

**Client Alert: 3 Month Grace Period was provided
for GPs that have already filed notification**

This newsletter will provide you with follow-up information concerning our previous newsletter published in November, 2011 (http://www.jurists.co.jp/en/topics/docs/newsletter_201111_finance.pdf).

On February 10 and 15, 2012, the FSA published the final rules and administrative guideline together with its response to the public comments on the amendment to the rules and administrative guideline.

1. Review (Summary of Amendment)

Effective April 1, 2012, the rules regarding notification filing for the QII business exemption* will be amended. This amendment will require GPs to file more information than currently required, and to submit certain certified documents.

* A general partner ("GP") of a limited partnership must, in general, be licensed as a financial instruments business operator in order to conduct the business of offering interests in such partnership and managing investors' assets. However, an exemption to such licensing obligation applies if the GP satisfies certain requirements, including that (i) the partnership has at least one qualified institutional investor ("QII"), and (ii) the partnership has under 50 limited partners who are not QIIs. In this case, the GP must file a QII business exemption notification.

2. By the End of June, 2012

The GPs who have already filed a QII business exemption notification by March 31, 2012 are qualified to take advantage of the 3 month grace period. Such GPs must file an amended notification showing the names of the fund and the QII, together with a copy of a certified document regarding the GP by the end of June, 2012.

With regard to a non-Japanese GP's certified document, the FSA stated that, as an example, a certificate of incorporation issued by a public office of the jurisdiction would probably be sufficient. However, the FSA also said that whether or not a document is sufficient depends on the specific circumstances. Practically speaking, it would be helpful to discuss with the relevant regulator (the Kanto Local Finance Bureau in the case of GPs outside of Japan) whether or not a particular certificate would be sufficient, before the official submission.

3. Special notes regarding the Guideline

In a situation where a GP compensates a QII for services that in fact have no substance, the FSA argues that a GP cannot take advantage of the QII business exemption even if the funds are invested by one QII and less than 50 non-QIIs. We understand that in this example, the QII is regarded as merely being hired by the GP to be an LP; therefore, the requirements for the exemption should not be considered to be satisfied.

Regarding a certified document of the QII, the guideline says that when the Japanese regulator is unsure about the existence of a particular QII specified in the notification, it may ask the GP to present a certified document of the QII. In its response to the public comments on the draft guideline, the FSA states that it is possible for the regulator to ask the GP to show a document which verifies that the QII has invested in the fund, if it deems that it is necessary.

4. To Do After April 1, 2012

If a GP would not like to file an amendment notification as stated above (e.g., because it does not manage any funds and has no plan to solicit Japanese investors), the GP should file a notification stating that the GP has ceased to conduct the GP business under the QII business exemption. If not, the regulator will send the GP a warning and then publish its name on a blacklist.

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Individual legal and factual circumstances should be taken into consideration in consultation with professional counsel prior to taking any action related to the subject matter of this newsletter.

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