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| Response Form to the Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition |
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**Responding to this paper**

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **2 September 2021.**

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Use this form and send your responses in Word format (**pdf documents will not be considered except for annexes**);
3. Please do not remove tags of the type <ESMA\_QUESTION \_RFRS\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
4. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
5. When you have drafted your response, name your response form according to the following convention: ESMA\_RFRS\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_RFRS\_ABCD\_RESPONSEFORM.
6. Upload the form containing your responses, **in Word format**, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open Consultations” -> Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition”).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](http://www.esma.europa.eu/legal-notice).

**Who should read this paper**

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from counterparties of OTC derivatives transactions which are subject to the clearing obligation or to the derivative trading obligation as well as from CCPs and Trading Venues.

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**General information about respondent**

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| Name of the company / organisation | Japan Securities Clearing Corporation |
| Activity | Central Counterparty |
| Are you representing an association? |  |
| Country/Region | Asia-Pacific |

**Questions**

**General comments**

1. **: Are there any general comments you would need to raise?**

<ESMA\_QUESTION\_RFRS\_1>

JSCC agrees with ESMA’s proposal to remove JPY LIBOR from its clearing mandate, as this rate will be discontinued from 31st December 2021.

Indeed, in JSCC’s current plan, JSCC will stop accepting JPY LIBOR IRS trades for clearing in early December 2021. Public information of JSCC’s related plans, which will be updated timely, can be found in the website link “ <https://www.jpx.co.jp/jscc/en/information/news/20210326_02.html>” and “<https://www.jpx.co.jp/jscc/en/information/news/i1h00a000000bdgr-att/conversion_of_libor_irs_20210326_en.pdf>”

However, JSCC does not agree with ESMA’s proposal of not replacing JPY LIBOR in the clearing obligation with a JPY-denominated RFR.

<ESMA\_QUESTION\_RFRS\_1>

**State of progress with the transition**

1. **: Are there any other aspects of the transition that need to be taken into account? Please share any data that would help qualify further the progress with the transition or any other aspects that you think should be considered.**

<ESMA\_QUESTION\_RFRS\_2>

JSCC acknowledges that at the time ESMA was preparing this consultation, the future direction of JPY interest rate markets was not sufficiently clear, because the shift of JPY IRS liquidity to the RFR, TONA (Tokyo Overnight Average Rate) OIS, was not clearly evident. This uncertainty was stated in section 3.2.2.4 JPY, paragraph 39 of the consultation paper as “(t)he transition to RFR for JPY is the least advanced compared to the other major currencies discussed in the CP. JPY LIBOR is due to cease at the end of the year, but it remains uncertain which index will be used instead…” However, recently, market liquidity has been migrating away from JPY LIBOR, to the TONA RFR. The reasons for this migration are detailed below.

1. **Conversion of JPY IRS by CCPs from Libor to TONA**

As highlighted by ESMA in the Consultation Paper, all of the major CCPs clearing JPY LIBOR IRS plan to fully transition JPY LIBOR IRS cleared at each of their CCPs to JPY TONA OIS on the weekend of 4th December 2021(\*1). On that weekend, existing cleared JPY LIBOR IRS will undergo a conversion to JPY TONA IRS. JSCC is currently progressing through its governance process with clearing members for the approval of its draft plan, as of the date of this letter. It is expected that this migration will concentrate market trading and liquidity on TONA OIS as the replacement for JPY LIBOR.

\*1. As an exception, JSCC will continue to accept JPY-LIBOR swaps for clearing resulting from swaption exercises until December 30th, 2021. These JPY-LIBOR swaps will be converted at the close of December 30th, 2021

1. **General Support for Conversion to TONA on IRS with “TONA FIRST”**

Secondly, the report published by Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks, an industry forum organized by the Bank of Japan with a view to providing market views on the transition of interest rate benchmark for JPY, stated that a large majority of respondents supported TONA as a desirable alternative benchmark to JPY LIBOR, with a view to maintaining consistency with global discussions(\*2).

