

A Practical Guide to Executing Trades on US-Japanese Recognized Venues

In July 2019, the Commodity Futures Trading Commission (CFTC) and the Japanese Financial Services Agency (JFSA) announced they had reached agreement on the mutual recognition of certain derivatives trading venues in the US and Japan, helping to improve efficiency in cross-border trading between participants in those countries.

This guide describes the practical implications of how cross-border trading will work following this agreement, and sets out the issues that market participants should consider. In particular, it analyzes the effect of mutual recognition on the order flow of trades executed on US and Japanese venues, and highlights areas where further alignment is necessary.

INTRODUCTION

In recent years, global regulators have achieved tangible progress in recognizing foreign regulatory regimes. Global regulators have issued equivalence determinations – positive assessments of a third-country framework – which allow market participants to rely on the rules of a foreign regulatory regime.

An important example of this approach was an agreement between the CFTC and the European Commission (EC) in October 2017 on the mutual recognition of derivatives trading venues. More recently, other agreements have been announced – between the CFTC and the Monetary Authority of Singapore (MAS), the CFTC and the JFSA, and the EC and MAS.

Following the agreement of EU/US trading venue recognition, ISDA published a guide to assist market participants navigate the numerous regulatory requirements related to trading on these recognized venues¹.

This new guide is intended to help firms better understand the mechanics of trade execution following the US/Japan agreement, and explain some of the regulatory complexities associated with trading on these venues².

The following sections describe the mechanics of trade execution on US/Japan recognized venues. They also provide examples of the regulatory complexity and compliance challenges that remain due to the absence of wholesale equivalence determinations between the US and Japan derivatives regulatory regimes.

Clearing

- A lack of recognition of foreign clearing rules means Japanese firms that trade products subject to the Japanese clearing mandate can only clear those products through central counterparties (CCPs) licensed in Japan, which are not currently CFTC-registered derivatives clearing organizations (DCOs). This means these firms are prohibited from trading those products with US customers.
- Currently, US customers must clear their trades via the agency model (ie, via a US futures commission merchant (FCM)) through a CFTC-registered DCO. ISDA welcomes a CFTC proposal to amend the current exempt DCO requirements to allow US customers to clear their trades at an exempt DCO, subject to certain conditions³.

¹ <https://www.isda.org/a/COmEE/A-Practical-Guide-to-Navigating-Derivatives-Trading-on-US-EU-Recognized-Trading-Venues.pdf>

² This guide is intended to provide a general overview of transaction flows on CFTC-recognized and JFSA-licensed venues. It should not be considered legal advice or analysis. Market participants should obtain their own legal advice before taking any action based upon this guide. In particular, this guide does not address the full detail of the cross-border application of trading, clearing or reporting rules and its implications. It is assumed no party is guaranteed by an entity in another jurisdiction and no party is an affiliate conduit. Unless otherwise indicated, where an entity is identified as a Japanese person, firm or counterparty, it is assumed it is not a US person or (in the case of a US person) is acting in its capacity as a Japanese person rather than in its capacity as a US person, and vice versa

³ Exemption from Derivatives Clearing Organization Registration, Proposal, <https://www.govinfo.gov/content/pkg/FR-2019-07-23/pdf/2019-15258.pdf>

Public Reporting

- While Japan does not impose public reporting requirements on trades executed outside of Japan⁴, the CFTC imposes real-time reporting requirements on US persons executing their trades on venues outside the US. As noted in ISDA's *Cross-border Harmonization of Derivatives Regulatory Regimes* whitepaper⁵, real-time public reporting is intended to provide post-trade price transparency and does not address or mitigate risk associated with derivatives trading. As a result, this should be left within the remit of regulators in the jurisdiction where the activity takes place.
- Trades executed between US and Japanese persons on Japan-licensed venues will continue to be subject to both US real-time reporting rules and Japanese public reporting obligations. Aside from the unnecessary burdens imposed by duplicative reporting regimes, subjecting the same trade to both sets of requirements creates competitive disadvantages. For example, Japanese persons may be unwilling to trade with US persons on US-recognized or Japan-licensed venues, as their trades may be disclosed by the US person under US real-time reporting requirements prior to their publication in Japan by the Japan-licensed venue. Having the same trade made public in both Japan and the US also makes it more difficult for firms to develop a true picture of market liquidity from the resultant data sets.

