Frequently Asked Questions on the Implementation and Operation of3(t) /P /AM5S0Imp

an exit notice). (Please see Q6 on calculation period and prescribed day and Q35 and Q36 on exit notice.)

(c) The counterparty is an AI/AMB/LC and is also required to clear the transaction concerned (i.e. circumstances (a) and (b) above are applicable to that counterparty), or the counterparty is a financial services provider. (Please see Q11 below for the definition of a financial services provider.).

Calculation period, prescribed day and clearing threshold

Q6. What is a calculation period and what is a prescribed day in relation to a calculation period?

A calculation period is the period in which applicable position in OTC derivatives is calculated to determine whether it has reached the clearing threshold. Please see Q8 to Q10 for further information. There are multiple calculation periods. Each calculation period is three months in duration and there is a six-

2.	1 March 2017 to 31 May 2017	1 January 2018
3.	1 September 2017 to 30 November 2017	

As we intend to cover only dealer-to-dealer transactions in phase 1 clearing, only persons that meet the following criteria are included in the gazette list of financial services providers

(a) persons that are clearing members of the largest IRS central counterparties (**CCPs**) in the US, Europe, Japan and Hong Kong as at 5 February 2016; and

(b) persons that belong to a group of companies appearing on the list of global systemically important banks published by the Financial Stability Board in November 2015, and/or on the list of dealer groups which undertook to the OTC Derivatives Supervisors Group to work collaboratively with CCPs, infrastructure providers and global supervisors to continue to make structural improvement to the global OTC derivatives markets.

The factors that are relevant to determining the list of financial services providers may also change when we expand our clearing obligation in the future to cover a wider range of entities. We will review the list of financial services providers from this perspective.

Point to note:

If the clearing obligation is applicable to a transaction between an AI/AMB/LC and a financial services provider, the responsibility for ensuring compliance with clearing obligation rests with the AI/AMB/LC and not with the financial services provider.

Transactions subject to mandatory clearing

Q12.

Item	Currency	Floating rate index	Tenor	Optionality	Constant notional
2.	EUR	EURIBOR	28 days to 10 years	No	Yes
3.	GBP	LIBOR	28 days to 10 years	No	Yes

Q17. Is an IRS that forms part of a larger, complex or packaged structure subject to clearing obligation?

When an IRS that falls within Schedule 1 to the Clearing Rules is a ***transaction on its own***, and is combined with other separate transactions to make up a larger, complex or packaged structure, that particular IRS transaction will be caught by our clearing requirements.

However, if the larger, complex or packaged structure is a ***single transaction*** with different components and one of the components is similar to an IRS, we do not intend to require the single transaction to be broken down into its individual components and subject the component which is similar to an IRS to clearing obligation.

Also, if the larger, complex or packaged structure is in fact an embedded derivative, i.e. a simple instrument (e.g. shares, bonds, notes) with the IRS

SFO), the structure itself falls outside the scope of

embedded feature of the structure, will not be subject to mandatory clearing.

Q18. Is an

over the life of the swap. It falls within the definition of fixed-to-floating swap in Schedule 1 to the Clearing Rules. It will be subject to mandatory clearing if it has the features specified in Schedule 1 to the Clearing Rules.

Q20. What are the applicable floating rate indexes for IRS?

The applicable floating rate indexes are set out in Schedule 1 to the Clearing Rules. References to floating rate indexes include all valid quoting sources..

However, certain indexes may not be relevant if they are no longer maintained. For example, we do not expect HIBOR-ISDC will be used as it is no longer maintained by the International Swap and Derivatives Association.

The list of indexes may evolve over time but changes will be subject to consultation and the industry will be given time to make necessary arrangements before changes are implemented.

Q21. Are intra-company transactions subject to mandatory clearing?

Intra-company transactions between (i) two trading desks or (ii) branches/offices of the same entity are not subject to mandatory clearing.

Exemptions from clearing obligation

Q22. Are there any exemptions from the clearing obligation?

Yes. There are three exemptions available and they are -

(a) transactions with an exempt affiliate

Exempt affiliate exemption

Q23.

Point to note:

A

An exempt jurisdiction exemption is available to an LC or a local AI/AMB. This exemption applies to the transactions of such an institution that are booked in its branch in certain overseas jurisdictions provided that the conditions in Rule 9(2) are met. (Please see Q28 below.)

