

Japan's Financial Services Agency provides detailed rules on centralised clearance of OTC

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Speedread

On 22 October 2010, Japan's Financial Services Agency (the JFSA) published draft amendments to regulations made under the Financial Instruments and Exchange Act (FIEA).

On 22 October 2010, Japan's Financial Services Agency (the JFSA) published draft amendments to regulations made under the Financial Instruments and Exchange Act (FIEA) which seek to implement the aim of:

Centralising the clearance of OTC derivatives.

Securities companies being supervised on a consolidated basis.

The amendments were open to public comment (those comments are now being reviewed by the JFSA) and will come into effect on 1 April 2011.

With regards to centralising the clearance of OTC derivatives, the amendments provide that:

A domestic clearance institution is required to maintain minimum capital of one billion yen.

A foreign clearance institution needs to have three years of experience in providing clearance services in order to be authorised to provide clearance services, directly or in co-ordination with a domestic clearance institution, for Japanese financial institutions.

As regards consolidated-basis supervision of securities companies, the amendments provide that a securities company with total assets of one trillion yen shall be subject to consolidated-basis supervision; and sets out details of the items required to be reported and the forms to be used for reporting purposes.

Other amendments include:

Widening the scope of Investment Management Business (a type of Financial Instruments Business which requires the holding of a Financial Instruments Business license) to include the acceptance of funds which are then invested in foreign investment trusts.

Prohibitions on the solicitation of individuals to enter into OTC derivatives unless requested.

Expanding the scope of derivatives (which are subject to regulation under FIEA) to include derivatives where the underlying comprises real estate prices or indices based thereon provided by administrative bodies or municipal governments.

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