

July 31, 2015

Comments on Consultation Paper:
Draft Regulations for Mandatory Clearing of Derivatives Contracts
issued by the Monetary Authority of Singapore

Japanese Bankers Association

We, the Japanese Bankers Association (“JBA”), would like to express our gratitude for this opportunity to comment on the consultation paper: *Draft Regulations for Mandatory Clearing of Derivatives Contracts* issued on July 1, 2015 by the Monetary Authority of Singapore (“MAS”).

We respectfully expect that the following comments will contribute to your further discussion.

○ **Question 1. (paragraphs 3.1, 3.4)**

MAS seeks views on the proposal to subject, at a minimum, SGD fixed-to-floating SOR IRS and USD fixed-to-floating LIBOR IRS to clearing obligations.
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(Our comment)

Given global movements to mandate central clearing, we generally accept the implementation of the mandatory clearing regime for the U.S. dollar (“USD”) and the Singapore-dollar (“SGD”) interest rate swaps (“IRS”).

However, as to “recognised clearing houses” (“RCHs”) and “approved clearing houses” (“ACHs”), it should include wide range of CCPs, such as LCH. Clearnet (“LCH”), which major foreign financial institutions mainly use for clearing USD and SGD IRS currently.

(Rationale)

With regard to centrally cleared interbank transactions for USD and SGD IRS contracts, current common practice is to clear them on the LCH. If the LCH is not permitted, it would be difficult to execute such transactions, which might result in a decline in the liquidity of the Singapore market.

Additionally, in Japan, the CCPs permitted for foreign currency-denominated IRS

under applicable Japan’s laws and regulations are currently limited to a “designated eligible foreign CCP”. If LCH Limited (a UK entity) designated as such eligible foreign CCP is not permitted, Japanese financial institutions cannot execute USD and SGD IRS in the Singapore market.

As many CCPs have been established worldwide in line with each relevant regulation, accessing multiple CCPs will bring enormous cost and administrative burden as well as inefficient margin management. The use of the CCPs authorized by the U.S. Commodity Futures Trading Commission (“CFTC”), the European Securities and Markets Authority (“ESMA”), the Financial Services Agency of Japan (“JFSA”) and other key authorities should therefore be permitted.

○**Question 2. (paragraph 3.5)**

MAS seeks views on whether it would be appropriate to mandate clearing of EUR, GBP and JPY IRS.

(Our comment)

Given global movements to mandate central clearing, we generally accept the implementation of the mandatory clearing regime for Euro (“EUR”), Pound Sterling (“GBP”) and Japanese Yen (“JPY”) IRS contracts.

In mandating clearing, both public and private sectors need to undertake efforts for systems development and the establishment of operational process. Particularly, if currencies other than mother currency are subject to the mandatory clearing upon commencement of the mandatory clearing regime, operational flow and margin management may need to be developed additionally.

As proposed in this Consultation Paper, the following step-by-step approach is considered to be appropriate: first, subjecting USD and SGD IRS (based on London Interbank Offered Rate (“LIBOR”)) to the mandatory clearing, and after taking into account the degree of application of those, then considering expansion of the scope to IRS denominated in EUR, GBP and JPY.

In expanding the scope of the mandatory clearing, the RCHs should include CCPs which major foreign financial institutions mainly use (such as the LCH and the Japan Securities Clearing Corporation (“JSCC”)). In such case, it is necessary to ensure consistency of regulations between the relevant regulators and establish a smooth process for approval of the ACHs and the RCHs accordingly.

Further, in determining whether to subject JPY IRS booked in Singapore branches of Japanese banks to the mandatory clearing, it is requested to separately determine the

timing and scope of the application, taking into account their condition

(Rationale)

As LCH dominates EUR and GBP IRS inter-bank market currently, if the LCH is not permitted, it would be difficult to execute such transactions, which might result in a sharp decline of market liquidity of the Singapore market.

Additionally, under the applicable Japan's laws and regulations, the CCPs permitted for non-Japanese Yen IRS are currently limited to a "designated eligible foreign CCP". If the LCH, designated as such "eligible foreign CCP", is not permitted, Japanese financial institutions cannot execute EUR and GBP IRS in the Singapore market.

Further, in accordance with the Japan's laws and regulations, Japanese financial institutions are required to clear JPY IRS on the JSCC. If the JSCC is not permitted, JPY IRS cannot be executed in the Singapore market.

As such, it is necessary to designate the JSCC as the RCHs. Even when the JSCC is designated as the RCHs, JPY IRS may not be cleared, since financial institutions in Singapore, which are a counterparty to the transaction, are not currently a clearing member of the JSCC. Consequently, market liquidity for JPY IRS booked in Singapore branches of Japanese banks may not be ensured. Given this specific circumstance, in adding JPY IRS in the scope, it is requested to consider taking certain measures, such as postponement of the application of mandatory clearing to Singapore branches of Japanese banks, depending on certain situations.

