

Alert | Banking & Financial Services



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Amendments to Japan’s Money Transfer Law

In Japan, the rapid growth of online marketplaces as well as the record-breaking number of tourists means that cross-border money remittance activities are more prevalent than ever. As wire transfers through the banking network are often too costly for frequent money transmitters, alternative solutions for money transfers have increased significantly to meet social needs. Money transfer business through Money Transfer business registration (the MT License) holders under the Fund Settlement Act (the Act) is one of the key solutions for such growing money remittance demand in Japan. However, the single license structure under the current Act was not sufficiently flexible for the various remittance needs. On June 5, 2020, the Japanese Diet passed amendments to the Act, summarized in this GT Alert.

1. Collection Agency Services for Individuals

Collection agency services, i.e., collecting funds sent from a payor for settling a monetary obligation on behalf of a client, with a payee as creditor to such monetary obligation, and then immediately transferring the collected funds to the client, have long been recognized as services which do not require the MT license, although the business model involves a sort of money transfer function. Japan’s government councils have discussed that while collection agency services for corporate clients have not raised major concerns, collection agency services for individual clients may cause problems, such as the risk that the payors may be forced to pay redundantly to both agent and payee. As such, the amended Act sets forth that such collection agency services for individual payees fall under the money transfer transactions that require an MT license. By implication, the Japanese government has endorsed collection agency services to corporate customers without an MT license.

2. Multiple MT License Class

Currently, the Act provides one single money transfer license regime in which you can remit up to one million yen per transaction. However, there are growing demands for the allowance of larger amounts in one remittance transaction, especially from the MT operators dealing with corporate clients. On the other hand, there are also demands to relax the need for MT license applications for those who only remit smaller amounts. Based on these market voices, the Japanese government amended the Act and set forth three types of MT licenses:

- **Type 1 MT Business Permission** allows statutorily unlimited amount per remittance transaction. However, the permitted MT operator shall put its own house maximum amount in the business plan as one of the application documents for Type 1 Permission. As this license requires government permission, it necessitates a higher level of application review than other types of MT licenses.
- **Type 2 MT Business Registration** replaces the current MT license. So, those who hold the current MT business registration are deemed to hold Type 2 MT Business Registration. This Type 2 MT license only allows up to one million-yen remittance per transaction. The current MT license holders can conduct the Type 2 MT business with the current licenses; after the amended Act takes effect, those deemed Type 2 MT license holders must re-apply for the Type 2 MT license.
- **Type 3 MT Business Registration** only allows a registered operator to remit smaller amounts of funds (the Act does not specify the exact amount, but it is said in the MT business community JPY 50,000 per transaction.) As the amount handled by the Type 3 registered operators is relatively small, the application process is more relaxed than other types of MT licenses.

Please note that the Know Your Customer requirement is imposed on MT license holders under a separate act, the Act on Prevention of Transfer of Criminal Proceeds. The act is not planned to be amended in line with the amendment to the Act. So, any of the above 3 type of MT license holders are all subject to the KYC requirements under the act.

3. Restrictions on Fund Pooling Before Remittance

Under the current Act, some lawyers advise that while the maximum remittance amount is one million yen per transaction, customers may send and keep more than one million yen in registered MT operators for potential future remittance transactions. Based on this view, some MT operators provide a quasi-wallet service to customers. However, some criticize the fact that a registered MT operator handles considerably more than the allowed remittance amount. Responding to that criticism, the government amended the Act to restrict MT operators with respect to the funds they receive from customers and retain. The amended Act provides that a Type 1 permitted operator is only allowed to receive the exact amount that the customer is actually scheduled to remit. Also, the amended Act provides that a Type 3 registered operator may not receive more than the specified amount (upcoming amended cabinet order will specify that amount). In addition, the amended Act requires all types of MT license holders to set a measure to return funds to customers if an MT license holder comes to recognize that the funds will not be used for money transfer transactions.

Therefore, pursuant to this amendment, MT operators may not receive and keep funds from customers for a purpose other than money remittance; thus, MT operators may not provide so-called wallet services to customers. However, with other licenses, such as the prepaid instruments services registration under the Act and the electronic settlement agency services (a.k.a. payment initiation provider services) registration and the banking act, it is still possible to achieve the wallet services to some extent.

4. Liberalization of In-Transit Security Deposit

Currently registered MT operators must deposit certain in-transit security funds with the government depositary office or enter into a bank guaranty in lieu of the deposit in order to secure the loss of funds during the remittance period between the receipt of funds by a MT operator and the delivery of the funds to the recipient. However, depositing in-transit security money with the depositary office is a cumbersome process, as is withdrawing from the depositary office. Bank guaranty could be flexible about setting and raising the security amount just by amending the guaranty contract as opposed to depositing with the depositary office which requires filing of certain documents to raise the deposit amount but is costly depending on the guaranteeing banks. The amended Act liberalizes the security deposit measures and adds a trust agreement as the other method of in-transit security payment, enabling the concurrent use of three measures. So, an MT operator will be able to deposit a core in-transit amount in the depositary office and enter into a bank guaranty or trust agreement for a floating in-transit amount. This will save certain costs, as the bank guaranty does not cover whole amount.

A Type 3 operator can deposit the in-transit security amount into its bank account instead of the depositary office. The bank account shall be segregated from a Type 3 operator's own proprietary use bank account, and the bank account shall be regularly audited by a certified public accountant.

5. Effective Date of Amended Act and Detailed Regulations

The effective date of the amended Act has not been determined yet but will be determined by the government within one year of June 12, 2020. The Act only set the legal framework; detailed regulations will be set forth in the upcoming cabinet order. In the usual legislation cycle in Japan, the cabinet order concerning the amended Act will be published in the last quarter of this year.

6. End Notes

This GT Alert provides a general overview of the amendments to the Act related to money transfer business in Japan. It is not intended as a comprehensive analysis of all provisions of the regulations that may apply to money transfer businesses. Further, this GT Alert is not intended to provide an overview or guidance regarding regulation of money transfer businesses under any other applicable laws and regulations, including laws or regulations outside of Japan.

** This GT Alert is limited to non-U.S. matters and law.*

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