



**Recommendations
of the
EU-Japan Business Round Table
to the Leaders of the European Union and Japan**

Paris, 29 & 30 April 2013

**Working Party D
Financial Services, Accounting and Tax Issues**

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List of Abbreviations

Abbreviation	Meaning
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FSB	Financial Stability Board
BCBS	Basel Committee on Banking Supervision
IOSCO	International Organization of Securities Commissions
EMIR	European Market Infrastructure Regulation
MiFID	Markets in Financial Instruments Directive
OCI	Other comprehensive income
APA	Advanced Pricing Agreement
FSA	Financial Services Agency
EIOPA	European Insurance and Occupational Pensions Authority
FTT	Financial Transaction Tax

Introduction

Japan and the EU are each facing the challenges of recovery in various economic environments such as a long-term deflationary economy or financial crisis and the need to restore sustainable growth. The leaders of the G20 have agreed to implement regulatory reforms to promote integrity, stability and transparency in the financial sector and such global efforts for the reform implementation are being monitored closely by the Financial Stability Board (FSB) to ensure international consistency. The proposed regulations and prudential measures are expected to prevent the recurrence of systemic crisis, increase accountability and ultimately contribute to economic recovery through support given to real economic activities by a healthy financial sector.

It is essential that governments and global supervisory bodies take a coordinated approach to the introduction and implementation of regulations or measures, to identify their full and cumulative implications on markets which have different circumstances and practices, and to ensure consistency and efficiency. This is also applicable beyond financial regulations, to tax or accounting measures for example, as the common objective is to preserve efficient resource allocation for companies operating globally as well as level playing fields for all participants. Japan and the EU should unite their efforts to steer through this challenging time and achieve recovery most effectively.

The above is reflected in our selection of priority Recommendations for this Working Party D document. Two asterisks (**) identify top priority recommendations.

Recommendations from both European and Japanese industries

WP-D / #01 / EJ to EJ Issues to be mindful of when proceeding with financial market reform**

- The BRT recommends avoiding excessive 'ring-fencing' in each jurisdiction and duplication of regulations with effective supervision by the home country and international coordination, because any constraint on flow of global banking services may eventually cause negative effects on corporate business activities including increased cost of funding, inefficient cash and asset management and negative effects on other cross-border transactions in various occasions.
- The BRT requests that, while seeking resiliency of the wider financial system, any financial market reform should fully address its impact on effective functioning of relevant financial and capital market activities, particularly for liquidity in the markets.

<Recent Progress>

The Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO) have issued in July 2012 its first consultative paper on margin requirements for non-centrally cleared derivatives on which comments were submitted by end of September. Thereafter, in February 2013, BCBS and IOSCO have issued a second consultative paper as a near-final proposal seeking further public comments by 15 March 2013. The FSB has published in November 2012 an initial set of recommendations to strengthen oversight and regulation of shadow banking and asked for comments to be submitted in January 2013.

<Background>

For successful completion of global financial market reforms, the BRT believes that internationally consistent regulations should be built and implemented through multilateral discussions on a global basis to ensure level-playing field among players and markets. Among other things, the impact on the revitalisation of global economic growth and cumulative impacts due to regulatory reforms being implemented concurrently should be taken into account fully.

With regard to liquidity, two of the current global regulators' proposals, namely i) margin requirements for non-centrally cleared derivatives and ii) regulations over securities lending

and repos in the context of shadow banking regulation (e.g. proposal of minimum haircuts in particular), are of particular concerns. If imposed as proposed, these regulations would cause negative impacts on financial markets, credit extensions and eventually economic growth, which is an unintended consequence to be avoided.

WP- D / #02/ EJ to EJ US Regulations**

The European and Japanese authorities and industries should continue to unite their efforts to ensure internationally consistent and level-playing field implementation of US regulations while preventing excessive extra-territorial and other prejudicial application thereof.

<Recent Progress>

The BRT appreciates the Authorities coordination in the implementation of OTC derivatives reforms. Some results were observed. In December 2012, the US Securities and Exchange Commission's Office of International Affairs released a joint statement which reflects statements of European, U.S. & other OTC derivatives regulators. The statement suggests some potential changes from the Commodities Futures Trading Commission's cross-border proposal.

