q2 Do you agree with the proposed asset class specifications in proposal B4(a) and Table 2?	JSCC is in agreement with the proposals within this section.
B4Q3 Do you agree with our proposal that mandatory central clearing should only apply to the entry of an arrangement that is a derivative (other than in the circumstances outlined in proposal B7)?	JSCC has no specific comment on this question.
B4Q4 Do you agree with our proposal to mandate central clearing of AUD-denominated forward rate agreements? If not, why not?	JSCC has no specific comment on this question.
B4Q5 We have proposed mandating central clearing of AUD-denominated overnight index swaps with termination dates of between seven days and two years. Do you consider termination dates of between seven days to three years would be more appropriate for AUD overnight index swaps?	JSCC has no specific comment on this question.
B4Q6 What is the likely impact of our proposals? (Please see page 4 for the information required.)	JSCC has no specific comment on this question.
B5Q1 Do you agree with our proposal to require clearing entities to clear each clearing transaction through a clearing facility?	JSCC is in agreement with the proposals within this section.
B5Q2 Do you agree with the proposed definition of 'cleared through' a clearing facility in the draft derivative transaction rules (clearing) attached to this consultation paper. Do you agree with our proposal to allow direct, indirect or client clearing arrangements to be used?	JSCC is in agreement with the proposals within this section.
B5Q3 Should the clearing requirements be subject to exceptions? For example, are there any circumstances where a derivative transaction cannot be centrally cleared and should, therefore, be exempt from the clearing requirements?	JSCC has no specific comment on this question.
B5Q4 Should the derivative transaction rules (clearing) impose a prohibition on derivative transactions being de-cleared after they have been centrally cleared? If so, are there any circumstances where a mandatorily-centrally cleared derivative transaction should be permitted to be de-cleared?	JSCC has no specific comment on this question.
B5Q5 Do you agree with our proposal to that counterparties must have substantially no further rights and obligations arising under the derivative contract after it has been cleared through the clearing facility? Will there be circumstances in which the counterparties will have subsisting rights or obligations?	JSCC is in agreement with the proposals within this section.
B5Q6 What is the likely impact of our proposals? (Please see page 4 for the information required.)	JSCC has no specific comment on this question.

ASIC CP Question	JSCC Response
B6Q1 Do you agree with our proposed deadline of T+1 for the clearing of clearing transactions?	JSCC is in general agreement with the proposals within this section. Within the realms of possibility and the avoidance of unnecessary operational risk, clearing and settlement deadlines should be in line with those required in other jurisdictions.
B6Q2 Do you agree with our proposal that the deadline for clearing be calculated according to business days and AEST or AEDT, as applicable in Sydney, Australia?	JSCC has no specific comment on this question.
B6Q3 If you believe the deadline should be based on the time the derivative transaction was entered into (e.g. 24 hours after the derivative transaction was entered into), how should the deadline for clearing be determined if the derivative transaction is entered into on a cross-border basis by two counterparties located in different time zones?	JSCC has no specific comment on this question.
B6Q4 Do you agree with our proposal that the clearing requirements will not be breached if a clearing transaction is not cleared and is terminated before T+1?	JSCC has no specific comment on this question.
B6Q5 What is the likely impact of our proposals? (Please see page 4 for the information required.)	JSCC has no specific comment on this question.
B7Q1 Do you agree with our proposal that mandatory central clearing be applied in the circumstances outlined above?	JSCC has no specific comment on this question.
B7Q2 Do you agree with our proposal that a derivative transaction that is extended for 12 months (or more) should become subject to the clearing requirements? If you believe the period should be longer, please give reasons why a derivative transaction would need to be extended for a period of 12 months or more.	JSCC is in general agreement with the proposals within this section. It is JSCC's opinion that the criteria for a transaction's coverage under the clearing mandate should align with those in other jurisdictions.
B7Q3 What is the likely impact of our proposals? (Please see page 4 for information required.)	JSCC has no specific comment on this question.
C1Q1 Do you agree with our proposal to allow clearing entities to be cleared through licensed CS facilities or prescribed CCPs?	JSCC is in agreement with the proposals within this section and supports the concept of prescribed CCPs.
C1Q2 What is the likely impact of our proposals? (Please see page 4 for the information required.)	JSCC has no specific comment on this question.
D1Q1 Do you agree with our proposal to allow any clearing entity to comply with mandatory central clearing by using alternative clearing? If not, do you think the scope of our proposal should be narrower (e.g. restricted to foreign clearing entities)?	JSCC is in agreement with the proposals within this section.
D1Q2 Do you believe that access to alternative clearing would assist clearing entities to meet their clearing requirements?	JSCC is in agreement with the proposals within this section.
D1Q3 What is the likely impact of our proposals? (Please see page 4 for the information required.)	JSCC has no specific comment on this question.

