

March 7, 2014

Comments on *Application of Commission Regulations to Swaps Between Non-U.S. Swap Dealers and Non-U.S. Counterparties Involving Personnel or Agents of the Non-U.S. Swap Dealers Located in the United States* issued by the U.S. Commodity Futures Trading Commission

Japanese Bankers Association

We, the Japanese Bankers Association, would like to express our gratitude for this opportunity to comment on *Application of Commission Regulations to Swaps Between Non-U.S. Swap Dealers and Non-U.S. Counterparties Involving Personnel or Agents of the Non-U.S. Swap Dealers Located in the United States* issued by the U.S. Commodity Futures Trading Commission (the "CFTC"). We respectfully expect that the following comments will contribute to your further discussion on this issue.

Applicability of CFTC Staff Advisory No. 13-69 to Non-U.S. SD

We understand that the CFTC Staff Advisory No. 13-69 ("Advisory") will be applied to, for example, cases where personnel at the NY Branch of Japan Bank A executed a swap transaction with Japan Bank B. However, whether the swap arranged, negotiated, or executed by personnel or agents of the non-U.S. swap dealer (SD) located in the United States has a direct or indirect impact on the financial system in U.S. is unclear, and the application of Transaction-Level Requirements is considered to have a limited impact on the enhancement of the prudentiality of the U.S. financial system. Further, a transaction with a U.S. Person is already subject to various requirements set out by the CFTC. Given these, in our view, the requirements in the Advisory should not be applied to a non-U.S. SD.

As discussed above, our view is that the Advisory should not be applied to a non-U.S. SD. If, however, the Advisory will be applied to a non-U.S. SD, the application of the Advisory should be limited to those transactions booked within the U.S. as a transaction booked outside the U.S. is, in general, appropriately regulated by respective national financial regulators, and such a transaction has only a limited impact, directly or indirectly, on the U.S. financial system.

Particularly, it is uncertain how much the real-time public reporting will reduce the direct or indirect impact on the U.S. financial system. Consequently, if a transaction is not booked within the U.S., related requirements should not be applied in a manner as proposed in the Advisory.

If some of the requirements relating to portfolio reconciliation and margining and segregation for uncleared swaps under the Transaction-Level Requirements that need to be implemented at a

portfolio level are determined to be subject to the Advisory, these requirements need to be complied with at an entire-portfolio level. This will impose a significant burden on customers and financial institutions, and hence these requirements should not be applied.

Furthermore, in the case of daily trading records, for example, if a transaction is executed between non-U.S. SDs, and one non-U.S. SD is subsequently notified by its counterparty that the Advisory is applicable due to involvement in the transaction of personnel located in the U.S., the daily trading records requirements will be applied to all entities at the non-U.S. SD, thereby giving rise to an excessive burden. Therefore, only the party who processed the "arrangement, negotiation and execution" in the U.S. should be subject to the daily trading records requirements.