

Re: Matters Prescribed for Representation regarding Registration as an FCM or Other Status

October 26, 2015  
Amended on December 6, 2021  
Amended on September 16, 2025  
Amended on April 2, 2026  
Japan Securities Clearing Corporation

Pursuant to Article 47-2 of the Handling Procedures of Interest Rate Swap Business Rules, a Clearing Participant that makes a representation shall complete and submit to JSCC the “Notification Form of Member Information (IRS) for Production Environment” specified in the Operational Procedures of IRS Clearing Business.

A Clearing Participant may apply for the Clearing of IRS for a Customer who (1) does not belong to the same Corporate Group as the Clearing Broker and (2) is a U.S. Person (“U.S. customer”) only when all of the following conditions are met<sup>1</sup>. Any Clearing Participant that applies for the Clearing of IRS for a U.S. customer shall agree to the applicable conditions and comply with them.

1. JSCC clearing members may only solicit and accept orders for JPY-IRS from U.S. customers that are eligible contract participants as defined under Section 1a(18) of the CEA and Commission Regulation 1.3;
2. JSCC clearing members that solicit and accept orders from U.S. customers for JPY-IRS may not be registered with the Commission as FCMs nor incorporated in the United States;
3. JSCC clearing members that solicit and accept orders from U.S. customers for JPY-IRS must be affiliates of Commission-registered FCMs;
4. A JSCC clearing member seeking to clear for a U.S. customer must provide written notice to, and to obtain an acknowledgment from, the U.S. customer prior to clearing that explains that (i) the clearing member is not registered with the CFTC as an FCM, nor a member of the National Futures Association; (ii) JSCC is exempt from registration with the Commission as a DCO; (iii) in the event of the bankruptcy of JSCC or a JSCC clearing member holding U.S. customer property, the bankruptcy would be governed by the laws of a non-U.S. jurisdiction; and (iv) in the event of the bankruptcy of JSCC or a JSCC clearing member holding U.S. customer property, the protections of the U.S. Bankruptcy Code, as defined in CFTC Regulation 190.01, that are applicable to customers of a registered FCM and DCO do not apply to the U.S. customers, or to the funds and positions of the U.S. customers. The written notice must include an explicit comparison of the protections available to the U.S. customer positions and funds under the U.S. Bankruptcy Code and Part 190 of the Commission’s regulations and JSCC’s home country regulatory regime<sup>2</sup>. The JSCC clearing member must retain the U.S. customer’s acknowledgment of the receipt of the written notice in its records; and
5. JSCC clearing members must hold funds received from U.S. customers to margin, guarantee, or secure JPY-IRS, or funds accruing to U.S. customers as a result of JPY-IRS, in accordance with applicable Japanese laws, regulations, and JSCC rules.

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<sup>1</sup> See the CFTC’s no-action letter dated September 12, 2025 (CFTC Letter No. 25-32 No-Action), *Re: No-Action Letter with Regard to Sections 4d(f) and 4m(1) of the Commodity Exchange Act and Commission Regulation 39.6(b)(1)*): <https://www.cftc.gov/csl/25-32/download>.

<sup>2</sup> A template comparison that JSCC prepared is available at: <https://www.jpjx.co.jp/jsccl/otc/bankruptcyprotections.pdf>

## 参考様式

### Referential Form

この様式は、公示「FCMの登録等に関する届出に関して定める事項について」に定める要件4.に従い、清算参加者が米国顧客の金利スワップ取引について債務負担の申込みを行う上で、清算委託者に提供する通知及び当該清算委託者による確認様式を参考として作成したものです。ただし、必ずしもこの様式に従うことが求められるわけではなく、他の形式の書面をご使用いただくことも可能です。

This form serves as a reference for the written notice provided by the clearing member to the U.S. customer and an acknowledgment from the U.S. customer, to comply with fourth condition in JSCC's public notice titled "Re: Matters Prescribed for Representation regarding Registration as an FCM or Other Status" regarding the application for Clearing of IRS. Adherence to this specific form is optional, and alternative formats may be used to comply with the condition.

## 金利スワップ清算に関する米国顧客への事前通知及び確認書 Advance notice and acknowledgment regarding IRS clearing for U.S. customers

(Name of Clearing Participant) hereby notifies (Name of U.S. Customer) of the following matters based on the provisions of JSCC's public notice titled "Re: Matters Prescribed for Representation regarding Registration as an FCM or Other Status" concerning IRS clearing at Japan Securities Clearing Corporation (JSCC):

- (i) (Name of Clearing Participant) is not registered with the CFTC as an FCM, nor a member of the National Futures Association.
- (ii) JSCC is exempt from registration with the Commission as a DCO.
- (iii) In the event of the bankruptcy of JSCC or (Name of Clearing Participant) holding U.S. customer property, the bankruptcy would be governed by the laws of a non-U.S. jurisdiction.
- (iv) In the event of the bankruptcy of JSCC or (Name of Clearing Participant) holding U.S. customer property, the protections of the U.S. Bankruptcy Code, as defined in CFTC Regulation 190.01, that are applicable to customers of a registered FCM and DCO do not apply to the U.S. customers, or to the funds and positions of the U.S. customers. A comparison chart prepared by JSCC, outlining the protections available to the U.S. customer's positions and funds under the U.S. Bankruptcy Code and Part 190 of the Commission's regulations and JSCC's home country regulatory regime is available at: <https://www.jpx.co.jp/jsc/otc/bankruptcyprotections.pdf>

U.S. customer's acknowledgment of the receipt:

- We have received the above-mentioned written notice from (Name of Clearing Participant).

Date

MM, DD, YYYY

U.S. Customer  
Name