

International financial hub, regulation and legislation

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Chambers FinTech 2020-Japan-Legal
Leading Individual



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Legal Notices

1. About Atsumi & Sakai

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Atsumi & Sakai Legal Professional Corporation also wholly-owns a subsidiary, Atsumi & Sakai Europe Limited (a company incorporated in England and Wales (No: 09389892); sole director Naoki Kanehisa, a lawyer admitted in Japan), as its London Office. It also has an affiliate office in Frankfurt, Atsumi Sakai Janssen Rechtsanwalts- und Steuerberatungsgesellschaft mbH, a German legal and tax advisory professional corporation (local managing director: Frank Becker, a lawyer admitted in the Federal Republic of Germany).

2. Legal Advice

Unless stated otherwise by A&S, any legal advice given by A&S is given under the supervision and authority of (i) in respect of Japanese law or any laws other than foreign laws on which our foreign lawyers are registered in Japan to advise, a specified lawyer admitted in Japan at A&S, or (ii) in respect of any foreign law on which our foreign lawyer is registered in Japan to advise, such registered foreign lawyer.

Recent Changes to Expedite Incorporation

- **Residence of the representative director**

The previous requirement that at least one of the representative directors in the domestic company has an address in Japan has been abolished (March 2015).

- **Payment certificate**

In the case where all of the incorporators and directors at incorporation do not have addresses in Japan, a third person may be accepted as an account holder of the deposit passbook (March 2017).

- **Signature certificate**

A foreign national's signature must have been made by competent authorities of the home country in the home country, but now signature certificate made by a notary of the country of residence may be allowed (February 2017).

- **Fast track registration**

A registration of companies, measures will be taken so that these procedures can be executed within three business days following the day of receipt of application (March, 2018). It was decided to aim for processing within 24 hours (March 2020).

- *The following are still under consideration, it aims to realize them within FY 2020.*

- *Complete online one-stop system for the incorporation process.*
- *Abolition of obligation to file Notification of Seal Impression upon incorporation.*

Asset Management



* The services below are the main services that typically need registration and are not exhaustive.
Please note that it is necessary to conduct thorough research to decide what types of registrations are required for the services.

Services offered	Type of Licence	Capital Requirement	Domestic Office
1 <ul style="list-style-type: none"> Investment management 	Investment Management Business	50 million yen	Required
1' <ul style="list-style-type: none"> Investment management for qualified investors (AUM under JPY 20 billion) 	Investment Management Business for Qualified Investors	10 million yen	
2 <ul style="list-style-type: none"> Public or private offering of interests in funds Dealing or brokerage of illiquid securities 	Type II Financial Instruments Business	10 million yen	Required
3 <ul style="list-style-type: none"> Investment advisory/agency 	Investment Advisory/Agency Business	None (5 million yen for business security deposit)	Not required
4 <ul style="list-style-type: none"> Private offering or investment management of interests in funds for professional investors 	Funds for Professional Investors (notification only)	No requirement	Not required (Representative in Japan is required)

Recent Updates on the FSA

- **Guidebook for Registration of Investment Management Business and Other Financial Instruments Businesses** (10 January 2020)
→ <https://www.fsa.go.jp/en/policy/marketentry/guidebook.html>
- **A foreign investment manager who has difficulty in continuing its business in the foreign country can continue the business temporarily in Japan based on an approval by the commissioner of the FSA.**
→ <https://www.fsa.go.jp/en/news/2020/20200722.html>
- **Establishing a single point of contact for foreign asset management firms** (6 November 2020)
→ <https://www.fsa.go.jp/en/news/2020/20201106-2/20201106.html>
- **Public consultation on the registration process in English for foreign asset management firms under the Financial Instruments and Exchange Act** (6 November 2020)
→ <https://www.fsa.go.jp/en/news/2020/20201106/20201106.html>

