

To:

The European Securities and Markets Authority

Paris

(by submission at: <http://www.esma.europa.eu/consultation/59059/response> )

3 August 2012

Dear Sirs

Draft Technical Standards for the Regulation on OTC Derivatives, CCPs and Trade Repositories. ESMA/2012/379.

Japan Securities Clearing Corporation (JSCC) is pleased to respond to the request for comment on the above Consultation Paper (the CP).

JSCC was established in July 2002 by the Tokyo Stock Exchange, Osaka Securities Exchange, Nagoya Stock Exchange, Sapporo Securities Exchange, Fukuoka Stock Exchange and the Japan Securities Dealers Association as the first cross-market clearing organization in the Japanese securities market. Its present net asset is JPY21.85 billion. In addition to its clearing activities covering exchange-traded securities and listed derivatives as well as transactions made at MTFs, it provides clearing services for Credit Default Swaps. Development work is currently underway to extend these OTC services to include Interest Rate Swap clearing.

JSCC recognizes in the CP the efforts of ESMA to ensure common standards to be applied to OTC clearing, both within the EU and across trading locations in the rest of the world, and supports the policy goals underpinned by EMIR.

In particular, JSCC is keen to endorse ESMA's approach to the authorization and regulation of "third country" CCPs (i.e. those CCPs incorporated outside EU Member State jurisdictions) as envisaged in Article 25 of EMIR and represented in Annex III, Chapter III, of the CP. However, JSCC would like to add a qualification to this endorsement, as described in the following paragraphs.

The principle of "equivalence" in the comparison of criteria for the regulation of similar entities across differing environments is well understood. This concept is in place and has operated successfully for some years between regulators in other financial contexts, and covering a variety of regulated instruments and services.

One of the main reasons why such a concept has been required in the past is the wide range (and significantly differing history) of primary and secondary financial legislation, as well as legal and regulatory structures and market conventions, within each of the many relevant jurisdictions.

The CP mentions ten specific categories of information that would require to be submitted to and analysed by ESMA in support of an application for its recognition of a third country CCP. The content of such information is in fact generally very similar to that by which JSCC's own home state supervisor, the Japanese Financial Services Agency, regulates JSCC.

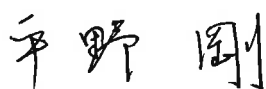
Given that such CCPs carry out their business according to the laws and regulations of jurisdictions outside of the EU, JSCC believes that greater benefit would be achieved by the avoidance of the potential downsides involved in the direct benchmarking of detailed policies, processes, procedures and structures against those (eventually) specified by ESMA.

For the reasons stated above, JSCC strongly proposes that ESMA's third country CCP approval and regulation regime is applied in a manner that is not overly prescriptive, and avoids any approach that infers an expectation of reciprocity from third country authorities.

The regime should in JSCC's view recognize the potential differences in the way in which the third country regulator may discharge its own responsibilities within its own jurisdiction, whilst still meeting the conceptual standards as agreed between ESMA and the third country competent authority.

JSCC appreciates the opportunity to provide this opinion in response to the CP, and welcomes any questions in pursuit of further clarification on this topic, which should in the first instance be directed to the undersigned.

Yours faithfully

A handwritten signature in black ink, consisting of three characters: '平' (Hirano), '野' (Takeshi), and '剛' (Takeshi).

Takeshi Hirano

Director, Strategic Planning

Japan Securities Clearing Corporation