Regulatory Reporting

- Regulatory reporting obligations are less burdensome for US firms when executing trades on swap execution facilities (SEFs) compared to trading on recognized venues in other jurisdictions. This is because SEFs have the obligation to report transactions to trade repositories. Due to a lack of recognition of US-Japan regulatory reporting rules, regulatory reporting obligations are more challenging when US persons trade on a Japan-licensed venue. US firms will be required to satisfy various reporting obligations, including:
 - US regulatory reporting of the alpha swap to a swap data repository (SDR) as soon as technologically practical, or T+1 for swaps between two buy-side counterparties.
 - In addition, US firms also subject to Japan regulatory reporting requirements (for example, US institutions that are licensed banks in Japan) will have to keep records of transactions and send weekly reports to Japanese regulators⁶.

⁴ For public reporting requirements for trades executed on an electronic trading platform (ETP) (as defined in 1.1 of Part I), see 1.15 of Part I

⁵ <https://www.isda.org/a/9SKDE/ISDA-Cross-Border-Harmonization-FINAL2.pdf>

⁶ For Japan regulatory requirements, see 1.17 of Part I

Note

For the purposes of this guide:

- The questions and answers in this guide are limited to the execution of derivatives contracts⁷ that are subject to mandatory clearing and trading requirements under US or Japanese laws and regulations⁸.
- It is assumed that trades are executed between professional investors (which, for the purposes of Japanese regulatory requirements, are referred to as over-the-counter (OTC) derivatives professionals⁹).
- For ease of reference, the products that are subject to the Japanese clearing mandate (clearing mandate products) are set out in Annex 1. Products subject to the Japanese trading mandate (trading mandate products) are listed in Annex 2.

While there is no direct equivalent to a ‘swap dealer’ in Japan, the JFSA regulates both banks and non-banks that offer, sell or make markets in derivatives. Banks are regulated as registered financial institutions (FIs), while non-banks are regulated as financial instrument business operators (FIBOs). The Japanese clearing and trading mandates apply to certain registered FIs and a subset of FIBOs, known as ‘type-one FIBOs’¹⁰.

⁷ For the purposes of Japanese laws and regulations, ‘derivatives contracts’ or ‘derivatives transactions’ refer to OTC derivatives. For the purposes of this guide, they do not include derivatives that have commodities and/or commodity indices as their underlying assets. These are separately regulated under the Commodity Derivatives Act and the equivalence discussion hereunder is not applied

⁸ This guidance covers only OTC derivatives with underlying assets that are not securities/securities-related indices or commodities/commodity indices

⁹ It means investors falling within the categories of investors designated in Article 1-8-6, paragraph 1, item 2(i) or (ro) of the Order for Enforcement of the Financial Instruments and Exchange Act (FIEA)

¹⁰ Refers to a FIBO registered with the JFSA and engaging in type-one financial instruments business, as defined in Article 28, paragraph 1 of the FIEA (which covers securities firm business and derivatives transactions)

PART I: US PERSON TRADING ON AN ETP TO SATISFY MANDATORY TRADING REQUIREMENTS

Question	Answer
General Registration and Licensing Requirements	
1.1 In order to trade on an electric trading platform (ETP) operated by a type-one financial instrument business operator (FIBO), am I required to be licensed or authorized by, or registered with, the Japanese Financial Services Agency (JFSA)?	No. You will not have to be licensed or authorized by, or registered with, the JFSA simply by virtue of trading on an ETP. However, US persons have to assess whether they need to register with the JFSA based on their activities. In principle, a registration as a FIBO under the Financial Instruments and Exchange Act (FIEA) is required to trade securities or derivatives with a Japanese resident (including clearing mandate products and trading mandate products), or to provide investment management/investment advisory services to a Japanese resident “as its business” ¹¹ (financial instrument business). The FIEA provides some exemptions from the licensing requirements. An exemption for over-the-counter (OTC) derivatives applies if: (a) both you and your counterparty (a Japanese entity or Japanese resident) fall within the category of ‘OTC derivatives professional’; and (b) the underlying assets are neither securities/securities-related indices nor commodity/commodity indices.
1.2 What Japanese regulatory requirements will apply to a US swap dealer (SD) that is also licensed by the JFSA when trading derivatives transactions on an ETP?	In practice, most transactions traded on ETPs would be executed between investors that are OTC derivatives professionals. As a result, the OTC derivatives exemption applies, and the relevant derivatives transactions would fall outside Japanese regulations under the FIEA (ie, the licensing requirements and code-of-conduct-type regulations), even when the US SD is a type-one FIBO.
1.3 I am an SD. Do I need to comply with US external business conduct (EBC) requirements when I execute derivatives contracts on an ETP?	Yes, SDs executing trades on an ETP are required to follow US EBC rules. These involve disclosure, swap documentation and portfolio reconciliation requirements and fair dealing obligations.
1.4 When executing a trade on an ETP, does my counterparty have to count its trades towards the Commodity Futures Trading Commission (CFTC) swap dealer de minimis threshold?	Yes, non-US persons engaging in dealer activities must count all swaps entered into with US persons (except with foreign branches of US SDs) towards their swap dealer de minimis threshold calculations, as per the CFTC cross-border guidance.
Pre-execution Considerations	
1.5 Are there any Japanese pre-trade transparency requirements that apply to my trade if executed on an ETP?	A type-one FIBO that operates an ETP (an ETP operator) is subject to pre-trade transparency requirements, and such information must be disclosed by electric means designated by the ETP operator ¹² .
1.6 Are there any exemptions to Japanese pre-trade transparency requirements?	There is no statutory exemption for pre-trade transparency requirements. However, each ETP operator may provide exemptions in its business rules and/or relevant regulations. If provided, these rules would have to be disclosed and approved by the JFSA.
Execution Considerations	
1.7 Do I have to follow the trading rules of the ETP when I execute my trade on that venue?	Yes. Each ETP operator has its own rule book, and market participants are expected to agree to these rules as part of the on-boarding process. The ETP operator is required to operate its ETP in a way that ensures derivatives are traded in a fair and transparent manner, to set out standards for its members, and supervise members with regards to the business rules of the ETP ¹³ .
1.8 If my counterparty is also a US person, can I discharge my made-available-to-trade (MAT) obligations (ie, US trading requirements) on equivalent ETPs?	Yes, because of trading-venue recognition.