If the above measures are not implemented, not only Japanese banks but also Singapore financial institutions and other foreign financial institutions in Singapore may not be able to ensure sufficient market liquidity.

○**Question 3. (paragraph 3.6)**

MAS seeks views on whether subjecting more types of SGD, USD, EUR, GBP and JPY IRS products, such as basis swaps, forward rate agreements or overnight index swap, to clearing obligations, would result in margining efficiencies for market participants.

(Our comment)

For interest rate derivatives that can be centrally cleared through major CCPs (LCH and JSCC), we generally accept subjecting such derivatives to the mandatory clearing, provided that an appropriate grace period is set.

However, products such as forward rate agreements ("FRAs") and overnight index swaps ("OIS") cannot be cleared through some CCPs. It would therefore be more

appropriate to commence imposing the mandatory clearing on major currencies and plain IRS.

With regard to certain interest rates derivatives, e.g. cross currency basis swaps and other products with optionality, which currently have a difficulty in executing through centrally clearing for a technical reason, a hasty conclusion to subject such derivatives to mandatory clearing should be avoided.

(Rationale)

As some CCPs cannot clear certain products and currencies, unnecessary market confusion could be avoided by commencing the mandatory clearing from plain products.

If interest rate derivatives, which are currently difficult to execute through CCPs for a technical reason, would be subject to mandatory clearing, such derivatives may not be executed in the Singapore market.

○ **Question 5. (paragraph 5.2)**

MAS seeks views on the proposed exemptions from clearing obligations approach: (a) all banks from mandatory clearing as long as they do not exceed a maximum threshold of S\$20 billion gross notional outstanding derivatives contracts booked in Singapore for each of the last four calendar quarters; and (b) all other specified persons that are not banks.

(Our comment)

It would be appropriate to first impose the mandatory clearing on banking entities since other financial institutions would require considerable lead time.

Further, it is considered reasonable to set a threshold to determine whether to be covered by the mandatory clearing regime. To ascertain which counterparty is covered by the mandatory clearing regime, MAS is requested to disclose the specified persons subject to the mandatory clearing.

In addition to client clearing scheme, there are other indirect clearing schemes including ScD scheme, which is an approach of using an affiliate. To reflect this, the description included in this Consultation Paper (“specified persons entering into client clearing arrangements or taking up direct clearing membership on CCPs”) should be changed to the wording “specified persons entering into client clearing and other indirect clearing schemes, or taking up direct clearing membership on CCPs” (paragraph 5.2).

○ **Question 7.**

MAS seeks views on the proposed approach for the commencement of clearing obligations.

(Our comment)

It is requested to determine whether to impose clearing obligations on cross-border transactions, considering coordination with regulators of key jurisdictions. It is also requested to permit substitute compliance where a foreign bank to comply with the regulations taken effect in its jurisdiction.

(Rationale)

Addressing regulations on cross-border transactions is one of the important matters for each jurisdiction. Compliance with the regulations in other jurisdictions (double regulations) will impose a significant burden on users such as for system development. It is therefore requested to proceed with discussions through international coordination.

○ **Question 8.**

MAS seeks views on proposed considerations in expanding the scope of our mandatory clearing regime.

(Our comment)

When particular products are not executed through trading platforms commonly used in markets, it is desirable to thoroughly consider the necessity of implementing the regime, and ensure appropriate grace period, before including such transaction in the scope of the mandatory clearing regime, even if the transaction is a non-interest rate derivative (e.g., non-deliverable forward (“NDF”), which has already been centrally cleared on certain CCP, such as CME).

(Rationale)

Unlike IRS, NDF and some other derivatives do not have any trading platforms commonly used in markets, which provides automated trade processing with major CCPs. (For interest rate derivatives, such as IRS, Markitwire is used as a common platform.)

Technically, such transactions can be centrally-cleared through CCPs (such as CME), while the clearing forces transaction details to be managed manually. If the mandatory clearing is imposed for such products without sufficient lead time, it will place a

significant burden on market participants.

○ **Question 9. (Annex B 6.-(1))**

MAS seeks views on the draft SF(CDC)R attached in the Annex B.

(Our comment)

The Annex B sets out that the time of clearing on CCP is (a) within the same day the specified derivatives contract is executed or (b) where the specified derivatives contract is executed on a day other than a business day, within the next business day.

In clearing on CCP outside of the jurisdiction of MAS, there may be a case where transaction debts will be assumed in the next business day of a Singapore's business day, depending on the timing of a contract executed in Singapore. We would like to confirm whether such practice is also acceptable. (For example, in clearing on JSCC, there may be a case where transaction debts will be assumed in the following day, depending on the timing in which a contract is executed.)