

**Application Procedures for Admission as a Foreign Indirect Participant  
in the JGB Book-Entry System**

June 1, 2001  
Operations Department  
Bank of Japan

Upon receiving an application from an entity seeking admission as a foreign indirect participant in the JGB book-entry system (hereafter referred to as a “F.I.P.”), the Bank of Japan (hereafter “the Bank”) determines whether the applicant satisfies the requirements set out in the “Requirements for Admission as a Participant in the JGB Book-Entry System,” and grants admission as a F.I.P. if the applicant has satisfied the requirements.

Those who apply for admission as a F.I.P. should follow the procedures below.

1. Submission of the Application Form

An entity seeking admission as a F.I.P. should complete the Application Form<sup>1</sup> (see Attachment 1) accurately and submit it to the Bank’s Operations Department prior to submission of a letter of intent (see 2. below). The Bank may ask the applicant for additional information regarding the application.

2. Submission of the Letter of Intent

When the Bank has received and determined an application, the Bank will notify the applicant and request submission of a letter of intent. The letter of intent should be in such form as the Bank specifies and should be signed by the representative of the applicant.

---

<sup>1</sup> Applications using the form distributed at the Briefing Session held on March 7, 2001, will only be accepted if it is submitted to the Bank before September 30, 2001.

### 3. Submission of Representations

When the Bank has approved an applicant as a F.I.P., the Bank will issue a letter of approval and send the “Regulations concerning the JGB Book-entry System” and other rules and regulations to the applicant.

The Bank will specify the date on which the admission as a F.I.P. takes effect (date of approval) in the letter of approval. The applicant is required to submit the documents listed below before the date of approval.

In submitting the documents, the applicant must follow the instructions from the Bank.

After consultation with the applicant, the Bank may add certain conditions to the approval as it deems necessary, depending on the type of business and the financial condition of the applicant.

#### Documents that the applicant should submit to the Bank before the date of approval as F.I.P.

- Representations (See Attachment 2. Note that the Japanese text is the authentic text and an applicant must submit the Japanese text of the Representations signed by the representative of the applicant)
- Legal Opinion in respect of the validity of the contents of the Representations<sup>2,3</sup>
- A notarial deed certificate or other equivalent documents to certify the title and signature of the representative of the applicant

Inquiries should be made to:  
Planning and Coordination Division  
Operations Department  
Bank of Japan  
E-mail:post.od2@boj.or.jp

---

<sup>2</sup> See Attachment 3 for an example of Legal Opinion in respect of the validity of the contents of the Representations.

<sup>3</sup> See Attachment 4 for reasons for requiring submission of a Legal Opinion in respect of the validity of the contents of the Representations.

(Application Form)

MM/DD/YY

To: Planning and Coordination Division  
Operations Department  
Bank of Japan

(Address of the head office)

---

(Name of the applicant)

---

(Name, section, E-mail address and address of  
contact person)

---

(Name, section, E-mail address and address of  
contact person in Japan)

---

**[Notice]**

**The Bank of Japan (hereafter “the Bank”) intends to use the information you provide in this form to decide whether to approve you as a participant in accordance with “the requirements for admission as a participant in the JGB book-entry system”(www.boj.or.jp) , when you submit to the Bank a formal application. If any of the contents of this form is not true, it may be taken into account against your interests.**

## 1. Outline of tentative application

We intend to apply to the Bank to become a foreign indirect participant in the JGB book-entry system.

- (1) We receive deposit of JGBs from our customers through the following branch or operational base<sup>Note1</sup>.

(Name and address of the branch or operational base where we receive deposit of JGBs from our customers)

---

- (2) We intend to open our foreign indirect participant account(s) at the following participant(s)<sup>Note2</sup> (designated participant<s>) in the JGB book-entry system.

(Name of designated participant<s>)

(Name, section, E-mail address and address of contact person of designated participant<s>)

- (3) Address to which we would like the Bank to send 'Regulations and Rules concerning JGB book-entry system' and their amendment notice (these are in Japanese original text).

(Address)

---

<sup>Note1</sup> According to the Special Taxation Measures Law, QFI should receive deposit of JGBs through the office located in the nation that has Tax Convention with article concerning exchange of information with Japan.