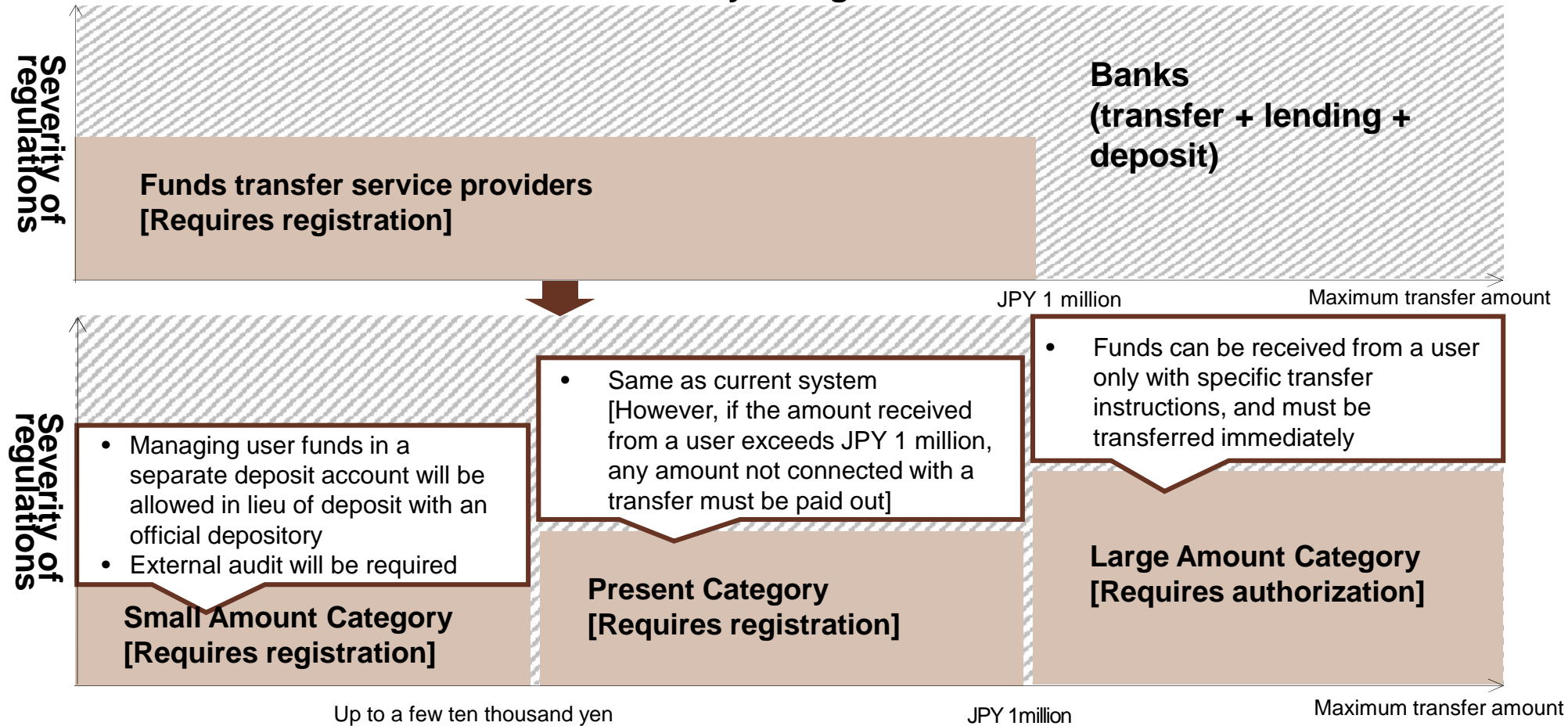
Payment Services Legal Framework (Current)

Service provider	Bank	Funds transfer service provider	Prepaid payment instruments issuer	Credit card company
Services	Payments	Payments limited to JPY 1 million or less per transaction	Payments (after adding funds to an account, withdrawal is prohibited)	Payments
	Loans			Loans associated with purchase of goods
	Deposits (can be put toward loans)	Retention of users' funds only available for payments	Retention of users' funds only available for payments	
Laws	Banking Act	Payment Services Act	Payment Services Act	Installment Sales Act
License	License	Registration	Registration	Registration

Funds Transfer Business: Creation of a More Flexible Structure

- Create different categories of funds transfer businesses to apply rules according to transfer amount and risks to ensure regulation is sufficient and not excessive
- Specifically, (1) create a type of services that can handle transfers of large amounts of money (requires authorization), and (2) streamline regulations regarding preservation of users' funds applicable to the small-amount transfers category

