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This issue covers the following topic:**■ Financial Regulations/Financial Compliance****New Regulatory Framework for Financial Brokers and Amended Regulations on Money Transfer Services****■ Financial Regulations/Financial Compliance****New Regulatory Framework for Financial Brokers and Amended Regulations on Money Transfer Services****I. Introduction**

On June 5, 2020, the Diet passed a bill to amend (Amendment), among others, the Act on Sales, etc. of Financial Instruments (ASFI) and the Payment Services Act (PSA) for the purposes of: (i) introducing a new regulatory framework for the brokerage of financial products; and (ii) revising the current regulatory framework for payment and settlement. The Amendment was promulgated on June 12, 2020 and will enter into force within one and a half years from the date of promulgation.

II. New Framework for Brokerage of Financial Products**(i) Outline**

The Amendment will introduce a new regulatory framework entitled "Financial Service Brokerage" in order to facilitate a one-stop service by brokers to offer financial products throughout all sectors of banking, insurance and securities. The new regulatory framework will have two unique characteristics: (i) cross-sectoral licensing across all sectors of banking, insurance and securities; and (ii) not applying the existing 'affiliation framework' practice.

(ii) Cross-sectoral Licensing

Under the current legislation, brokers wishing to provide a one-stop service must obtain the necessary license under each relevant statute for each sector (e.g., the Banking Act, Insurance Business Act, Financial Instruments and Exchange Act).

The Amendment will revise the ASFI (and rename it as the "Act on Provision of Financial Services") to introduce the new regulatory framework of "Financial Service Brokerage". This new framework will allow brokers to offer financial products in any or all sectors across banking, insurance and securities with only one license (registration) as "Financial Service Brokers". Having said that, the current regulatory framework for brokerage under each sectoral statute will continue after the Amendment comes into force in parallel with the new regulatory framework to be introduced under the amended ASFI.

Under the amended ASFI, Financial Service Brokerage is comprised of four categories: (i) Deposit Intermediary; (ii) Insurance Intermediary; (iii) Securities Intermediary; and (iv) Lending Business Loan Intermediary. Registration as a Financial Service Broker will be required for each of these categories. In particular, applicants for registration as Financial Service Brokers will need to disclose in their application documents which of the four categories they wish to operate within. The regulator will then proceed to

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examine the applicants according to the categories indicated. Brokers that wish to change the categories under which they are registered will need to apply to the regulator again to become registered under the desired new categories.

(iii) Not Adopting Affiliation Framework

The current regulatory framework for brokers under each relevant statute generally adopts an "affiliation framework", under which brokers are affiliated with (or belong to) specific financial institutions (e.g., banks, insurance companies, securities firms). In turn, the affiliated financial institutions are responsible for the supervision of the affiliated brokers and are liable for any damages caused to customers by the affiliated brokers.

The amended ASFI does not apply the same affiliation framework practice to Financial Service Brokers. Consequently, Financial Service Brokers will be able to offer the products of multiple financial institutions more easily than existing brokers who would need to be affiliated with specific financial institutions under the affiliation framework.

On the other hand, as there will be no supervision over the conduct of Financial Service Brokers by affiliated financial institutions, the amended ASFI will impose the following certain restrictions on Financial Service Brokers in order to protect customers:

- Financial Service Brokers will not be permitted to act as an agent and will only be permitted to act as an intermediary;
- Financial Service Brokers will not be permitted to offer certain financial products that require a highly technical explanation; and
- Financial Service Brokers will not be permitted to receive deposits of money or other property from customers.

Furthermore, no affiliated financial institutions will owe any liability for damages caused by Financial Service Brokers to customers. In other words, customers will not be able to claim damages against affiliated financial institutions and will only be able to make claims against the Financial Service Brokers themselves. Therefore, the amended ASFI will generally require Financial Service Brokers to set aside a security deposit of a certain amount for the purpose of ensuring the financial ability of Financial Service Brokers to pay compensation for damages to customers if necessary.

III. Revision to Framework for Payment and Settlement

Under Japanese law, money transfer services are regulated by either the Banking Act or the PSA.

Historically only banks licensed under the Banking Act were allowed to provide money transfer services. In 2009, the PSA was enacted to allow registered service providers to provide money transfer services subject to an upper limit of JPY 1 million per transfer.

The Amendment will make several revisions to the current regulatory framework for payment and settlement under the PSA, with the most notable change being an amendment to the aforementioned upper limit imposed on money transfer service providers registered under the PSA.

Specifically, the Amendment will introduce a new type of money transfer service which will be allowed to transfer amounts exceeding JPY 1 million but will be subject to stricter regulations (Type I Money Transfer Services). The Amendment will also introduce a type of money transfer service that will only be allowed to transfer amounts below a certain limit¹ and will be subject to less strict regulations (Type III Money Transfer Services). Lastly, the existing money transfer services regulated under the current PSA will basically remain unchanged (except for certain revisions to the

¹ The threshold limit for Type III Money Transfer Services will be determined by a separate Cabinet Order; however, it is expected to be approximately JPY 50,000.

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current regulations) and will be categorized as Type II Money Transfer Services under the amended PSA.

The following table outlines the regulations that will be applicable to each type of money transfer service under the amended PSA.

| Type | Upper limit | License | Restrictions on retention of money | Method to protect in-transit money |
|----------------------------------|--|--|--|---|
| Type I Money Transfer Services | None | Approval is required in addition to registration | <ul style="list-style-type: none"> ● Strict restrictions on retention of money: <ul style="list-style-type: none"> • Not allowed to accept money from customers if transaction details (e.g. the amount, date and time of remittance) are unconfirmed • Not allowed to accept money for a period longer than necessary for the remittance ● General requirement to take measures to prevent the retention of money that is not related to remittance (which could be viewed as acceptance of deposit without a banking license) | <ul style="list-style-type: none"> ● Requirement to protect in-transit money by way of statutory deposit, bank guarantee or trust agreement |
| Type II Money Transfer Services | JPY 1 million | Registration is required | <ul style="list-style-type: none"> ● General requirement to take measures to prevent the retention of money that is not related to remittance (which could be viewed as acceptance of deposit without a banking license) | |
| Type III Money Transfer Services | To be determined by Cabinet Order (expected to be approximately JPY 50,000) | Registration is required | <ul style="list-style-type: none"> ● Upper limit of the amount that can be accepted (i.e., not allowed to accept money in an amount exceeding such limit) ● General requirement to take measures to prevent the retention of money that is not related to remittance (which could be viewed as acceptance of deposit without a banking license) | <ul style="list-style-type: none"> ● Instead of statutory deposit, bank guarantee or trust agreement, simple deposit in a segregated bank account is sufficient ● In case of choosing simple deposit in a segregated bank account, external auditing of such bank account is required |

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