



FINANCIAL SERVICES AGENCY
GOVERNMENT OF JAPAN

3-2-1 Kasumigaseki Chiyoda-ku Tokyo 100-8967 Japan

October 7, 2022

Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

**Re: Japan Swap Dealer Capital Comparability Determination,
87 Federal Register 48092, dated on August 8th, 2022.**

Dear Mr. Kirkpatrick:

The Financial Services Agency of Japan (“We”) are submitting comments on the Commission’s proposed order regarding the swap dealer capital comparability determination for Japan (“Proposed Order”) released on August 2022¹. We highly appreciate the Commission’s efforts in preparing the Proposed Order concerning the application for a capital comparability determination from us.

1. Minimum Capital Requirements (Federal Register page 48105)

Regarding comparability analysis for the minimum capital requirement, the Commission especially seeks comments on the point whether the requirements under Japanese Capital Rules² are comparable in outcome base to the Commission’s requirement for non-bank Swap Dealers (“SDs”) to hold their capital equal to or greater than 8 percent of its uncleared swap margin amount. It is challenging to make a quantitative comparison between the capital requirement of at least 8% of the margin for uncleared swaps (the sum of CET1, AT1 and Tier2), which is one of the capital requirements of the Commission for non-bank SDs, and the Japanese Capital Rules.

We would like to note the facts that, (1) operational risk is taken into account in Japan's capital adequacy ratio, as is the case with the Commission's capital requirements; and (2) the margin regulations in line with the BCBS/IOSCO regulations are applied to Japanese financial institutions, including non-bank SDs, to ensure financial soundness in case of unexpected events at counterparties of uncleared derivatives transactions. Given these facts and circumstances, we believe that the Japanese Capital Rules are largely comparable in outcome base to the Commission’s requirement for a non-bank SD in this regard.

¹ Notice of Proposed Order and Request for Comment on an Application for a Capital Comparability Determination from the Financial Services Agency of Japan, 87 Fed. Reg. 48092 (August 8, 2022).

² Refer Draft Order, 87 Fed. Reg. at 48099

2. Scope of Financial Information (Federal Register page 48109)

The Commission also seeks comments on the scope of the financial information that Japanese non-bank SDs should be required. We believe that the scope of financial information should be limited to the extent consistent and sufficient with the purpose of the Commission's capital requirements in order for the Japanese non-bank SDs to save their time and effort, including the translation of financial statements into English, and also for the Commission to efficiently and effectively achieve its supervisory and monitoring objectives.

3. Technical comment to the Proposed Order (Federal Register page 48114)

We request to add the below bold and underlined text to clarify scope of provisions under the relevant Japanese Capital Rules.

“(4) The Japanese nonbank SD is subject to and complies with: Articles 28(1), 29, 46-3, 46-6(2), **47**, 52(1), 53(1) through (3), 56-2, and 198-6 of the Financial Instruments and Exchange Act (Act No. 25 of 1948);”

We appreciate the Commission's consideration of our comments to the Proposed Order.

If you have any queries regarding our comments, please do feel free to contact OI Hidetoshi, Deputy Director of International Affairs Office at 813-3581-9544 or hidetoshi.oi@fsa.go.jp, and KUNISHIO Hiroyasu, Deputy Director of Investment Banks and Foreign Firms Monitoring Office at 813-3506-7167 or hiroyasu.kunishio@fsa.fo.jp.

Kind regards,

Yuji YAMASHITA

YAMASHITA Yuji

Deputy Commissioner for International Affairs,
Financial Services Agency of Japan