¹¹ The “as its business” test is often used in Japanese financial regulations (including the FIEA), but no statutory definition is provided. In determining whether certain activities are conducted “as its business” for this purpose, the JFSA indicates the following factors should be considered: (i) whether an offer(s) is made to the public; and (ii) whether such person makes or intends to make an offer(s) on a “repeated or continuing basis”. If both (i) and (ii) are met, then it satisfies the “as its business” test. The application of these criteria is not entirely clear cut, and case-by-case factual analysis is essential

¹² No statutory manner for the disclosure is provided. Each ETP operator therefore has to establish its own disclosure means, which have to be approved by the JFSA

¹³ Article 8 of the FIB Ordinance and Section IV-3-3-4(3) of the Comprehensive Guidelines for Supervision of Financial Instruments Business Operators, etc, published by the JFSA

Question	Answer
1.9 Are there any Japanese straight-through-processing (STP) rules that will apply to my trade if executed on an ETP?	No. Japanese regulations do not prescribe time frames for trades on ETPs to be sent to the relevant central counterparty (CCP) for clearing. A CCP operating as a licensed clearing organization in Japan (a licensed CCP) is not required to accept or reject a trade submitted for clearing or perform credit checks within a specified time period. In its business rules, a licensed CCP is required to set out the terms and conditions for the transactions that will be cleared or settled on any clearing facility that it operates ¹⁴ .
1.10 What happens if I execute an erroneous trade on an ETP that is subsequently rejected from clearing?	There are no Japanese regulations that prescribe specific rules for the treatment of erroneous trades executed on an ETP and subsequently rejected from clearing. In practice, the treatment of such trades would depend on the agreement between the parties to the trade, as well as the rules of the relevant ETP and/or CCP.
1.11 How do I execute a block or package transaction on an ETP?	Under Japanese regulations, there are no prescribed methods for the execution of package and block trades on an ETP ¹⁵ .
1.12 Will the ETP operator or Japanese regulators monitor trading on the ETP?	Both. US persons trading on an ETP may potentially be subject to the following oversight (among others): <ul style="list-style-type: none"> • An ETP operator is required to operate its ETP in a way that ensures derivatives are traded in a fair and transparent manner¹⁶. • An ETP operator is required to have rules that set out standards for the supervision of its members¹⁷. • An ETP operator is required to provide information deemed by the JFSA to be in the public interest¹⁸. • US persons may also be responsible for compliance with Japanese regulatory requirements (eg, business conduct requirements) if their activities are regulated by the JFSA.
Clearing Considerations	
1.13 Assuming my trade is subject to the US clearing mandate, under which clearing model (agency or principal) do I have to clear my trade? Where can the trade be cleared?	The answer to this question depends on whether you are clearing on your own behalf (house trades) or through a clearing broker as a customer (customer trades). For house trades, you may clear directly as a clearing member (assuming you are a direct clearing member), and can clear through exempt derivatives clearing organizations (DCOs), such as the Japan Securities Clearing Corporation (JSCC). For customer trades, however, you must clear through the agency model (ie, via a US futures commission merchant (FCM)). Either way, your trade must be cleared through a clearing house that is a CFTC-registered DCO or a DCO that is exempt from registration to satisfy the US clearing mandate. As a practical matter, dually registered CCPs that offer both an FCM clearing model and a principal-to-principal model could facilitate one leg being cleared via the FCM model and the other leg being cleared via the principal model.
1.14 Will my CCP follow the timing outlined in US rules or Japanese rules when accepting or rejecting a trade for clearing?	If you are clearing through a CFTC-registered DCO, it must accept or reject a trade within 10 seconds after receiving the relevant information from the trading platform. Exempt DCOs are not subject to this timing requirement.
Reporting Considerations	
1.15 Are there any Japanese post-trade transparency obligations (real-time reporting) that will apply to my trade if it is executed on an ETP?	If executing a trading mandate product, an ETP operator is required to publicly disseminate trade information (such as price and notional amount) by the end of the business day following the relevant trade date (in the case of block trades), or as practically early as possible within the relevant trade date (in the case of non-block trades) ¹⁹ .
1.16 Do US post-trade transparency obligations (real-time reporting) apply to my trade if it is executed on an ETP?	Yes. As the reporting rules have not been determined equivalent, trades executed on an ETP are viewed as off-facility transactions for US real-time reporting purposes and are subject to the reporting hierarchy provided in the CFTC rules. For example: <ul style="list-style-type: none"> • If only one counterparty is an SD, then that counterparty will be responsible for sending the trade to the swap data repository (SDR) as soon as technologically practical. • If a trade is between a US hedge fund or pension fund and a FIBO (that is not a SD) or Japanese person, then the counterparties will have to agree on which entity will be responsible for reporting. In practice, the US person is likely to report. This may be problematic for US buy-side participants that are not set up to send trades to an SDR.

