27 July 2026

Pre-hedging by market participants—Consultation feedback

Wholesale Markets, Market Conduct

Australian Securities and Investments Commission

GPO Box 9827

Melbourne VIC 3001

Japanese Bankers Association

JBA Comments on ASIC Consultation Paper: "Proposed regulatory guide on pre-hedging"

Dear Sirs/Madams:

The Japanese Bankers Association(JBA) appreciates the opportunity to provide comments on the Australian Securities and Investments Commission's(ASIC) consultation paper, *"Proposed regulatory guide on pre-hedging"*, published in June 2026.

Some of our member banks conduct business with Australian clients and participate in Australian financial markets through their Australian branches and operations. Accordingly, the proposed guidance may affect the Australian-related activities of these member banks. We respectfully request that ASIC give due consideration to the views set out below.

［General Comments］

We commend ASIC for its efforts to develop the proposed guidance on pre-hedging and appreciate the considerable work undertaken in preparing this consultation.

To maintain a level playing field and ensure consistency with established market practice, the proposed guidance should be aligned with existing international standards, including the FX Global Code and the IOSCO pre-hedging report, while taking full account of current market and pre-hedging practices.

In addition, it should be carefully considered whether measures that were considered during the IOSCO review process but were ultimately not adopted as recommendations in the IOSCO pre-hedging report should be incorporated into the final guidance.

Accordingly, we respectfully request that ASIC:

- Clarify that the proposed guidance is principles-based and that implementation based on a risk-based and proportionate approach is permitted
- Exclude Better Practice 3 from the guidance and revise Better Practices 1 and 2, as they go beyond IOSCO's recommendations;
- Amend the definition of inventory management to align with the IOSCO pre-hedging report and adopt the term "large bespoke transactions" consistently throughout the guidance; and
- Clarify that determinations of whether a transaction is "large" or "bespoke" should be left to the reasonable judgment of market participants.

［**Specific Comments**］

・**Response to Consultation Question B1**

We propose to give guidance that: (a) explains what market participants should do to comply with key obligations; (b) sets out conduct that clients should expect of those market participants; and (c) aligns with the recommendations in the IOSCO pre-hedging report.

To ensure consistency with existing international standards and the IOSCO pre-hedging report, ASIC should clarify that the proposed guidance is principles-based and permits implementation based on a risk-based and proportionate approach, allowing market participants to exercise reasonable judgment in light of the relevant facts and circumstances.

Regulatory requirements that diverge from those adopted in other jurisdictions may require market participants to adopt additional controls beyond those required in other major markets. Such divergence could distort the level playing field and may lead to unintended consequences for clients, including reduced trading opportunities, lower market liquidity, worse pricing, and execution delays.

Accordingly, we respectfully request that ASIC:

- Clarify that the measures, considerations and examples described in the guidance—including agreeing on a pre-hedging strategy, nominating a different time for the pricing call, physical and electronic information controls, trade-by-trade and post-trade disclosures, dark rooms, and maintaining accurate records—are principles-based and may be applied using a risk-based and proportionate approach; and
- Amend RG 000.22 to align with the IOSCO pre-hedging report by replacing "Inventory management occurs when you are not acting in response to a specific inquiry <u>and information</u>

about an anticipated client transaction." with "Inventory management occurs when you are not acting in response to a specific inquiry from a client."

・Response to Consultation Question B2

We have identified three observed better practices that extend beyond IOSCO's recommendations: see page 10. We are seeking feedback on whether to include these practices in our guidance.

To ensure consistency with existing international standards and the IOSCO pre-hedging report, we believe that Better Practices 1–3 should be reconsidered.

Each of these Better Practices goes beyond IOSCO's recommendations and may create material divergence from regulatory approaches adopted in other jurisdictions. Such divergence has the potential to undermine a level playing field and may ultimately result in adverse consequences for clients, including reduced trading opportunities, lower market liquidity, worse pricing and execution delays.

In particular, Better Practice 3 would be especially difficult to implement in practice because identifying all instances of pre-hedging and distinguishing them from other trading activities, including inventory management, would be operationally difficult.

Accordingly, we respectfully request that ASIC:

- Clarify that any Better Practices included in the guidance are principles-based and may be applied using a risk-based and proportionate approach;
- Exclude Better Practice 3 from the guidance;
- Amend Better Practices 1 and 2 so that they apply only to large bespoke transactions;
- Clarify that determinations of whether a transaction is "large" or "bespoke" should be left to the reasonable judgment of market participants, considering transaction size, market liquidity, product characteristics and the specific terms of the transaction; and
- Replace references to "large complex transactions" with "large bespoke transactions." The term "complex" does not have a commonly accepted market definition and may result in inconsistent interpretation among market participants. Using the term "large bespoke transactions" would be more consistent with the IOSCO pre-hedging report and established market practice.

(End)