

July 14, 2016

**Comments on the Proposed Rule: *Clearing Requirement Determination*  
*Under Section 2(h) of the CEA for Interest Rate Swaps*  
issued by the Commodity Futures Trading Commission**

Japanese Bankers Association

We, the Japanese Bankers Association (“JBA”), would like to express our gratitude for this opportunity to comment on the proposed rule, “*Clearing Requirement Determination Under Section 2(h) of the CEA for Interest Rate Swaps*,” issued on June 16, 2016 by the Commodity Futures Trading Commission (“CFTC”). We respectfully expect that the following comments will contribute to your further discussion.

**<General comments>**

Against the backdrop of a situation where questions are raised about rising costs for the clearing business as a result of the leverage requirements, etc. which is prompting an increasing number of clearing brokers to withdraw from the business, it is not meaningful to impose additional regulation by broadening the scope of clearing requirement proposed by the CFTC with respect to interest rate swaps (“IRS”). Therefore, the CFTC is respectfully requested to reconsider introduction of the proposed rule. Notwithstanding, if the CFTC determines to introduce the proposed rule, we request the CFTC to give due regard to the implementation schedule and thresholds, etc. with respect to additional covered currencies and products by taking into consideration the content, situation and other factors relating to the regulatory framework of the home countries of such additional covered currencies or the currency in which additional covered products are denominated.

In the next section, we would like to comment on our concerns in practice for your consideration.

<Specific comments>

**1. Products with only a single eligible DCO (p.39511)**

To require clearing of those products that can be cleared only by one DCO (Derivatives Clearing Organization), such as MXN-denominated IRS and AUD-denominated forward rate agreements (“FRA”) listed in Table 1, may impose undue costs on market participants or give rise to market fragmentation.

Some market participants will be forced to newly become a member of a relevant CCP (Central Counterparty) or enter into new client clearing arrangements only to deal with such currencies, which undermines efficiency. In addition, a follower CCP, such as LCH, which will eventually deal with MXN, is expected to have lower liquidity than existing CCPs. For these reasons, we consider it is premature to implement clearing requirements on such products.

**2. III. Proposed Amended Regulation 50.4(a) (p.39526)**

Please confirm that currencies and products additionally included in the scope of the proposed clearing requirements will be limited to those transacted on or after the effective date of the proposed rule and will not be subject to backloading.

**3. IV. Proposed Implementation Schedule (pp.39526~39527)**

**(1) Implementation taking into account the currency’s home country regulations**

With respect to covered products of the proposed clearing requirements, it is important to ensure harmonization with local regulations of a home country of the currency in which such products are denominated, in terms of market liquidity and stability. Given this, it is requested that the compliance date for the proposed clearing requirements will be 60 days after the effective date of an analogous clearing requirement of the home country of the currency.

Even though a specific schedule of “no later than two years” is proposed to provide an indication of expected deadline of compliance for market participants, uncertainty will remain unless it can be expected that the regulators of the relevant jurisdictions will align their action with that implementation schedule.

**(2) Exemption from the proposed clearing requirements**

As commented in 1. above, implementation of the proposed clearing

requirements is considered to be premature for some products. As mutual recognition of CCPs between national regulators has not prevailed sufficiently, the option of CCPs which a covered entity can use may be limited in some cases. In this view, we request the CFTC to provide exemptions to the proposed clearing requirements for such cases where it is very difficult to comply with the requirements due to the fact that multiple CCP options are not available.

If a CCP which a covered entity can use does not offer clearing of covered currencies and/or products, it is practically impossible to comply with the proposed clearing requirements. Given this, the proposed rule should take into account whether multiple CCP options are available for the clearing of covered products. (As of the end of June 2016, LCH does not offer clearing of MXN-denominated IRS or AUD-denominated FRA while JSCC can only clear IRS denominated in USD, EUR, AUD and JPY. Furthermore, CME has not yet started its business in Japan on a full scale (its clearing services are provided only for direct participation.))