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Comments on Implementation of Australia's G-20 over-the-counter derivatives commitments
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 Implementation of Australia's G-20 over-the-counter derivatives commitments ("Proposals Paper") released on February 27, 2014 by the Treasury of the Australian Government (the "Treasury").

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

<General Comment>

Although the mandatory central clearing obligation in each jurisdiction is taken into account, we do not consider that the Proposals Paper sufficiently clarifies the treatment of substituted compliance.

Some market participants have already implemented a new scheme to comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act ("U.S. Dodd-Frank Act") and similar regulations. A concern is raised that if the new scheme under the U.S. Dodd-Frank Act does not meet the requirements under the Australian regulations, significant costs will be required to take additional measures, including the establishment and/or improvement of infrastructure, which might subsequently give rise to liquidity dry-up of the Australian derivative market.

A double burden should be avoided, for example by deeming the 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.

<Specific Comments>

1. Entities subject to mandatory central clearing (Q3 and Q4)

The Proposals Paper proposes that "entities subject to mandatory central clearing would be financial entities who have reached a certain threshold of activity." The Treasury is, however, requested to clarify that a party to a derivative transaction shall comply with the central clearing mandate "only if both parties to such transaction are subject to the central clearing mandate." Otherwise, even if a party is essentially not subject to the central clearing mandate, it may need to satisfy the central clearing mandate and thereby incur a burden such as the establishment of processes and infrastructure for central clearing. This may divide the market between parties capable of and parties

incapable of satisfying the central clearing mandate, which may have an adverse effect on the Australian derivative market. Furthermore, the Treasury is requested to exclude intra-group transactions, which are exempted from the central clearing obligation in other jurisdictions, from the threshold of the obligation. Additionally, in establishing the threshold, it is requested to establish a framework that facilitates a clear determination of which entities exceed the threshold, taking into account that the outstanding notional of OTC derivatives fluctuates daily. However, the setting of a cut-off date, such as “as at 31 December 2013” specified in the Proposals Paper, would make it difficult to subsequently capture fluctuations in trade volume.

2. Transactions subject to mandatory central clearing (Q2)

Mandatory central clearing should not be immediately imposed on JPY interest rate swap (“IRS”) transactions. 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”). If Australian financial institutions are required to centrally clear JPY IRS transactions at a clearing organization other than the JSCC, transactions between Japanese and Australian financial institutions would likely decrease significantly, ultimately resulting in reduced liquidity of the entire JPY IRS market and imposing excessive costs on market participants. Discussions should therefore be made about equivalence assessments by regulators in each jurisdiction for JPY IRS and other transactions, mutual recognition of central counterparties, and other related matters.

3. Timeline for implementing the central clearing obligation (Q5)

The scope of transactions subject to a central clearing mandate under international regulations varies by jurisdiction. The timeline for implementing the central clearing obligation should thus be set separately by transaction type. Particularly with regard to the JPY IRS market, discussion among regulators in each jurisdiction is necessary regarding equivalence assessments and mutual recognition of central counterparties. The Treasury is therefore requested to postpone application of the clearing obligation to JPY IRS transactions.