Maximum transfer amount and severity of regulations



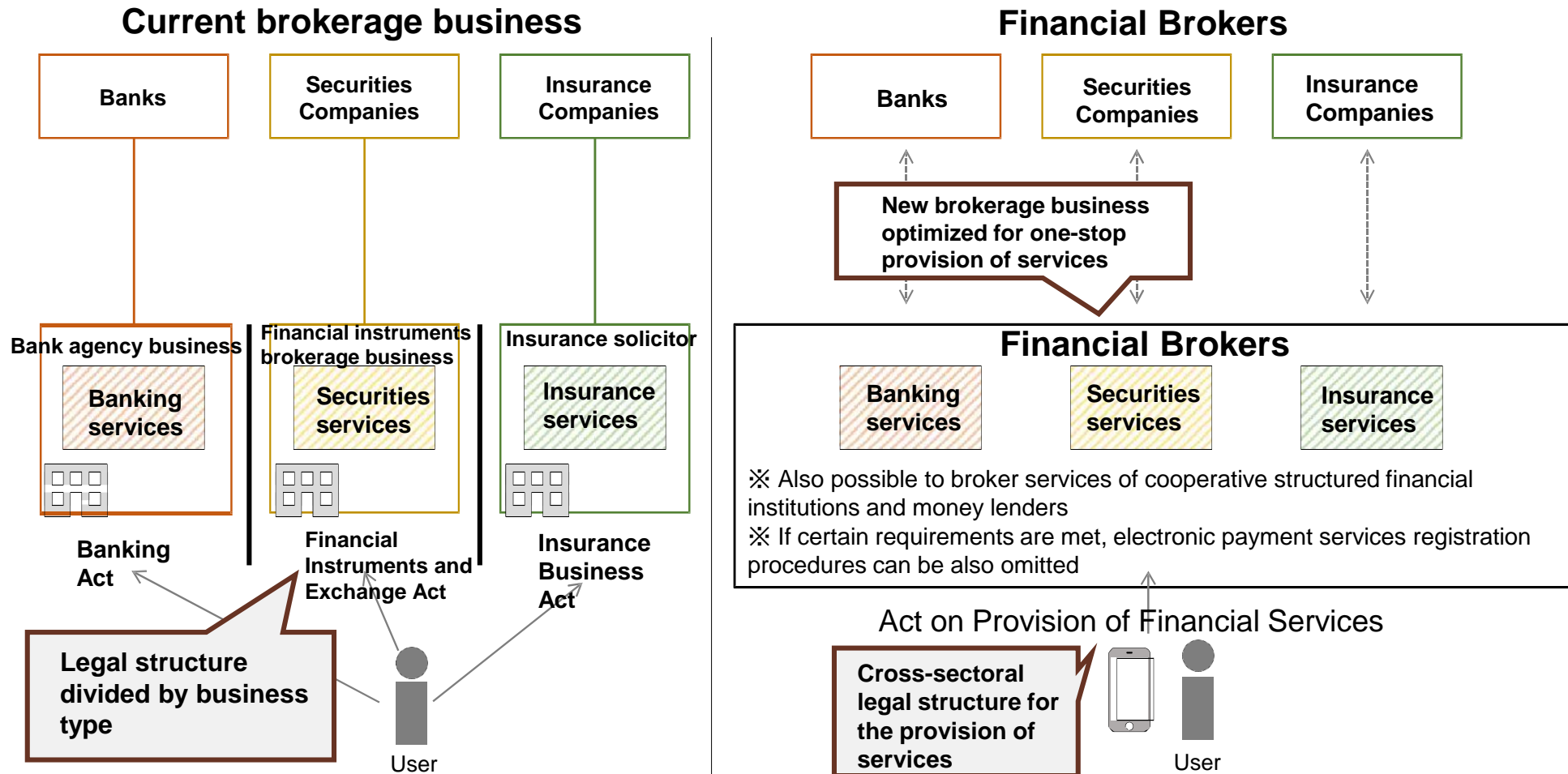
Financial Services Regulations on Intermediary Businesses (Current)



Law	Banking Act		Financial Instruments and Exchange Act (FIEA)	Insurance Business Act	
Function	Payment	Deposit receipt & lending	Asset management	Risk transfer	
Business type	Electronic Payment Service Provider (EPSP)	Bank agent	Financial Instruments Intermediary Service Provider	Insurance agent	Insurance broker
License	Registration	Approval	Registration	Registration	Registration

Creation of Financial Brokers

- Act on Sales, etc. of Financial Instruments will be renamed the Act on Provision of Financial Services, and the category of financial brokers will be created.
- Unlike in the current framework where brokerage is divided according to business type, this enables the provision of brokerage services in the areas of banking, securities and insurance with a single registration, which is optimal for one-stop services.



Source: FSA “Explanatory material on the bill to partially amend the Act on Sales, etc. of Financial Instruments for improvement of convenience and protection of users of financial services” (English translation by Atsumi & Sakai)

Thank you

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