¹⁴ Article 156-7 of the FIEA

¹⁵ Package transactions are out scope of the Japanese trading mandate

¹⁶ Article 8 of the FIB Ordinance and Section IV-3-3-4(3) of the Comprehensive Guidelines for Supervision of Financial Instruments Business Operators, etc. published by the JFSA

¹⁷ Article 8 of the FIB Ordinance and Section IV-3-3-4(3) of the Comprehensive Guidelines for Supervision of Financial Instruments Business Operators, etc. published by the JFSA

¹⁸ Article 56-2 of the FIEA

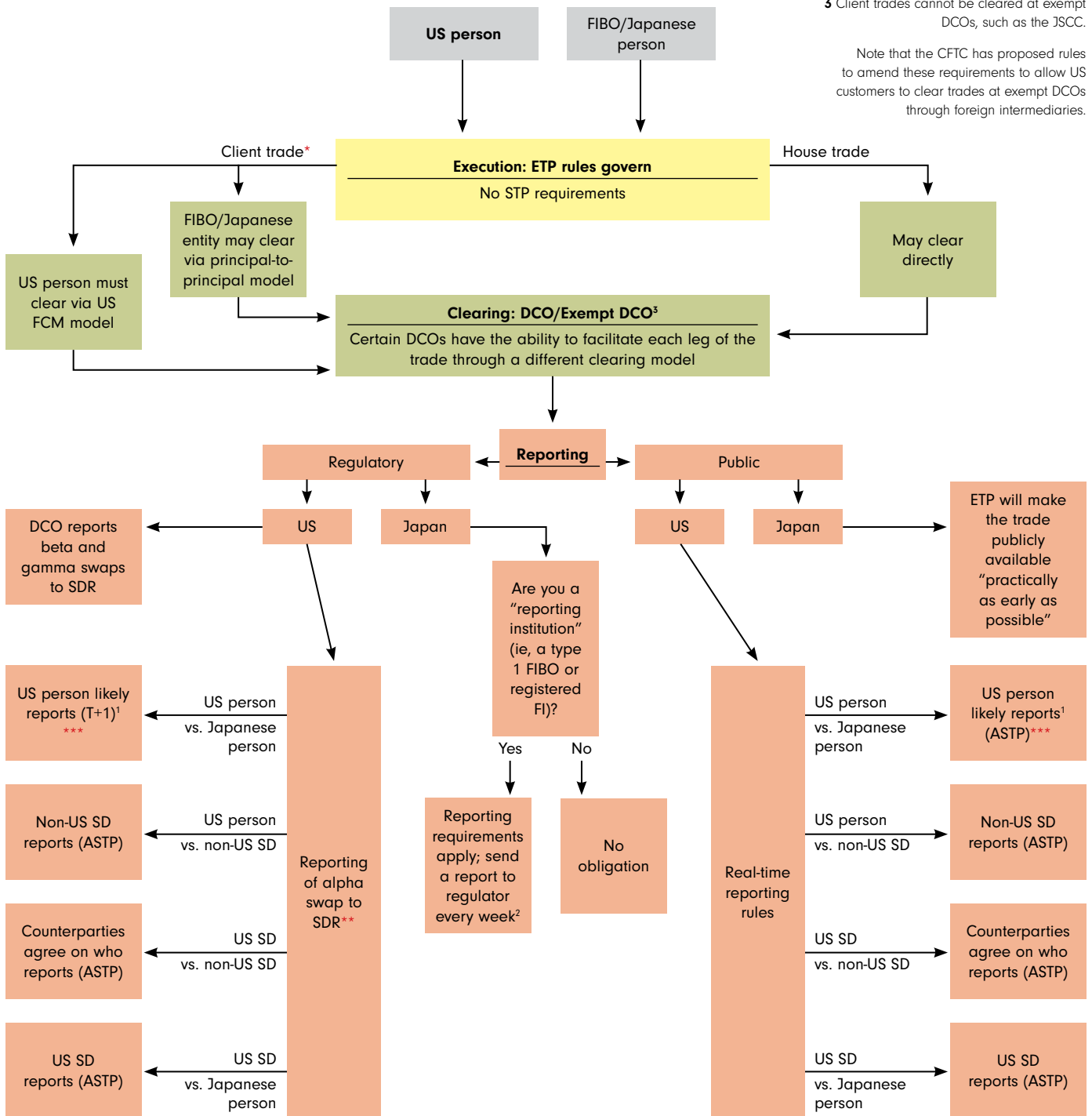
¹⁹ Article 40-7 of the FIEA and Article 125-8 of the FIB Ordinance