<Background>

For the derivatives market and business, it is particularly important that regulators in both sides of the Atlantic fully coordinate and streamline all requirements for the trading, clearing and reporting of swap transactions as well as associated dealer registration or other licensing requirements, envisaged under the proposed EMIR (European Market Infrastructure Regulation), the MiFID Review (Markets in Financial Instruments Directive) and the US Dodd-Frank Act. There are also other areas where extraterritoriality or inconsistent and discriminatory applications could be an issue for non-US parties, such as the anticipated impact of the rule proposed by the Federal Reserve Board on non-US banks.

WP- D / #03 / EJ to EJ Accounting Issues in EU and Japan

The BRT recommends the following:

- In addition to net unrealised gain on available-for-sale securities being recognised as other comprehensive income (OCI) and dividend, as net income, realised gain should be recognised as net income and not OCI.
- Actuarial gains and losses on employee benefits should be recycled.
- Operating and finance leases should be treated separately.
- A disclosure framework is needed to reduce the burden of preparation.

<Recent Progress>

According to the Authorities Progress Reports, the EU and Japanese authorities are maintaining a dialogue to ensure the appropriateness of standard-setting processes.

<Background>

The IASB and the FASB have been working on convergence projects to improve financial reporting. They have issued a Joint Update Note on Accounting Convergence in April 2012 summarising the status of projects completed or for some, delayed. They have set a new target to issue final standards on items such as classification and measurement and leases by mid-2013. In February 2013, for the G20 Finance Ministers and Central Bank Governors meeting in Moscow, the FSB has published a joint update by IASB and FASB on the status and timeline of their remaining projects on converging their standards. The G20 Finance Ministers and Central Bank Governors expressed concern about the delays in the convergence of accounting standards to date and asked the IASB and the FASB to finalise by the end of 2013 their work on key outstanding projects for achieving a single set of high-quality standards. The BRT continues to support further discussions on convergence and the introduction of IFRS in Japan.

Generally, the volume of disclosure items has been increasing recently. An efficient disclosure system will be needed for all stakeholders (not only those who prepare but also the users of the information).

WP-D / #04 / EJ to EJ Tax Issues in the EU and Japan

- The BRT recommends that EU Member States and Japan modernise the tax treaties which were established a long time ago. Tax treaties should ensure to the greatest possible extent that dividend, royalty and interest payments are exempted from withholdings taxes and provide for corresponding adjustments and arbitration.
- The BRT requests the harmonisation and simplification of documentary requirements in transfer pricing taxation and the conclusion of bilateral and multilateral APAs in transfer pricing taxation.
- The BRT maintains its recommendation to introduce participation exemption and exempt dividends and capital gains received from business investment from further corporate taxation.
- The BRT recommends avoiding introducing tax regulation focusing on specific industry or category of business, such as a Bank Tax, which could lead to distortion in the allocation of resources and economic activities in the private sector.

<Recent Progress>

Progress has been limited.

<Background>

The removal of double taxation or simplification of documentary requirements is necessary to ensure transparent and fair taxation for companies conducting business on a global basis. The introduction of taxation on specific industry or sector which could distort resource allocation and impair economic growth should be avoided.

Recommendations from both European and Japanese industries to Japan

WP-D / #05 / EJ to J Financial Services Issues in Japan

- The BRT recommends establishing a level playing field before the postal financial entities broaden their range of products.
- The BRT believes that the Japanese government should clarify share sale schedules of Japan Post Bank and Japan Post Insurance Co.

<Recent Progress>

Japan Post Holdings presented a plan for the “listing of Japan Post Holdings” at a meeting of the Postal Privatization Committee on 29 October 2012.

<Background>

On 30 November 2012, the Japanese Financial Services Agency (FSA) and the Ministry of Internal Affairs and Communications granted new services to Japan Post Insurance with conditional approvals based on the Postal Service Privatization Act, Article 138, Paragraph 4.

WP- D / #06 / EJ to J Enlarging business scope of financial institutions

The BRT recommends enhancement of consumer convenience by enlarging the business scope of financial institutions (e.g., deregulation for the legislative framework of insurance sales through banks).

<Recent Progress>

As for measures to prevent internal collusion on sale of insurance carried out by banks, the FSA revised part of the regulations that prevented bank from selling insurance to loan borrowers and that went into effect on 1 April 2012.

<Background>

The FSA has been monitoring the status of bank sales of insurance. However, the FSA decided to keep the basic framework unchanged and will conduct a review when necessary rather than setting a timetable for future review.