On July 26th 2021, the Sub-Group for the Development of Term Reference Rates has reached a consensus on "TONA First” (\*3), an initiative to recommend liquidity providers to change the quoting conventions from JPY LIBOR to TONA in the JPY interest rate swaps market, after the close of the market on July 30th, 2021.

\*2. Report from the Sub-Group for the Development of Term Reference Rates on March 26, 2021 is available in the following link(See “2. Alternative benchmark in the JPY interest rate swaps market”):

<https://www.boj.or.jp/en/paym/market/jpy_cmte/cmt210326b.pdf>

\*3. “TONA First” is available in the following link:

<https://www.boj.or.jp/en/paym/market/jpy_cmte/data/cmt210726b.pdf>

1. **Accelerating Shift of Cleared Volume from Libor IRS to OIS**

Thirdly, now that the major JPY IRS CCPs have finalised, or almost finalized, drafting of their conversion plans, the market is beginning to organically migrate away from JPY LIBOR to establish TONA OIS as a replacement, which is already the case in the clearing data of JSCC from August. It is becoming clear that the market is favouring TONA OIS as the replacement for JPY LIBOR (\*4). Based on our discussions with market participants, we expect this trend to continue as the 4th December weekend approaches for the wholesale transition of cleared trades from JPY LIBOR to TONA OIS. Please see the attachment for the data supporting the shift of JPY Libor IRS to TONA OIS(\*5).

\*4. According to ISDA-Clarus RFR Adoption Indicator (July 2021), the percentage of IRD DV01 traded as an RFR in JPY was 23.4%, which was higher than for both USD (7.4%) and EUR (2.1%). The percentage of RFR-linked IRD DV01 traded with a tenor longer than 2 years in JPY was 93.9%, which was also the highest among the currencies covered in the report - USD (40.5%), EUR (65.1%), GBP (57.8%), AUD (1.2%), and CHF (74.3%).

ISDA-Clarus RFR Adoption Indicator (July 2021) is available in the website link:

<https://www.isda.org/a/DCMgE/ISDA-Clarus-RFR-Adoption-Indicator-July-2021.pdf>

\*5. JSCC makes data publicly available showing the number and notional of cleared IRS trades, split out for each JPY interest rate, on a daily and monthly basis.

Full details of this cleared IRS data is available in the website link:

<https://www.jpx.co.jp/jscc/en/interest_rate_swap.html>

1. **More than one CCP is available for clearing TONA OIS**

Clearing of TONA OIS is available in Eurex, LCH, and CME, in addition to JSCC. Thus, there would be little, if any, concern on the availability of clearing service for those entities subject to a clearing mandate for JPY TONA OIS.

In relation to TABLE 1(LIST OF EU AND TC-CCPS OFFERING CLEARING OF DERIVATIVES REFERENCING NEW RISK-FREE RATES IN THE G4 CURRENCIES) of the consultation paper, we would certify that the range of tenor available for clearing in JSCC is currently from 3 to 14,623 days (around 40Y). The relevant information is available in the website link - <https://www.jpx.co.jp/jscc/en/cash/irs/product.html>

<ESMA\_QUESTION\_RFRS\_2>

**General approach**

1. **: Are there any other aspects that you think that ESMA should take into account or that might justify a different approach?**

<ESMA\_QUESTION\_RFRS\_3>

JSCC has no specific comments in relation to this question.

<ESMA\_QUESTION\_RFRS\_3>

**Clearing obligation**

1. **: Do you agree with the assessment of the EMIR criteria and with the proposed classes (except for USD which is dealt with in a dedicated Question 5)? If not please detail how the assessment could differ and please also provide data and information to justify a different assessment.**

<ESMA\_QUESTION\_RFRS\_4>

JSCC does not agree with the assessment of the EMIR criteria and with the proposed classes, as the data for assessment on JPY OIS, including those listed in “3.2.2.4 JPY” of the Consultation Paper, does not reflect the current situation. As detailed in responses to the previous questions, JSCC recommends that a JPY RFR should be included in the modified IRS clearing obligation, as a replacement for JPY LIBOR.