Question	Answer
<p>1.17 Is my trade subject to Japanese regulatory reporting?</p>	<p>It depends. Under the reporting regulations²⁰, you are required to report your transactions on a weekly basis if you are a type-one FIBO or a registered FI that is a bank, insurance company or certain financial institution designated under the OTC derivatives ordinance²¹ (a reporting institution). A party to derivatives transactions (other than commodity derivatives) that is a reporting institution is required to preserve records for such transactions and submit a report to the regulator every week. A licensed CCP is also required to report to the JFSA with respect to derivatives transactions cleared by that CCP within three business days from the day of clearing. In this case, reporting institutions would not have to report such transactions.</p>
<p>1.18 Is my trade subject to US regulatory reporting?</p>	<p>Yes. As the reporting rules have not been determined equivalent, trades executed on ETPs are treated as off-facility swap transactions for US regulatory reporting purposes and are subject to the reporting hierarchy provided in the CFTC's rules. Therefore, you may be required to report your alpha swap to an SDR as per the reporting hierarchy. For example, if you are an SD and your counterparty is not an SD, then you will have to send the relevant details of your alpha swap (ie, creation data) to an SDR. In practice, this may impose new reporting obligations on counterparties, as swap execution facilities (SEFs) are required to send alpha swaps to SDRs on behalf of counterparties in the US.</p>

²⁰ The Japanese trade reporting obligations are prescribed in Articles 5 through 8 of the Cabinet Office Ordinance on the Regulation of Over-the-Counter Derivatives Transactions (the reporting regulations)

²¹ The Shoko Chukin Bank, Ltd, Development Bank of Japan Inc, Shinkin Central Bank, and The Norinchukin Bank are specified

US Person Trading on an ETP



Compliance Issues

* Due to a lack of recognition between US-Japan clearing rules, US customers must clear their trades via the US FCM model. Note that the CFTC has proposed rules to amend these requirements and allow US customers to clear trades at exempt DCOs through foreign intermediaries.

** New requirements for US counterparties to send their alpha swaps to SDRs (as SEFs are required to report on counterparties' behalf).

