

**Annex: Jurisdictions’ authority and process for exercising deference in relation to OTC derivatives regulation**

**Part A:** With respect to the **authorisation and supervision of:** OTC derivatives market participants; TRs; CCPs; and exchanges or electronic trading platforms:

<p>A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when ‘partial’ or ‘conditional’ deference decisions can be made.</p>	<p>While the Japanese branch of foreign bank is required to register as Registered Financial Institution to conduct OTC derivatives transactions, it is not subject to additional registration requirements as OTC derivatives dealers. The Japanese registration requirements do not apply to foreign market participants located outside Japan.</p> <p>While foreign CCPs are required to obtain the license from the JFSA to provide clearing services to Japanese counterparties, some domestic requirements, including local capital requirement and physical local presence, are exempted for foreign CCPs under the circumstances where they have been granted the same kind of license or equivalent from a foreign authority, with which the JFSA concludes cooperative supervision/information sharing arrangements.</p> <p>Foreign TRs are required to obtain the designation from the JFSA to provide reporting services to Japanese counterparties. While the JFSA will need to assess whether the TRs are able to report necessary information to the JFSA in the designation process, the JFSA defers in principle to another jurisdiction’s regulation and supervision.</p> <p>While foreign electronic trading platforms (ETPs) are required to obtain the permission from the JFSA to provide execution services to Japanese counterparties, some domestic requirements, including physical local presence and local capital adequacy ratio, are exempted for foreign ETPs under the circumstances where they have been granted the same kind of registration or equivalent from a foreign authority, with which the JFSA concludes cooperative supervision/information sharing arrangements.</p>
<p>A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether “similar outcomes” is the standard used;</p>	<p>When assessing whether foreign entities are subject to appropriate regulation and supervision of their home countries’ authorities, the JFSA will take an outcomes-based approach, taking fully into account international standards, where they are appropriate, on the basis of the ODRG</p>

<p>whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>	<p>agreement.</p>
<p>A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>When foreign entities apply for the license, permission, or designation, the JFSA will assess whether they are subject to appropriate regulation and supervision of their home countries' authorities. Review periods for the license, permission, or designation would be dependent on whether foreign entities have submitted necessary information and materials.</p> <p>The JFSA will need to conclude cooperative supervision/information sharing arrangements with foreign authorities.</p>
<p>A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>N/A</p>
<p>A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>	<p>N/A</p>

**Part B:** With respect to **requirements on market participants** related to: reporting to TRs; clearing transactions through CCPs; capital, margin and/or other risk mitigation requirements; and executing transactions on exchanges or electronic platforms:

<p>B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.</p>	<p>When the JFSA would apply its regulation at cross-border going forward, it would consider a framework to defer to another jurisdiction's regulation and supervision.</p>
<p>B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>	<p>When assessing whether foreign entities are subject to appropriate regulation and supervision of their home countries' authorities, the JFSA will take an outcomes-based approach, taking fully into account international standards, where they are appropriate, on the basis of the ODRG agreement.</p>
<p>B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>It is appropriate to establish such a framework to defer to another jurisdiction's regulation and supervision and make a decision before the JFSA applies its regulation at cross-border.</p>
<p>B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>N/A</p>
<p>B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>	<p>N/A</p>