WP- D / #07 / EJ to J Tax issues in Japan

- On transfer pricing the BRT recommends the following.
 - All cross-border transactions should be dealt with under transfer pricing legislation and not under domestic corporate tax rules relating to donations
 - To ensure consistency between transfer pricing methodology for audit assessment and methodology used in Advanced Pricing Agreement
- The BRT recommends that tax authorities accept and process applications for tax rulings and tax law provides for right to request and obtain tax rulings.

<Recent Progress>

Limited progress.

<Background>

Transparent and fair taxation is key to the activities of global companies and economic development.

Recommendations from both European and Japanese industries to the EU

WP- D / #08 / EJ to E Banking Union and Financial System Stability

The BRT advocates the EU Banking Union and expects its further development in 2013 to solve the current crisis and restore stability in the financial system.

<Recent Progress>

This is a new recommendation.

<Background>

Successful completion of the Banking Union initiatives by the EU Government will be the imperative to break the link between banks and sovereigns and then restore confidence of consumers and international financial markets, so thereby revitalise the economic growth in the region, and consequently and hopefully remove the current uncertainties looming around economic and business activities both in Japan and EU, or elsewhere globally.

Banking Union proposals include, i) a single banking supervisory mechanism by ECB, ii) a single deposit guarantee system for greater protection and iii) a single resolution regime for failing financial institutions including a pan-EU resolution fund. The BRT welcomes any progress of those important initiatives and expects political wisdom to overcome any differences and difficulties on the course of policy agreement.

The BRT calls the EU to be mindful that, during the course of negotiation and reaching compromise for the initiative, it takes a due and diligent political process to overcome any conflicts due to interests of each member state including, but not limited to, interests related to divergence of fiscal policy as well as differences in political approach between euro-zone and non euro-zone member states. No outcome of the efforts should result in anything hindering the region's economy and impairing the advantage of the EU single market.

WP- D / #09 / EJ to E Solvency margin regulation on insurance companies

The BRT expects that the procedure regarding the equivalence decision is implemented constructively and Japanese supervisory systems will be regarded as equivalent to European systems.

<Recent Progress>

Assessment Reports are in preparation.

<Background>

The European Insurance and Occupational Pensions Authority (EIOPA) is trying to introduce new prudential regulation “Solvency II” of a Europe-wide harmonized framework which provides the right incentives for insurers to better understand, measure and manage their risks. In 2013, the EIOPA will continue to assist the European Commission (EC) in preparing equivalence decision pertaining to supervisory regimes in third countries by way of producing final, fully consulted upon advice. During the first half of 2013, the EIOPA plans to provide the EC with the revised Assessment Reports for the Equivalence of Japanese supervisory system.

WP- D / #10 / EJ to E Tax on Financial Transaction**

The BRT expresses serious concern over the recently released EC’s draft Council Directive implementing enhanced cooperation in the area of financial transaction tax (FTT), particularly with respect to its wider application and extraterritorial impact. For instance, as the proposed Directive introduces both a residency and issuance test for such unilateral taxation, it risks causing costly double and multiple taxation.

If imposed, the FTT will increase trading costs and result in reduced volume of financial transactions and decreased liquidity. In addition, the FTT on secondary market trading in such a wide scope of asset classes will significantly increase the funding costs and impair legitimate hedging activities by parties such as business corporations in the financial markets. The decreased liquidity in secondary markets is likely to cause impacts on primary market eventually.

< Background >

The EC announced proposals in September 2011 to impose a Financial Transaction Tax on financial instruments between financial institutions when at least one party to the transaction is located in the EU but it has concluded since that a common FTT system could not be attained within a reasonable amount of time by the EU as a whole. On 14 February 2013, the EC has adopted a proposal for a Council Directive implementing enhanced cooperation between 11 Member States in the area of financial transaction tax.

The proposed Directive mirrors the scope and objectives of the original FTT proposal put forward by the Commission in September 2011. The approach of taxing all transactions with an established link to the FTT-zone is maintained, as are the rates of 0.1% for shares and bonds and 0.01% for derivatives.

The proposed Directive will now be discussed by Member States, with a view to its implementation under enhanced cooperation. All 27 Member States may participate in the discussions on this proposal. However, only the Member States participating in enhanced cooperation will have a vote, and they must agree unanimously before it can be implemented. The EU Parliament will also be consulted.