JFSA's response

Questions to guide the preparation of reports

Barriers to reporting information into TRs
Each jurisdiction should report the specific actions that it plans to take to address those circumstances where the trade reporting peer review reported that barriers to complete reporting of trades exist in its jurisdiction or where it is uncertain whether barriers exist. Please refer to Section 3 (pages 18–23) and Tables 5, 6, 7 and 8 (pages 44–47) of the peer review report for further context.
In particular, in all cases in Tables 5, 6 or 7 where an entry for your jurisdiction is not coloured green, or in Table 8 where the entry for your jurisdiction indicates an answer other than that no masking is permitted, please report either (i) the actions to be taken to address the barriers, or (ii) the reasons why there is not in practice a barrier to full reporting of trade information.

- Please report the actions to be taken (or that have been taken) to permit by June 2018 (or remove by that date any uncertainty over the permissibility of) full reporting of transactions to a TR pursuant to domestic requirements. Please provide detail relating to the applicability of these actions to different types of transaction, types of counterparty, location of reporting entity, location of TR or location of counterparty.

  ⇨ **In our jurisdiction, there is no legal barrier that prevents full reporting to a TR pursuant to domestic requirements. Therefore, we recognize that no specific action is necessary in this area.**

- Please report the actions to be taken (or that have been taken) to permit by June 2018 (or remove by that date any uncertainty over the permissibility of) full reporting of transactions to a TR pursuant to foreign requirements. Please provide detail relating to the applicability of these steps to different types of transaction, types of counterparty, location of reporting entity, location of TR or location of counterparty.

  ⇨ **In our jurisdiction, consent must be obtained only when personally identifiable information defined by the Act, such as name and address, of a natural person would be reported to a third party including a TR. In any case, such consent requirement is satisfied by standing consent. Thus, in practice there is no legal barrier that prevents full reporting to a TR pursuant to foreign requirements.**
  Source: Act on the Protection of Personal Information (Act No. 57 of May 30, 2003), Article 23
  http://www.japaneselawtranslation.go.jp/law/detail_main?id=130&

- If your jurisdiction requires that counterparty consent be provided before a trade participant may make transaction reports (whether pursuant to domestic or foreign reporting requirements), but counterparties are not currently permitted to give 'standing consent', please report the actions to be taken (or that have been taken) that will permit standing consent to the reporting of transactions to any domestic or foreign TR to be given by June 2018.

  ⇨ **As we suggested above, standing consent is permitted under the current legislation.**

- Where masking is currently accommodated in your jurisdiction, please set out the actions that will be taken (or that have been taken) in your jurisdiction, or any pre-conditions that would need to be met, such that masking will be discontinued by end-2018.

⇨ **Our jurisdiction does not allow for masking of information required to be reported. Therefore, we recognize that no specific action is necessary in this regard.**

Barriers to authorities' access to TR-held data

Each jurisdiction should report the specific actions that it plans to take to address those circumstances where the trade reporting peer review reported that legal barriers to authorities' access to TR data exist. Please refer to Section 4 (pages 23–30) and Table 9 (page 48) of the peer review report for further context.
In particular, in all cases in Table 9 where an entry for your jurisdiction is not coloured green, please report either (i) the actions to be taken to address the barriers, or (ii) the reasons why there is not in practice a barrier.

- Please report the actions to be taken (or that have been taken) to permit by June 2018 (or remove by that date any uncertainty over the permissibility of) access by domestic authorities and foreign authorities to data held in a domestic TR in your jurisdiction.

  ⇨ **JFSA has confirmed that in Japan there is no legal barrier to be removed regarding authorities' access to TR data. JFSA is currently considering the necessary arrangements to permit access to TR data by non-primary domestic authorities and foreign authorities, while referring the overseas authorities' cases.**

- Please report the actions to be taken (or that have been taken) to permit by June 2018 (or remove by that date any uncertainty over the permissibility of) direct access by both non-primary domestic authorities and foreign authorities to data held in a domestic TR. Alternatively, please describe why direct access for these authorities will not be permitted in your jurisdiction.

  ⇨ **Same as the above.**

- Please report the actions to be taken (or that have been taken) to coordinate with other domestic or foreign authorities in establishing cooperative arrangements that facilitate authorities' access to TR-held data (whether it be through direct or indirect access).

  ⇨ **Cooperative arrangements with other domestic or foreign authorities could be established under the supervisory cooperation framework. The JFSA could coordinate such arrangements as necessary.**

  As reference, we have already established the supervisory cooperation framework with the CFTC so far. The Memorandum of Cooperation includes the cooperation regarding the provision and maintenance of direct access to information and data stored in TRs. The MOC also describes about information sharing of relevant regulatory information that a cross-border covered entity including a TR is required to submit to JFSA.

  Source: Memorandum of Cooperation, Supervision of Cross-Border Covered Entities, March 10 (2014), p5, Item 25b; available at:

  http://www.fsa.go.jp/en/news/2014/20140311-1.html

- Please report the actions to be taken (or that have been taken) to work with other domestic or foreign authorities and TRs, as appropriate, to facilitate the creation of appropriate operational frameworks that facilitate access to TR-held data, whether direct or indirect.

⇨ **Regarding the creation of appropriate operational frameworks that facilitate access to TR-held data, the JFSA could work with other domestic or foreign authorities and TRs as necessary.**

As reference, we have already established the supervisory cooperation framework with the CFTC so far. The Memorandum of Cooperation includes the cooperation regarding the provision and maintenance of direct access to information and data stored in TRs. The MOC also describes about information sharing of relevant regulatory information that a cross-border covered entity including a TR is required to submit to JFSA.

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