For this purpose, JSCC would like to suggest the parameters of the clearing obligation, detailed in “Table 6” of the Consultation Paper, should be tailored for JPY IRS as below. The majority of JPY IRS trade within these parameters and would be eligible for clearing in global CCPs.

* Type: OIS
* Reference Index: TONA
* Settlement Currency: JPY
* Maturity: 3D to 40Y
* Settlement Currency Type: Single Currency
* Optionality: No
* Notional Type: Constant or Variable

<ESMA\_QUESTION\_RFRS\_4>

1. **: Will the transition regarding USD have made sufficient progress by this Autumn to decide on whether to maintain or remove USD LIBOR classes. Will there be sufficient liquidity to introduce SOFR OIS to the CO and for which maturity range? Please provide the relevant data and information to explain your assessment, in accordance with the EMIR framework.**

<ESMA\_QUESTION\_RFRS\_5>

JSCC has no comments in relation to this question.

<ESMA\_QUESTION\_RFRS\_5>

1. **: Do you agree with the proposed implementation of the changes? If not please provide details that could justify a different implementation.**

<ESMA\_QUESTION\_RFRS\_6>

JSCC agrees with ESMA’s proposed approach to modify the annex of the current Commission Delegated Regulation, instead of a new RTS that could lead to a brand-new Commission Delegated Regulation.

However, in terms of timing, JSCC would recommend that the modifications should come into force on dates that coincide with the contractual conversion of contracts referencing soon-to-be discontinued LIBOR benchmarks by a number of CCPs. Therefore, the timing of entry into force should be Monday 6 December 2021 for the removal of the contract type referencing JPY Libor from the Basis Swaps and Fixed-to-float interest rate swaps classes. As noted in the Consultation Paper, it is expected that JPY LIBOR swap liquidity “would sharply decrease” after the CCP transition has been completed.

Furthermore, as explained in our responses to previous questions, JSCC would recommend the removal of JPY LIBOR should be implemented in conjunction with the inclusion of JPY TONA OIS in the scope of the clearing mandate.

LCH, CME, and Eurex have publicly stated that the conversion of existing cleared JPY LIBOR trades to JPY TONA OIS will happen after the close of Friday 3rd December. Under JSCC’s draft plan, which is currently progressing through its governance process for sign off and regulatory approval, all existing cleared JPY LIBOR trades will be converted to JPY TONA OIS on the same timing.

It would be desirable for regulators to harmonize the timing globally, rather than each regulator setting its own compliance deadline. This would significantly reduce further complexity for the industry, which is already working hard to ensure a smooth transition.

<ESMA\_QUESTION\_RFRS\_6>

**Derivatives trading obligation**

1. **: Do you agree with the proposal to not include OIS referencing €STR, SONIA nor SOFR to the DTO at this point in time? In case you disagree with ESMA’s proposal, please justify and support your assessment with qualitative and quantitative data.**

<ESMA\_QUESTION\_RFRS\_7>

JSCC has no specific comments.

<ESMA\_QUESTION\_RFRS\_7>

1. **: Do you consider that IRS referencing USD LIBOR should continue to be subject to the DTO?**

<ESMA\_QUESTION\_RFRS\_8>

JSCC has no specific comments.

<ESMA\_QUESTION\_RFRS\_8>

**Cost Benefit Analysis**

1. **: Are there other elements that should be taken into account and that would impact the outcome of the cost-benefit analysis? Please provide quantitative and qualitative details.**

<ESMA\_QUESTION\_RFRS\_9>

JSCC has no specific comments.

<ESMA\_QUESTION\_RFRS\_9>