

**Response to “Consultation on proposed policy with respect to the exercise of the FCA’s powers under new Article 23D”**

Dear Sir/Madam:

The Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks (“**Committee**”) appreciates the opportunity to comment on the consultation on proposed policy with respect to the exercise of the FCA’s powers under new Article 23D by the Financial Conduct Authority (“**FCA**”).

We generally support the FCA’s views expressed in this consultation.

The Committee considers that market participants should actively transition legacy contracts and instruments through either an active conversion or an insertion of robust fallback languages before the end of 2021, when JPY LIBOR based on panel bank submissions will likely cease.

There are a considerable number of contracts and instruments referencing JPY LIBOR maturing post 2021 in Japan, and market participants need to complete the transition of these contracts within a year<sup>1</sup>. At this moment, the Committee is yet to confirm those contracts and instruments that cannot practicably be transitioned away from the benchmark rate by actions or agreements between the contract counterparties themselves.

While our preparation towards the transition is picking up going forward, there are potential risks and uncertainties. For example, there may be cases where it takes longer than expected to obtain necessary consent from customers, in particular for contracts and instruments with complex structures and/or multiple stakeholders, and those cases could delay the achievement of milestones in certain segments of the market, although the amount of tough

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<sup>1</sup> In March 2020, Japan Financial Services Agency (JFSA) and Bank of Japan (BOJ) jointly published “Summary of Survey Results on the Use of LIBOR and Main Actions Needed”. (<https://www.fsa.go.jp/en/policy/libor/libor.survey.english.200313.pdf>, or [https://www.boj.or.jp/en/announcements/release\\_2020/rel200313b.pdf](https://www.boj.or.jp/en/announcements/release_2020/rel200313b.pdf))

legacy in Japan, if any, may turn out to be relatively limited. Therefore, the Committee would appreciate it if the FCA could consider such risks and uncertainties in evaluating the scale of tough legacy.

Considering the above-mentioned risks and uncertainties, the Committee considers that the use of Article 23D powers would help the orderly wind-down of JPY LIBOR in Japan. Therefore, the Committee, in close cooperation with a wide range of market participants, intends to discuss the risks and uncertainties with a view to considering the nature of potential tough legacy that cannot be transitioned away from the benchmark rate before the end of 2021.

The Committee would appreciate it if the FCA could continue to seek engagement from relevant national working groups, authorities, and market participants through a series of further consultations.

(End)