<sup>Note2</sup> A foreign indirect participant may open its account(s) and deposit JGBs at one or more participant(s), indirect participant(s) or other foreign indirect participant(s).

**2. Governing law, financial conditions etc.**

(1) Name and articles of the law under which we are established

(2) Services

*Please describe the services you provide which are set out by laws, the articles/charters of your organization and other regulations.*

(3) Required capital ratios under laws and/or regulations in our jurisdiction

*If you are required to maintain certain capital ratios under laws and/or regulations following 'International Convergence of Capital Measurement and Capital Standard' (Basle Committee on Banking Supervision July 1988), provide the name and outlines of the law and/or regulations and required standard accordingly.  
 -- Please attach the copies of the laws and/or regulations if applicable.*

(4) Financial data

(in millions of dollars ,%)

|                                     | (Year --) | (Year --) | (Year --) |
|-------------------------------------|-----------|-----------|-----------|
| T o t a l A s s e t                 |           |           |           |
| L o a n s                           |           |           |           |
| T o t a l D e p o s i t s           |           |           |           |
| C u r r e n t i n c o m e           |           |           |           |
| O p e r a t i n g n e t p r o f i t |           |           |           |
| C u r r e n t P r o f i t           |           |           |           |
| N e t I n c o m e                   |           |           |           |
| C a p i t a l r a t i o s           |           |           |           |
| Non-Consolidated                    |           |           |           |
| Consolidated                        |           |           |           |

(Note) Fill in the financial data for the past three years including the data at the most recent end-of-term book-closing. Applicants that have not yet closed the books at the end of an accounting period (including entities planning to start business) fill in estimates of the financial data for the first three years after the start of business.

- (5) Capital relationship of the financial group we belong to

*Please describe capital relationship of the financial group you belong to if applicable (please attach materials explaining capital relationship if necessary).*

### **3. Operational capability**

- (1) Name of the section that will be in charge of JGB book-entry business

*Please clarify if a section other than the section in charge of the flows and the balance of securities will manage the JGB book-entry business.*

- (2) List of staff members in charge of JGB book-entry business

| Title | Name | Notes* |
|-------|------|--------|
|       |      |        |

*\* Please mention experience period of custody business, if any.*

- (3) The management methods/procedures of JGB book-entry book, Proprietary Account and Customer's Account, and the section in charge of the JGB book-entry business

- (a) Section and its location

Name and location of section in charge of JGB book-entry business

- (b) Operational systems and procedures

*Please describe the way of record keeping, receipt/delivery, and balance management in accordance with issues, tax-exemption status or other categories of securities.*

*If you keep JGB book-entry book using computer systems, please describe the system architecture such as personal computers, client server system or mainframe.*

*What are the source or evidence for debits/credits recorded on JGB book-entry book?*

*How do you report to your customers about receipt, delivery and balance of their accounts and how do the customers confirm them?*

- (4) The methods/procedures of communication with designated participant(s)

*Please describe how to send transfer instructions to designated participant(s) including confirmation of receipt/delivery to and balance of your account(s).*

#### **4. Clearing and/or Settlement Services**

- (1) Provision of Clearing and/or Settlement Services

- (a) Clearing services

*If you either engage or plan to engage in clearing of securities transactions between counterparties including three or more financial institutions based on common rules and procedures, for example, a central counterparty which interposes itself between the members in a system in their securities transactions and acts as the exclusive counterparty, please describe it.*

- (b) Settlement services

*If you either execute or plan to execute securities transfer instructions between its*

*members including three or more financial institutions by means of book-entries based on common rules and procedures, please describe it.*

(2) Relationship with customers/users

(a) *Are there any uniform rules defining the right and duty of customers/users and/or operational details regarding securities settlement in book-entry business? Please check the applicable box below.*

- We have uniform rules that govern the relationship between all our customers/users and us.
- Rules that govern the relationship between customers/users and us differ across customers/users .

(b) *Do you have certain criteria for the establishment and/or termination of the customers'/users' account? Please check the applicable box below.*

- Yes, we do have certain criteria for the establishment and/or termination of the customers'/users' account.
- No, we don't have any criteria for the establishment and/or termination of the customers'/users' account.

