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| Response Form to the Consultation Paper on the clearing and derivative trading obligations in view of the 2022 status 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 **30 September 2022.**

**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 \_RFRR\_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\_RFRR\_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**

**Introduction**

1. Are there any general comments you would like to raise?

<ESMA\_QUESTION\_RFRR\_1>

JSCC agrees with ESMA’s proposal to include JPY TONA OIS in its modified clearing obligation, as well as agreeing with the parameters that are proposed for the scope of the modified clearing obligation in respect to JPY TONA OIS contracts, which we believe generally follows, not only the direction taken in the home jurisdiction of the JPY currency, but also the transition efforts in the JPY IRS market as a whole.

<ESMA\_QUESTION\_RFRR\_1>

**General analysis**

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\_RFRR\_2>

In early December 2021, JSCC converted all cleared trades referencing JPY LIBOR IRS to TONA OIS. At the same time, other CCPs clearing JPY LIBOR Swaps - CME, Eurex Clearing and LCH SwapClear - conducted similar conversions to TONA OIS.

Market liquidity has now completely shifted from JPY LIBOR IRS to TONA OIS. As of the end of July 2022, TONA OIS accounted for 97.1% of the DV01 traded (>2yr tenor) in the JPY interest rate derivatives market, as per the ISDA-Clarus RFR Adoption Indicator (July 2022), available at the following link: <https://www.isda.org/a/cGagE/ISDA-Clarus-RFR-Adoption-Indicator-July-2022.pdf>

<ESMA\_QUESTION\_RFRR\_2>

**Clearing obligation**

1. Do you agree with the assessment of the EMIR criteria and with the proposed classes? Do you also agree that the maturities for SOFR OIS could be extended, including up to 50 years? If not, please detail how the assessment could differ and please also provide data and information to justify a different assessment.

<ESMA\_QUESTION\_RFRR\_3>

In view of ESMA’s renewed assessment of the OIS classes denominated in JPY, in terms of the scope of the clearing obligation, JSCC agrees with the introduction of the TONA OIS classes up to 30 years.

<ESMA\_QUESTION\_RFRR\_3>

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

<ESMA\_QUESTION\_RFRR\_4>

JSCC agrees with ESMA’s proposed approach to modify the annex of the first Commission Delegated Regulation (EU) 2015/2205 on the clearing obligation where the classes are listed.

JSCC also agrees with ESMA’s view that there is no need to introduce an additional phase-in, in order to ensure an orderly and timely implementation of the proposed changes to the scope of the clearing obligation. With respect to JPY denominated interest rate swap, JSCC and other CCPs have already completed the transition, and therefore, it would be appropriate that the clearing requirement for JPY LIBOR swaps should also be replaced with TONA OIS as soon as practicable.

<ESMA\_QUESTION\_RFRR\_4>

**Trading Obligation**

1. Do you agree with this assessment and therefore, not to introduce DTO for contracts referencing TONA, SONIA and for the time being SOFR? If not, please explain.

<ESMA\_QUESTION\_RFRR\_5>

JSCC does not have any specific comment related to this question.

<ESMA\_QUESTION\_RFRR\_5>

1. Do you agree with this assessment? Do you consider that also contracts with constant notional and 3 months tenor and trade start date Spot (t+0) should be subject to the DTO? If so, please specify also the other relevant standardised parameters used with those contracts. Do you consider that also contracts with constant notional and 3 years tenor and trade start date second next IMM date shall be subject to the DTO? If so, please specify also the other relevant standardised parameters used with those contracts. Should other tenors be considered for the DTO?

<ESMA\_QUESTION\_RFRR\_6>

JSCC does not have any specific comment related to this question.

<ESMA\_QUESTION\_RFRR\_6>

1. Do you agree with this assessment? Do you consider that also the daily floating leg reset frequency is a standardised contract feature that could be considered for the DTO?

<ESMA\_QUESTION\_RFRR\_7>

JSCC does not have any specific comment related to this question.

<ESMA\_QUESTION\_RFRR\_7>

1. Do you agree with this proposal? If not, what amendments do you think are necessary?

<ESMA\_QUESTION\_RFRR\_8>

JSCC does not have any specific comment related to this question.

<ESMA\_QUESTION\_RFRR\_8>

1. Do you agree with proposing to not provide for an implementation period for the entry into force of the amended DTO? If not, please explain.

<ESMA\_QUESTION\_RFRR\_9>

JSCC does not have any specific comment related to this question.

<ESMA\_QUESTION\_RFRR\_9>

**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\_RFRR\_10>

With respect to JPY denominated interest rate swap, CCPs and market participants have already incurred significant costs to transition LIBOR to alternative reference rates. Therefore, we do not believe there would be any additional costs to be borne by CCPs and market participants if ESMA includes alternative reference rates, such as TONA OIS, in the Clearing Obligation for derivatives.

Rather, amendments of the current Clearing Obligation to include swaps with alternative reference rates would maintain the current momentum in the shift of swaps from bilateral to cleared markets, which would enhance the safety and transparency of derivative markets. Furthermore, harmonising OTC swap clearing mandates implemented across various jurisdictions would lower the operational and compliance burden for market participants of complying with differing clearing mandates, where they are active across multiple jurisdictions.

<ESMA\_QUESTION\_RFRR\_10>