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Derivatives Update

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CFTC Will Permit U.S. Customers to Clear Yen Interest Rate Swaps at JSCC

Certain U.S. customers can now access the liquidity and clearing solutions of the Japan Securities Clearing Corporation with respect to Japanese Yen-denominated interest rate swaps.

U.S. customers that are eligible contract participants will now be permitted to clear Japanese Yen-denominated interest rate swaps (JPY-IRS) through clearing members of the Japan Securities Clearing Corporation (JSCC) where such clearing members are (i) not U.S.-incorporated, (ii) not registered as futures commission merchants (FCMs) and (iii) are affiliates of FCMs.

On September 12, 2025, (1) the Division of Clearing and Risk and the Market Participants Division of the U.S. Commodity Futures Trading Commission (the Commission) issued [Staff Letter No. 25-32](#) (the No-Action Letter), and (2) the Commission approved an [Amended Order of Exemption from Registration as a Derivatives Clearing Organization for JSCC](#) (the Amended Order). As a result, eligible U.S. customers will be able to access JSCC for clearing JPY-IRS under specified conditions, without triggering registration obligations for JSCC's non-U.S. clearing members as FCMs or commodity trading advisors (CTAs).

Background: JSCC attempted to register with the Commission as a derivatives clearing organization (DCO) in 2014, which would have allowed JSCC to clear for U.S. customers. However, JSCC was unable to do so due to a conflict between Commodity Exchange Act (the CEA) Section 4d(f), which requires a registered DCO to segregate FCM customer funds at all times from the DCO's own funds to ensure that the funds are protected under U.S. bankruptcy

law, and Japanese law. Specifically, JSCC holds all customer property in a trust account to ensure that the property is remote from any Japanese bankruptcy proceeding against JSCC. However, customer funds transferred by clearing members to or from JSCC are held for a short period of time (approximately one hour) in JSCC's account at the Bank of Japan in a commingled manner with JSCC's proprietary funds and other funds, which is inconsistent with the segregation requirements of CEA Section 4d(f).

In 2015, JSCC obtained from the Commission an exemption from registration as a DCO and has operated as an exempt DCO since that time. Under the conditions set forth in the exemption order, U.S. persons could clear only proprietary swap positions at JSCC (e.g., trades of U.S. person clearing members of JSCC or affiliates of JSCC clearing members acting for their own accounts). The No-Action Letter and Amended Order lift this barrier, enabling eligible U.S. customers to clear JPY-IRS through a JSCC clearing member for the first time.

Relief Granted: The No-Action Letter provides no-action relief for JSCC and its non-U.S. incorporated clearing members “for failure to comply, as appropriate, with the FCM and CTA registration requirements of CEA Sections 4d(f) and 4m(1) and Commission Regulation 39.6(b)(1), subject to” certain conditions set forth in the No-Action Letter. The Amended Order removes certain restrictive language that prohibited JSCC from permitting eligible U.S. customers to clear JPY-IRS through a non-U.S. clearing member of JSCC.

Practical Impact: Prior to this relief, U.S. market participants were on an unlevel playing field vis-à-vis their non-U.S. peers, as non-U.S. customers of JSCC were permitted to clear JPY-IRS through a clearing member of JSCC, while U.S. customers were not. This relief now permits U.S. person customers that are eligible contract participants to utilize the available deep liquidity and clearing solutions for JPY-IRS available at JSCC to manage and hedge risks across global markets, in the same manner as their non-U.S. peers^[1] Yasuyuki Konuma, President and CEO of JSCC, noted that U.S. customers will now be able to hedge Yen interest rate exposures more efficiently by participating in the “most liquid Yen derivative market,” a particularly timely benefit given recent increases in Yen interest rates and volatility.^[2]

Clients should assess the operational, legal, and risk management implications of clearing JPY-IRS through a JSCC clearing member under the new framework, including the enhanced bankruptcy disclosures and the differences between Japanese and U.S. customer protection regimes. JSCC is permitted to clear JPY-IRS immediately, though onboarding may take some time. The No-Action Letter expires upon determination by the Commission to either grant or deny JSCC and its clearing members an exemption, pursuant to CEA Section 4(c), from CEA Sections 4d(f) and 4m(1) and related Commission regulations.

^[1] See Div. of Clearing and Risk & Mkt. Participants Div., U.S. Commodity Futures Trading Comm'n, Letter No. 25-32, No-Action Letter with Regard to Sections 4d(f) and 4m(1) of the Commodity Exchange Act and Commission Regulation 39.6(b)(1) 2 (2025) (“In 2024, JSCC cleared approximately 55% of the global JPY-IRS market, as measured by the volume of traded notional.”).

^[2] Press Release, Japan Securities Clearing Corporation, CFTC grants approval, allowing U.S. Customers access to the most liquid Yen Swap Market (Sept. 16, 2025), *available at* https://www.jpx.co.jp/jsccl/en/information/press_releases/20250916.html.

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Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding the issues discussed in this update. Please contact the Gibson Dunn lawyer with whom you usually work, any leader or member of the firm's Derivatives practice group, or the following authors:

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