(c) *If you provide the following services to customers/users, please describe the outline of services.*

● Online network system for the settlement between clients/users accounts.

- Yes { Outline: }
- No

● Confirmation and/or matching of settlement instructions

- Yes { Outline: }
- No



● DVP Settlement

Yes { Outline: }

No

● Securities lending, intraday liquidity provision

Yes { Outline: }

No

(d) *Do you have an arrangement regarding allocation of losses arising from an error in a book-entry and loss, theft, misuse or fraud of securities in the clearing and/or settlement process, such as a rule which allocates losses among customers/users or which requires those who are not responsible for the error in a book-entry, loss and so on to compensate for or absorb the losses? Please check the applicable box below. If you have such an arrangement, please describe its outline.*

Yes, we have an arrangement regarding allocation of losses arising from the clearing and/or settlement process.

*Please describe the outline of the rule.*

No, we don't have an arrangement regarding allocation of losses arising from the clearing and/or settlement process.

*If you have any other resources to compensate for or absorb losses such as insurance, please describe its outline.*

(4) Value of JGBs Transactions (Results and Prospect)

(in millions of dollars)

|          | Year-- | Year-- | Year-- | Year--(prospect) |
|----------|--------|--------|--------|------------------|
| Purchase |        |        |        |                  |
| Sale     |        |        |        |                  |

(Note) Fill in the data for the past three years and the prospect date of the year of submitting this form.

(5) Value and number of internal/external settlements.

*Please provide value and number of internal settlement (settlement between your customers/users within your accounts) and external settlement (settlement between your customers/users and the third party who doesn't hold account with you).*

(during year --)

|                     | Value<br>(in millions of dollars) | Number |
|---------------------|-----------------------------------|--------|
| Internal settlement |                                   |        |
| JGBs                |                                   |        |
| Other securities    |                                   |        |
| external settlement |                                   |        |
| JGBs                |                                   |        |
| Other securities    |                                   |        |

(Note) Fill in the data for the previous year of submitting this form.

*If the value or number of your internal settlement is greater than your external settlement, what are the main reasons?*

(Translation)

\*This translation has been prepared for the convenience of English-speaking readers. It should be noted that the only authentic text is the Japanese one attached hereto.

Representations

1. Since we have obtained your approval as Foreign Indirect Participant under the JGB Book-entry System which the Bank of Japan as the book-entry transfer institution (which means the Bank of Japan obtained the designation pursuant to Article 47, Paragraph 1 of the Law concerning Book-Entry Transfer of Corporate and Other Debt Securities (the “Law”)) operates under the Law and the Bank of Japan Regulations concerning the JGB Book-entry System (the “Regulations”), we hereby represent and undertake that:
  - (1) we will obey the Law, the Regulations and other rules etc. established by the Bank of Japan as well as other decisions or instructions made by the Bank of Japan in respect of this System; and
  - (2) we will, on our own responsibility, ensure that our Customers will observe and will not violate the Law, the Regulations and other rules etc. established by the Bank of Japan and other decisions or instructions made by the Bank of Japan in respect of this System.
  
2. We represent that the following agreements between the Bank of Japan and us are valid under the laws of the jurisdiction where we are located. Further, we represent and undertake that we will not make any claim inconsistent with the following agreements. Further, we hereby waive our rights to make such claims.
  - (1) The governing law in respect of rights and obligations between the Bank of Japan and us relating to the JGB Book-entry System shall be the laws of Japan.
  - (2) Any controversy in the case of any dispute in respect of the rights and obligations between the Bank of Japan and us relating to the JGB Book-entry System shall be subject to the exclusive jurisdiction of the Tokyo District Court; provided that the Bank of Japan shall not be prevented from filing suit against us in any competent court outside Japan.

[Date]

(Name of Foreign Indirect Participant)

(Representative) \_\_\_\_\_

To the Bank of Japan

[Legal Opinion Sample Form]

[ Date ]

To: The Bank of Japan

Dear Sirs:

**Re: Legal Opinion in respect of representations rendered by Foreign Indirect Participants under the JGB Book-entry System**

We have been instructed to give an opinion as to the validity under the laws of [jurisdiction] regarding the representations (attached, the “Representations”) which is to be rendered to the Bank of Japan (“BOJ”) by [name of the Foreign Indirect Participant] under the JGB Book-entry System.