*** Reporting requirements potentially now fall on US buy-side firms (when facing a Japanese person).

PART II: JAPANESE PERSON TRADING ON A SEF TO SATISFY MANDATORY CLEARING/TRADING REQUIREMENTS

Question	Answer
General Registration and Licensing Requirements	
2.1 Do any Japanese regulations apply to my trade on a SEF?	Yes. When Japanese entities licensed or regulated by the JFSA engage in trading activities on a SEF, they generally remain subject to applicable regulations imposed on them in Japan. Some examples of the applicable obligations are set out in 1.2.
2.2 When I execute my trade on a SEF, do I have to count my trades with US persons towards the CFTC swap dealer de minimis threshold?	Yes, if engaging in dealer activities, unless the transaction is executed anonymously on a SEF. Note, however, that non-US persons do not have to count their swaps with foreign branches of US SDs, even when such transactions are not executed anonymously.
Pre-execution Considerations	
2.3 Do pre-trade transparency requirements apply to my trade under US regulations?	Current US rules achieve pre-trade transparency by requiring mandated products to be executed on a central limit order book or using request-for-quote to three. Because there is no overlap between the scope of products subject to the US and Japan trading mandates, Japanese firms would be able execute products subject to the Japan trading mandate via any method of execution on a SEF.
Execution Considerations	
2.4 Do I have to comply with the SEF rules when I execute my trade on a SEF?	Yes, you must comply with US trading rules and the rules of the relevant SEF on which you are executing your trade. Market participants should review the rule books of the SEFs on which they expect to execute their trades.
2.5 Will US STP rules apply to my trade that is executed on a SEF?	Yes. <ul style="list-style-type: none"> • Trades executed on a SEF must be subject to a pre-trade credit check (timing is not specified). • Trades must be affirmed and routed to the relevant DCO (or exempt DCO) for clearing within 10 minutes after execution. Because you will have to use an exempt DCO to clear your trade, the DCO time frame to accept or reject the trade for clearing does not apply. Irrespective of whether US STP rules would apply to a trade that is executed on a SEF, the Japanese clearing requirements will need to be satisfied – please see Annex 1 for more information.
2.6 What happens if I execute an erroneous trade on a SEF that is subsequently rejected from clearing?	If your trade fails to clear due to a clerical or operational error, then you can submit a new trade with terms and conditions that match those of the original transaction (ie, old terms, new trade) via any method of execution. The trade must be re-submitted as quickly as technologically practical after receipt of notice of the rejection by the DCO, but no later than one hour from the issuance of the notice. If the trade is rejected from clearing for any other reason (or a trade resubmitted pursuant to the process above is again rejected from clearing), it is determined to be void ab initio (ie, void at its inception) and may therefore not be re-submitted for clearing.
2.7 How do I execute a block or package transaction on a SEF?	Because the transaction is not considered to be a block trade under CFTC rules ²² , US block trade rules will not apply to your transaction, including delayed public dissemination (ie, a 15-minute reporting delay). For package transactions, you may execute your trades via any method of execution offered by the SEF because they are not subject to US mandatory trading requirements. If your package transaction consists of one or more swap components wherein one component is subject to US mandatory trading requirements, you may also execute these packages on a SEF by any method of execution because of CFTC no-action relief ²³ .
2.8 Will the CFTC or SEFs monitor trading on a SEF?	Both. SEFs are required to establish trading, trade processing and participation rules. SEFs are obliged to have the capacity to detect, investigate and enforce those rules. In addition, SEFs may refer to the CFTC, or the CFTC on its own can bring an enforcement action for more egregious trade violations.

