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The New Foreign Exchange and Foreign Trade Law and Japan's Balance of Payments

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## The new Foreign Exchange and Foreign Trade Law and Japan's Balance of Payments

The previous Foreign Exchange and Foreign Trade Control Law was amended, and superseded by the Foreign Exchange and Foreign Trade Law which came into effect on April 1, 1998. The aims of the amendment are:

- to liberalize cross-border capital transactions consistent with global standards, and
- to further vitalize the Tokyo market through the complete liberalization of foreign exchange business.

### 1. Background to the amendment of the previous Foreign Exchange Law

- (1) Advances in terms of electronics and the consequent globalization of international financial transactions.
- (2) Liberalization of the foreign exchange system in Western countries and increased competition with Asian countries.
- (3) Promoting the vitalization of Japan's financial and capital markets as a result of deregulation
- (4) Structural reform of Japan's financial market  
Necessity of the so-called Tokyo Big Bang
  - Reviving the Tokyo market as an international financial center to be competitive with those of New York and London.
  - Fundamental review of the foreign exchange control system was decided to be the front-runner of reform.

### 2. Major amendments to the previous Foreign Exchange Law

- (1) Liberalization of cross-border capital transactions  
Permission and prior notification requirements have been abolished in

principle. Thus, individuals and companies are free to engage in capital transactions and settlements with foreign individuals and companies.

## (2) Complete liberalization of foreign exchange business

The authorized foreign exchange bank system, the designated securities firm system, and authorized money exchanger system have been abolished. Regulations related to foreign exchange business have been removed, and free entry/exit vis-à-vis such business is guaranteed.

These measures help financial institutions, such as banks, to reinforce their competitive strength, and also increase the number of entrants and expand market size. Such developments will, in turn, fuel vitalization of the Tokyo market.

## (3) Development of an ex-post facto reporting system

In order to ensure a proper understanding of market trends and to prepare balance of payments statistics, it is necessary to develop an efficient and effective ex-post facto reporting system covering cross-border capital transactions.

### 3. Outline of an ex-post facto reporting system

#### (1) Clarifying the reporting system

Permission and prior notification requirements concerning capital transactions have been abolished in principle, and an ex-post facto reporting system has been put in place.

The purposes of the system are to 1) compile balance of payments statistics, 2) ensure a proper understanding of market trends, and 3) respond to international requirements such as coping with the money laundering. The number of reports has been minimized to ease the reporting burden.

Under the new law, a new chapter pertaining to reporting has been added and which clearly defines reporting items.

#### (2) Development of an efficient reporting system

##### ① Creation of consolidated reporting

Certain intermediaries, including foreign exchange banks and securities firms, can file consolidated reports covering several transactions

conducted within a month in stead of having to report each and every transaction. The transaction partners of, or customers conducting transactions through, these intermediaries are exempt from the obligation to report.

② Elimination of overlapping reports

Parties to foreign exchange transactions, who make transactions more than a certain amount within a certain period (usually one month), have to submit a Foreign Exchange Business Report. These reporters, however, are exempt from other reports concerning it, namely the reports on payments or receipts and the reports on capital transactions.

③ In the course of amendment, all reports have been reviewed from the viewpoint of alleviating the reporting burden. Those reports deemed unnecessary have been eliminated or integrated in order to simplify reporting procedures.

(3) Ensuring the effectiveness of the reporting system

① Penalties have been put in place for violation of reporting obligations.

- The new law prescribes penalties (penal servitude for six months or less or a fine of ¥200,000 or less).

② Publicizing the reporting system

- Various measures (such as distributing manuals and posting FAQ on a web site) have been undertaken to disseminate information about the new reporting system.

③ Transition period

- There is a two year transition period (from April 1, 1998 to March 31, 2000), during which both old and new forms can be used (so as to ease the reporting burden).