

Author:

[E-mail✉ Yoshiharu Kawamata](mailto:Yoshiharu.Kawamata@nisha.com)[E-mail✉ Akihiro Shimoda](mailto:Akihiro.Shimoda@nisha.com)[E-mail✉ Sotaro Hotta](mailto:Sotaro.Hotta@nisha.com)

1. Becoming an International Financial Center

Recently, Japan declared intent to establish itself as an international financial center open to the world. To this end, it is promoting various policies that encourage the participation of overseas asset managers in the Japanese market. Based on these policies, a number of measures have been implemented (particularly by Japan’s Financial Services Agency; “FSA”) to promote the entry of overseas asset managers and to generally enhance Japan’s asset management industry. Noteworthy efforts have been made to improve the tax system (including clarification of the tax treatment of carried interest) as well as to introduce English registration and financial administration procedures (including a ‘one-stop’ service-platform for such purposes).¹ In this Newsletter, we would like to provide an overview of the recently introduced “Specially Permitted Business for Foreign Investors, etc.” (the “**SPBFI**”) and the “Specially Permitted Business during Transition Period” (the “**SPBTP**”) exemptions, which aim to simplify the procedures for entering the asset management business in Japan.

2. Overview of the Specially Permitted Business for Foreign Investors, etc., and the Specially Permitted Business during Transition Period

Both the SPBFI and the SPBTP² are designed to enable overseas asset managers considering engagement in certain types of asset management business in Japan to do so simply by submitting a notification, without registering as a financial instruments business operator. While it generally takes several months to register as a financial instrument business operator, a typical notification filing can be completed in a much shorter period of time. Thus, it is expected that use of these exemptions will make it possible for business operators to launch their asset management businesses quickly and smoothly.³

¹ You can find the relevant policies on the following FSA websites:

<https://www.fsa.go.jp/en/news/2007/20071119.html>

<https://www.fsa.go.jp/internationalfinancialcenter/en/index.html>

² The revised law that includes the SPBFI and the SPBTP was enacted by the Japanese Diet on May 19, 2021 and came into effect on November 22, 2021.

³ The filing can be completed in English and the necessary form (including the form for the SPBTP) is available [here](#).

(1) Specially Permitted Business for Foreign Investors, etc.

The SPBFI is an exemption for the investment management and marketing activities of partnership-type funds where the only investors are "Foreign Investors, etc."⁴ It can be said that the requirements for the SPBFI are more relaxed than those for the Specially Permitted Business for Qualified Institutional Investors, etc., which has been widely used as a similar exemption, in that it does not require the inclusion of a Qualified Institutional Investor.

However, to rely on the SPBFI, the following requirements (and others) must be satisfied:

- (i) aggregate investment amounts contributed by non-residents of Japan must be more than 50% of the total contribution amount of the fund (in other words, Japanese investors are able to invest less than 50% of total investments);
- (ii) sufficient personnel structure and internal systems must be in place to engage in the SPBFI;⁵ and
- (iii) a business office must be established in Japan.

(2) Specially Permitted Business during Transition Period

The scope of services that can be provided by a notifier relying on the SPBTP is broader than that for the SPBFI and includes (a) discretionary investment management services for "Foreign Investors, etc.,"⁶ and fund management services for foreign investment trusts and foreign partnership funds with "Foreign Investors, etc." as investors, as well as (b) offering activities for interests in the funds managed by such notifier.

However, the SPBTP has been introduced as a temporary exemption for use during the preparatory period for obtaining a formal license in Japan. Specifically, the notification filing for the SPBTP must be made within five years of November 22, 2021 and the notifier only can perform the business in reliance on this exemption for a maximum of five years from the date when the filing is completed.

To rely on the SPBTP, the following requirements (and others) must be satisfied:

- (i) as with the SPBFI, a sufficient personnel structure and internal systems must be in place and a business office must be established in Japan;
- (ii) a notifier must have an investment management license in its home country (currently limited to the United States, the United Kingdom, Australia, Singapore, Switzerland, Germany, France and Hong Kong) that is equivalent to registration as a financial instruments business operator under Japanese law;
- (iii) a notifier must have a business track record of three years or more; and
- (iv) more than 50% of the fund assets cannot be invested in certain Japanese domestic securities such as domestic stock and stock options.

⁴ The FSA has publicly provided a detailed list of "Foreign Investor, etc." in the [Guidebook for Registration of Investment Management Business and Other Financial Instruments Businesses](#).

⁵ According to the FSA's response to the public comments published on November 10, 2021 (No. 176), when a subsidiary of a foreign company files for a SPBFI, the subsidiary may entrust its compliance administrative functions to its foreign parent company.

⁶ "Foreign Investors, etc." for the SPBTP is defined differently from "Foreign Investors, etc." for the SPBFI. For further information, please refer to the link in footnote 4 above.

(3) Our View

The SPBFI and the SPBTP will be useful tools for overseas investment managers seeking to enter the Japanese asset management market. As such, we hope these exemptions will be used to promote the entry of overseas asset managers into the Japanese financial market.

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