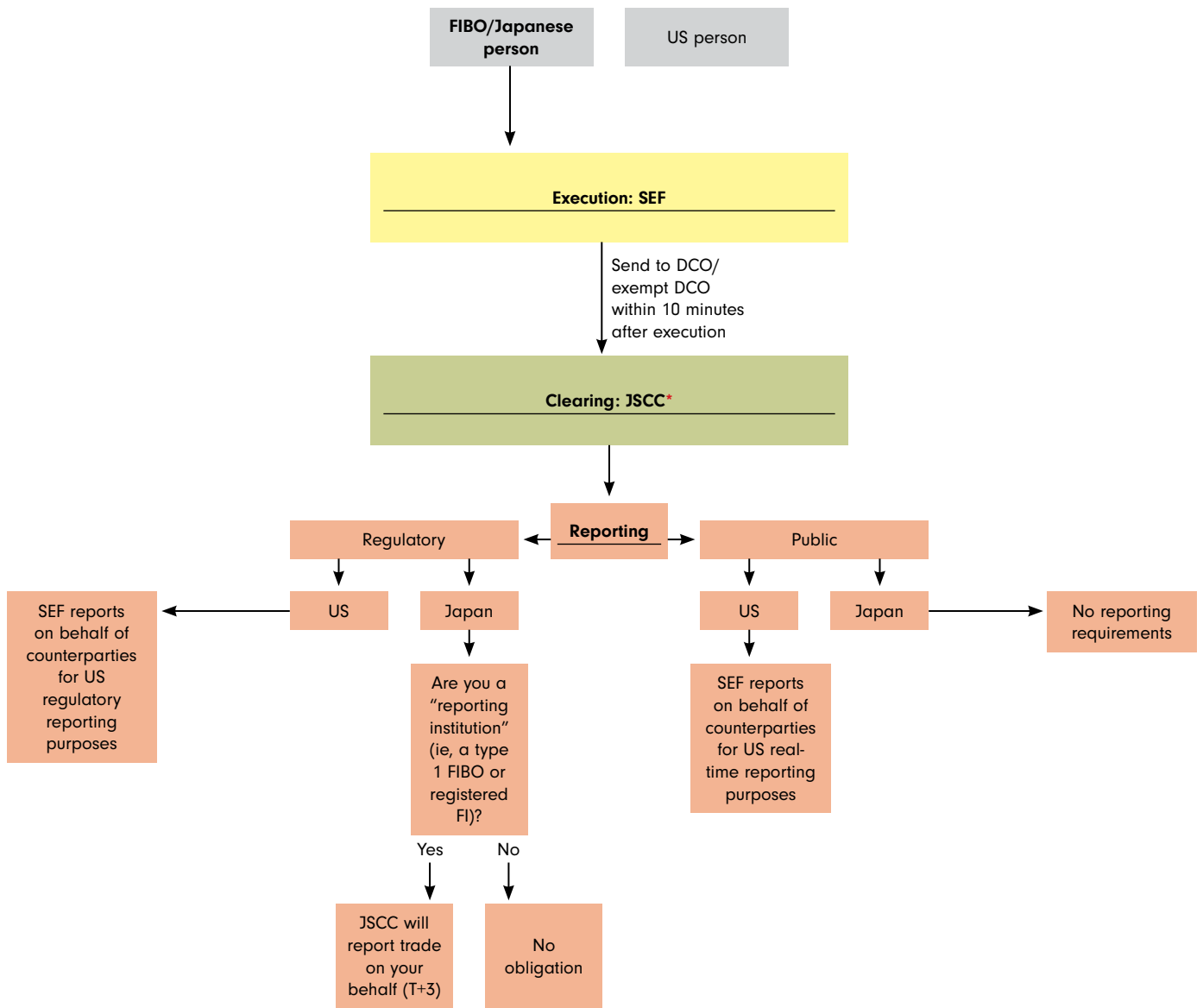
²² Under CFTC rules, block trades are defined as trades of a large size that are subject to the US trading mandate. Because there is no overlap between the scope of products subject to US and Japanese trading mandates, a Japanese block trade will not be considered a block under US rules

²³ CFTC No-Action Letter 17-55, <https://www.cftc.gov/sites/default/files/idc/groups/public/@lrllettergeneral/documents/letter/17-55.pdf>

Question	Answer
Clearing Considerations	
<p>2.9 Assuming my trade is subject to the Japanese clearing mandate (or is voluntarily cleared), under which clearing model (principal or agency) do I have to clear my trade? Where do I clear my trade?</p>	<p>The Japanese clearing mandate does not require trades to be cleared using a specific clearing model. However, products subject to the Japanese clearing mandate must be cleared at a licensed CCP. Currently, only derivatives transactions clearable at the JSCC have been designated as clearing mandate products²⁴. As it is also an exempt DCO, your US counterparty may clear its proprietary trades through the JSCC.</p>
<p>2.10 Will my CCP follow the timing outlined in US rules or Japanese rules when accepting or rejecting a trade for clearing?</p>	<p>As you will have to clear your trade through the JSCC, which is an exempt DCO, it will not be subject to the timing requirements applied to registered DCOs. In other words, the exempt DCO does not have to accept or reject the trade from clearing within 10 seconds.</p>
Reporting Considerations	
<p>2.11 Do US real-time reporting (post-trade transparency) rules apply to my trade?</p>	<p>Yes. SEFs are required to send the relevant details of your trade to an SDR for real-time public dissemination.</p>
<p>2.12 Are there any Japanese post-trade transparency obligations (real-time reporting) that will apply to my trade that is executed on a SEF?</p>	<p>Japanese post-trade transparency obligations (outlined in 1.15 of Part I) will not apply.</p>
<p>2.13 Is my trade subject to US regulatory reporting?</p>	<p>Yes, for US regulatory reporting purposes, but SEFs have the obligation to report your trade to an SDR.</p>
<p>2.14 Is my trade subject to Japanese regulatory reporting?</p>	<p>Yes. As you are clearing through a licensed CCP (ie, the JSCC), the licensed CCP will report the trade on your behalf.</p>

²⁴ There are two offshore licensed CCPs – LCH Limited and Chicago Mercantile Exchange Inc

Japanese Person Trading on a SEF



Compliance Issues

* Cannot execute trades with US customers.

