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Comments on Implementation of Australia's G-20 over-the-counter derivatives commitments (AUD-IRD central clearing mandate) issued by the Treasury of the Australian Government

Japanese Bankers Association

We, the Japanese Bankers Association (JBA), would like to express our gratitude for this opportunity to comment on the Proposals Paper "Implementation of Australia's G-20 over-the-counter derivatives commitments (AUD-IRD central clearing mandate)" released on July 8, 2014 by the Treasury of the Australian Government (the "Treasury").

We are basically in support of the proposed AUD-IRD central clearing mandate, but respectfully expect that the following comments will be sufficiently considered in your further discussion on this issue so as to avoid imposing a double mandate that does not consider a central clearing obligation in other jurisdictions.

1. AUD-IRD central clearing (Q1)

With regard to AUD-IRD central clearing, we basically support the application of the central clearing obligation to such transactions since additional compliance costs are considered to be small.

However, the above assessment is based on the assumption that central clearing is conducted at LCH. Clearnet Ltd, at which even financial instruments business operators in Japan can use at a relatively low cost.

2. Central clearing at clearing organizations other than LCH. Clearnet Ltd (Q3)

As described in comment 4 below, Japanese financial institutions are not allowed to centrally clear JPY IRS transactions via LCH. Clearnet Ltd. Thus, it will cause significant compliance costs (primarily staff- and IT-related costs) and time for financial institutions, by necessitating the transfer of transactions to other entities at the cost of the financial institutions in order to eliminate inconsistencies across jurisdictions' central clearing regulations.

In order to avoid such a situation, the Treasury is requested to give consideration not to impose a double burden by, for example, deeming compliance with the central clearing obligation under the U.S. Dodd-Frank Act and similar regulations sufficient to satisfy the central clearing mandate under the Australian regulations.

3. Determination of threshold (Q4 and Q5)

We support application of the central clearing obligation to transactions between dealers.

The Treasury is, however, requested to avoid reliance on other jurisdictions' regimes in defining an internationally active dealer. Even if other jurisdictions' regimes identify certain dealers as internationally active dealers, the threshold should be determined based on outstanding OTC derivatives recorded within Australia since such dealers may not necessarily have in place a sufficient system and framework in Australia.

4. Equivalence assessments and mutual recognition of central counterparties among regulators in each jurisdiction (Q6)

In the Tokyo market where JPY IRS transactions are most actively traded, the Japanese regulations do not permit Japanese financial institutions to clear JPY IRS transactions at any clearing organization other than the Japan Securities Clearing Corporation ("JSCC"). The Treasury is therefore requested to apply the central clearing obligation on JPY IRS transactions after eliminating such barrier by holding discussions about equivalence assessments by regulators in related jurisdictions and mutual recognition of central counterparties (e.g. allowing the use of the JSCC).