To benefit from the exemption, a person must send an exemption notice to the relevant regulator (if it is an LC, to the SFC, and if it is a locally incorporated AI or AMB, to the HKMA). The exemption notice should specify

(a) the jurisdiction(s) that is to be regarded as exempt jurisdiction(s) and more than one jurisdiction may be included in the exempt jurisdiction list; and

(b) the date from which the exemption is to take effect and the date must not be backdated, i.e. it must not be earlier than the day the notice is received by the HKMA or the SFC.

Point to note:

There is no neerJET-81(the)249(niEJETBT1 0 0 1 181.40(no)-249(ne)-5(TBT1 0 0 1 181.4niE.1

position for all exemption jurisdictions added together does

regulator, any new transaction in respect of ***all*** exempt jurisdictions on the list cannot benefit from the exempt jurisdiction exemption.

Point to note:

Only new transactions after the total position of an exempt jurisdiction stops meeting the requirements under Rules 9(2) of the Clearing Rules are not exempted from clearing. Historical transactions prior to that date are not affected.

Exemption for transactions resulting from multilateral portfolio compression cycle

Q30. What are the requirements in order for transactions resulting from multilateral portfolio compression cycle to benefit from the exemption?

The transaction must satisfy the criteria set out in Rule 10(2) of the Clearing Rules, i.e.

(b) The person must have followed up on whether the transaction has been accepted for clearing by the designated CCP, and if not, it must have taken all reasonable steps to ensure that the transaction is cleared as soon as possible within the timeline, including through another designated CCP if necessary.

Point to note:

The list of designated CCPs is set out in Annex 3.

Time allowed to clear

Q38. What is the time allowed to comply with clearing obligation?

A transaction has to be cleared with a designated CCP within one business day after the transaction has been entered into, i.e. on a T+1 business day basis. The refers to a business day in Hong Kong.

Q39. What happens if a person is not able to clear the specified OTC derivative transaction in time?

If the transaction remains uncleared due to factors outside the control, the person may have to terminate the transaction with its counterparty within the T + 1 business day timeframe, in order to avoid breaching the Clearing Rules.

Record keeping requirements

Q40. What records do I need to keep in relation to the clearing obligation?

The list of records to be kept is set out in Part 3 of the Clearing Rules, and in particular, Rule 14 sets out the types of records to be kept.

Q41. For how long must the records be kept?

Records required to be kept in relation to a specified OTC derivative transaction must be kept for at least 5 years after maturity or termination of the transaction.

Q42. Are transactions of an overseas AI or overseas AMB that are booked outside of Hong Kong subject to the record keeping requirements?

Rule 6(1)(a)(ii) of the Clearing Rules excludes a transaction of an overseas AI or overseas AMB that is booked outside of Hong Kong from clearing obligation.

Annex 1

26. HSBC France

27. HSBC Securities (USA) Inc.

28. ING Bank N.V.

29. ING Bank Slaski S.A.

30. ING-DiBa AG

31. JPMorgan Chase Bank, N.A.

32. JPMorgan Securities Japan Co., Ltd.

33. J.P. Morgan Securities LLC

34. J.P. Morgan Securities plc

35. Merrill Lynch Capital Services Inc.

36. Merrill Lynch International

37. Merrill Lynch Japan Securities Co., Ltd.

38. Merrill Lynch, Pierce, Fenner & Smith Incorporated

39. Mitsubishi UFJ Morgan Stanley Securities Co., Ltd.

40. Mizuho Bank, Ltd.

41. Mizuho Capital Markets Corporation

42. Mizuho Capital Markets (UK) Ltd.

43. Mizuho International plc

44. Morgan Stanley & Co. International plc

45. Morgan Stanley & Co. LLC

46. Morgan Stanley Capital Services LLC

47. Morgan Stanley MUFG Securities Co., Ltd.

48 MUFG Securities EMEA PLC

49. NATIXIS

50. Nomura Global Financial Products, Inc.

51. Nomura International plc

52. Nomura Securities Co., Ltd.

Annex 2

Annex 3

List of designated CCPs

1. Chicago Mercantile Exchange Inc
2. Japan Securities Clearing Corporation
3. LCH.Clearnet Limited
4. OTC Clearing Hong Kong Limited