Note that the CFTC has proposed rules to amend these requirements to allow US customers to clear trades at exempt DCOs through foreign intermediaries.

ANNEX 1

JAPANESE CLEARING MANDATE

The Japanese clearing mandate requires each reporting institution with an annual average notional amount of non-centrally cleared OTC derivatives transactions of ¥300 billion or more (a mandatory clearing institution) to clear the clearing mandate products through a licensed CCP²⁵ in accordance with the business rules of the licensed CCP (there is no statutory deadline for the clearing). Currently, the Japanese clearing mandate only applies to the clearing mandate products traded between two mandatory clearing institutions (subject to certain exemptions outlined in the OTC Derivatives Ordinance, such as intergroup transactions).

Clearing Mandate Products

The clearing mandate products are: (a) credit default swaps on the Markit iTraxx Japan index referencing no more than 50 Japanese corporations that are clearable at Japan Securities Clearing Corporation (JSCC)²⁶; and (b) fixed-to-floating interest rate swap contracts that have all of the features specified below and are clearable at the JSCC.

Fixed-to-Floating Interest Rate Swap Contracts				
Item	Settlement Currency	Underlying (Reference Rate)	Tenor	Maximum Term
1.	Japanese yen	JPY LIBOR	Three month or six month	None
2.	Japanese yen	Euroyen TIBOR	Three month or six month	Within 1,839 days (for three-month euroyen TIBOR, and within 3,666 days for six-month euroyen TIBOR)

Licensed CCPs

The JFSA publishes an updated list of licensed CCPs on its website (https://www.fsa.go.jp/en/regulated_institutions/index.html). As of August 2, 2019, only the JSCC provides clearing services for clearing mandate products. Therefore, Japanese regulated entities can currently only meet the mandatory clearing requirements by clearing through the JSCC.

²⁵ With respect to credit default swaps 2(a), it must be a licensed CCP that is a Japanese entity

²⁶ It is a licensed CCP

ANNEX 2

JAPANESE TRADING MANDATE

The Japanese trading mandate requires type-one FIBOs and a registered FIs that are banks or certain financial institutions designated under the FIB Ordinance^{27,28} with an annual average notional amount of non-centrally cleared OTC derivatives transactions of ¥6 trillion or more (a mandatory trading institution) to execute trading mandate products on ETPs. Similar to the Japanese clearing mandate, the trading mandate only applies to trading mandate products executed between two mandatory trading institutions (subject to certain exemptions outlined in the FIB Ordinance, such as intergroup transactions).

Trading Mandate Products

In general, and subject to certain exceptions (such as package transactions)²⁹, the trading mandate products are fixed-to-floating interest rate swap transactions that have all of the features specified below (only one type is designated currently) and are clearable at the JSCC.

Fixed-to-Floating Interest Rate Swap Contracts		
	Item	Statutory Specified Features
(i)	Settlement Currency	Japanese yen
(ii)	Underlying (Reference Rate)	Six-month Japanese yen LIBOR
(iii)	No Amortisation	Yes
(iv)	Trade Start Type	Within T+2
(v)	Tenor	5,7 or 10 years
(vi)	Place of Business Day	Tokyo and London
(vii)	Business Day Convention	Modified following
(viii)	Fixed Leg	Payment frequency: six month Day count convention: Actual/365
(ix)	Floating Leg	Reset frequency: six month Day count convention: Actual/360

ETP Operators

The JFSA publishes an updated list on its website of type-one FIBOs that operate ETPs through which the Japanese trading mandate can be satisfied (https://www.fsa.go.jp/en/regulated_institutions/index.html). As of August 2, 2019, the following type-one FIBOs are on the list: BGC Shoken Kaisha Limited Tokyo branch; Bloomberg Tradebook Japan Ltd; Clear Markets Japan Inc; Totan ICAP Co, Ltd; Tradeweb Japan KK; Tullett Prebon ETP (Japan) Ltd; and Ueda Tradition Securities Ltd.

²⁷ The Shoko Chukin Bank, Ltd, Development Bank of Japan Inc, Shinkin Central Bank, and The Norinchukin Bank are specified

²⁸ Different from the reporting institution, a registered FI that is an insurance company is not included

²⁹ Article 125-7 of the FIB Ordinance and FSA's Notice (kokuji) No. 67

ABOUT ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has more than 900 member institutions from 71 countries. These members comprise a broad range of derivatives market participants, including corporations, investment

managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as

exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter @ISDA.