ASIC CP Question information required.)	JSCC Response
D2Q1 Do you agree with the proposed conditions for determining whether alternative clearing can be used to comply with the Australian clearing requirements? If not, should particular criteria be added or removed?	JSCC is in general agreement with the proposals in the section. In relation to the mandated clearing deadline, JSCC hopes ASIC will consider business practices or regulatory guidance in the foreign jurisdiction.
D2Q2 Do you agree with our proposal that derivative transactions using alternative clearing must be cleared through a licensed CS facility or prescribed CCP?	JSCC is in agreement with the proposals within this section. It is JSCC's opinion that allowing alternative clearing through prescribed facilities is important for mitigating regulatory conflict.
D2Q3 Do you expect to be able to use alternative clearing for all or some of your derivative transactions?	Not Applicable
D2Q4 What is the likely impact of our proposals? (Please see page 4 for the information required.)	JSCC has no specific comment on this question.
E1Q1 Do you agree with our proposal to allow an exemption from the clearing requirements for intra-group derivative transactions?	JSCC is in general agreement with the proposals within this section. It is JSCC's opinion that the criteria for a transaction's coverage under the clearing mandate should align with those in other jurisdictions. Where such alignment is missing, there is greater scope for confusion, regulatory conflict or arbitrage.
E1Q2 Do you have any feedback on the notification requirements?	JSCC has no specific comment on this question.
E1Q3 What is the likely impact of our proposals? (Please see page 4 for information required.)	JSCC has no specific comment on this question.
E2Q1 Do you agree with our proposal to allow an exemption from the clearing requirements for transactions that are created as part of a multilateral trade compression cycle? Are there any conditions that should be placed on this proposed exemption?	JSCC is in general agreement with the proposals within this section. It is JSCC's opinion that the criteria for a transaction's coverage under the clearing mandate should align with those in other jurisdictions. Where such alignment is missing, there is greater scope for confusion, regulatory conflict or arbitrage.
E2Q2 Do you agree with our proposal not to allow an exemption from mandatory central clearing for bilateral compression exercises?	JSCC has no specific comment on this question.
E2Q3 What is the likely impact of our proposals? (Please see page 4 for information required.)	JSCC has no specific comment on this question.
F1Q1 Do you agree with our proposal to require entities to notify us when they become, or cease to be, a clearing entity? If not, why not?	JSCC is in agreement with the proposals within this section.
F1Q2 If proposal F1(a) is implemented, should ASIC publish a list of clearing entities on an ongoing basis, based on the notifications provided to us? Are there	JSCC believes the publication of lists of clearing entities would provide greater clarity to market participants.

ASIC CP Question	JSCC Response
any practical benefits in ASIC publishing a list based on notifications from clearing entities (taking into account existing industry mechanisms for providing notifications about an entity's regulatory status)?	
F1Q3 Do you agree with our proposal to require existing or prospective clearing entities to disclose to a counterparty or prospective counterparty information relating to its status as a clearing entity?	JSCC is in agreement with the proposals within this section.
F1Q4 What is the likely impact of our proposals? (Please see page 4 for information required.)	JSCC has no specific comment on this question.
F2Q1 Do you agree with our proposal to require clearing entities to maintain records demonstrating compliance with the clearing requirements for a period of five years?	JSCC is in general agreement with the proposals within this section. It is JSCC's opinion that the criteria for clearing entities under the clearing mandate should align with those in other jurisdictions.
F2Q2 Do you agree with our proposal to require clearing entities to provide us with these records upon our request? If not, why not?	JSCC has no specific comment on this question.
F2Q3 What is the likely impact of our proposals? (Please see page 4 for information required.)	JSCC has no specific comment on this question.
G1Q1 Do you agree with the proposed commencement date of 7 March 2016 for mandatory central clearing (for those entities that are at or above the clearing threshold as at 30 September 2015 and 31 December 2015)?	JSCC has no specific comment on this question.
G1Q2 What is the likely impact of our proposals? (Please see page 4 for information required.)	JSCC has no specific comment on this question.