Terms defined in the Bank of Japan Regulations concerning the JGB Book-entry System (the “Regulations”) and other rules etc. established by the BOJ in relation to the JGB Book-entry System have the same meanings in this opinion.

This opinion is confined to matters of [jurisdiction] law and we express no opinion with regard to any system of law other than the laws of [jurisdiction].

We have assumed that:

- (a) each of the BOJ and [name of the Foreign Indirect Participant] has the requisite capacity and corporate power to execute, deliver and perform its obligations under the Representations and any other agreements which have been made or entered into in relation to the JGB Book-entry System (if any, being herein the “Agreements”) between the BOJ and [name of the Foreign Indirect Participant], and each of the BOJ and [name of the Foreign Indirect Participant] has taken all the necessary steps to execute, deliver and perform its obligations under the Representations and the Agreements;
- (b) the Representations and the Agreements have been duly authorised, executed and delivered by each of the BOJ and [name of the Foreign Indirect Participant] in accordance with all applicable laws; and
- (c) the Representations and the Agreements are legal, valid, binding and enforceable under Japanese law.

Subject to the above, we are of the opinion that under the laws of [jurisdiction]:

1. A court in [jurisdiction] will uphold the agreement in the Representations to the choice of Japanese law as the governing law in respect of rights and obligations between the BOJ and [name of the Foreign Indirect Participant] relating to the JGB Book-entry System.

2. The agreement in the Representations that, any controversy in the case of any dispute in respect of the rights and obligations between the BOJ and [name of the Foreign Indirect Participant] relating to the JGB Book-entry System shall be subject to the exclusive jurisdiction of the Tokyo District Court; provided that the BOJ shall not be prevented from filing suit against [name of the Foreign Indirect Participant] in [jurisdiction], is valid and enforceable.
3. The representation and undertaking in the Representations that [name of the Foreign Indirect Participant] will not make any claim inconsistent with the agreements in respect of the governing law and jurisdiction specified in 1. and 2. above, and the waiver by [such Foreign Indirect Participant] of its right to make such a claim, are both valid and enforceable.

This opinion is given for your sole benefit and may not be disclosed or relied upon by any other person without our prior written consent.

Very truly yours,

(Translation)

Reasons for Requiring Submission of a Legal Opinion  
in respect of the Validity of the Contents of the Representations

1. We need to confirm in a legal opinion submitted to us that matters agreed upon as referred to in section 2. of the Representations shall be valid and enforceable under the laws of the jurisdiction where you are located<sup>1</sup>
  
2. Reason for requiring the confirmation referred to above is as follows:

The agreement to choose Japanese law as the governing law is provided for in section 2. of the Representations. Since the principle of party autonomy has been adopted under the conflict of laws of Japan, this agreement is valid and enforceable under Japanese law<sup>2</sup>. However, if any action is filed with a court outside Japan, the conflict of laws in the country where the court is located shall in principle, apply to such an action, and the validity of the agreement to choose Japanese law as the governing law will be determined as reflected under the conflict of laws of such country. Therefore, it is required to expressly confirm that the agreement to choose Japanese law as the governing law is valid and enforceable under the conflict of laws of the jurisdiction where the Foreign Indirect Participant is located, namely, where the department entitled to file an action in respect of rights and obligations under the JGB Book-entry System is located, because of the relatively high possibility that such an action by the Foreign Indirect Participant may be filed with a court in such jurisdiction.
  
3. Since above issue is the matter of choice of jurisdiction's law, which should be determined on an objective and legal basis, an agreement between you and us in respect hereof is not sufficient. You are thus required to obtain the opinion of a legal professional as to the validity hereof.

---

<sup>1</sup> The laws of the jurisdiction where you are located means any law of the jurisdiction where the department entitled to file an action in respect of rights and obligations under the JGB Book-entry System is located.

<sup>2</sup> Article 7, paragraph 1 of the Act concerning the Application of Laws provides that: "With regard to the formation and effect of a juristic act, the question as to which country's laws shall govern, will be determined by the intention of the parties.