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Overview of Regulations on Settlement Cards in Japan

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Japanese regulations on payment cards are very complicated.

In this newsletter, I will make a brief overview of the regulations on payment cards in Japan.

1 Basic Framework in Japan

To understand Japanese regulations on payment cards, one must first understand the concept of *Kawase Torihiki*.

Kawase Torihiki is essentially a wire transfer transaction or its equivalent money transfer service. It is similar to the concept of money transfer businesses in the US or payment institutions under the EU Payment Services Directive, but it does not include credit card transactions nor most of the e-money services provided in Japan.

If a transaction falls under *Kawase Torihiki*, the business entity conducting *Kawase Torihiki* would require a banking license or Money Services Business registration, so the distinction is very important.

<i>Kawase Torihiki</i>	Not <i>Kawase Torihiki</i>
Bank Cash Card Bank Debit Card Money Services Business Card	Post Pay Credit Card Charge Card Pre Pay Prepaid Payment Instrument Card (*)

	Crypto Asset (*)
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* There are cases where transactions by issuers and/or traders of prepaid cards or Crypto Assets may fall under *Kawase Torihiki*, so most Japanese entities take various measures to avoid falling under *Kawase Torihiki*. The concept of *Kawase Torihiki* is very complicated, so if you would like to know more in detail, please contact us.

2 Credit Cards and Charge Cards

(1) What are Credit Cards and Charge Cards?

Credit cards and charge cards are both post pay cards.

Both are payment cards issued to users (or cardholders) to enable the cardholder to pay a merchant for goods and services, based on the cardholder's promise to the card issuer to pay them for the amounts paid plus other agreed charges.

Charge cards are different from credit cards in that each month's spending is expected to be paid monthly¹. Thus, charge card functions are called "Monthly Clear" function in Japan. Monthly spending is expected to be paid every month, and this clears the credit balance every month.

(2) Are credit cards and charge cards popular in Japan?

Yes, they are very popular. Most online B2C transactions are settled through credit cards/charge cards. They are a lot more popular in Japan than debit cards and pre-paid cards are in relation to online transactions.

You may wonder why credit cards are more popular than debit cards and prepaid cards. There are probably two main factors. The first factor is that reward programs or loyalty programs for credit cards are generally more advantageous to the users than those for debit card and prepaid cards. The second factor is that the number of merchants accepting credit cards are said to be greater than the number for debit cards and prepaid cards.

¹ In the Installment Sales Act, which regulates credit cards and charge cards, the spending of Charge Cards need to be payable within two months from the purchase of the goods or services using such card. For example, a credit card purchase made on Jan. 1 should be payable on or before March 1.

It is noteworthy that Japanese credit card companies do not issue charge cards alone. A charge card and credit card are issued together as one card with both functions.

(3) Who issues credit cards and charge cards in Japan?

Banks and non-bank financial institutions issue credit cards and charge cards in Japan.

Due to historical and other reasons, the majority of credit cards are issued by non-bank financial institutions and not by banks. However, most issuers belong to a cooperate group that includes a bank.

(4) Who acquires merchants for credit cards and charge cards?

The answer is the same as (3).

Some acquirers enter contracts with payment services providers ("PSP"s or "*Kessai-Daikou*") who acquire sub-merchants. Using PSPs enables financial institutions, including those abroad, to enhance their acquiring abilities.

(5) Registration Requirements

a. Issuing

In order to issue credit cards, registration as an issuer ("Issuer Registration") with the Japanese government under Japan's Installment Sales Act ("JISA") is required for most cases².

Even if a financial institution has a bank license, Issuer Registration is required nonetheless.

b. Acquiring

A bill to amend the JISA was passed on December 2, 2016 and came to force on June 1, 2018.

The amended JISA requires acquirers to register as an acquirer under the JISA

² There are some exemptions under the JISA (Article 35-3-60).

("Acquirer Registration").

Even if a financial institution has a bank license, Acquirer Registration is required nonetheless.

c. Sub-Acquiring

Acquirer - [Merchant Agreement] – **Sub-Acquirer** - [Sub-Merchant Agreement] - **Merchant**

The amended JISA requires sub-acquirers to get an Acquirer Registration.

(a) Internet Mall

For example, if an internet shopping mall platform operator enables C2C transactions to be settled through credit cards, such platform operator, etc., may need to contemplate acquiring an Acquirer Registration.

Considering this issue, the Ministry of Economy, Trade and Industry (“METI”) has shown an interpretation that if the sub-acquirer is ultimately deciding whether to enter into and terminate merchant agreements for credit card settlements, then such sub-acquirer shall obtain an Acquirer Registration. Further, METI says that not only the wording of the contracts but also the content and actual operations shall be taken into consideration.

(b) Wallet Services and Other Similar Payment Services

I am often asked by business entities whether acquiring wallet services and other similar payment services would require Acquirer Registration.

Pertaining to services like Alipay, where users register debit cards and credit cards, I made an inquiry to METI to which METI answered that even if the settlement ratio of credit cards are low and even if the users are limited to Chinese residents, as long as any business entity is acquiring Japanese residents, including corporations, as merchants, and as long as the final decision-making authority is delegated to such entity by the respective acquirer, such entity would require Acquirer Registration.

If such entity insists that the final decision-making authority is not delegated and is withheld by the acquirer, then the respective acquirer would need Acquirer

Registration in Japan.

If the acquirer and sub-acquirers are not sure as to which side has the final decision-making authority to accept or refuse merchants, then it may be safer for both sides to acquire Acquirer Registration.

By the way, when we say sub-acquirers, it is different from most payment service providers (PSPs) overseas without money service business licenses (US) or payment institution authorizations (EU), because Japanese sub-acquirers receive funds from acquirers and then transmit such funds to the respective merchants.

d. Merchants

No registration is required for credit card merchants.

However, merchants are subject to certain disclosure obligations on each credit card transaction (JISA Article 35-2-3, paragraph 4).

In addition, under the amended JISA, the merchants will be required to adopt appropriate measures to ensure security of credit card numbers and to prevent credit card fraud.

METI explained to credit card companies that if merchants comply with the "Implementation Plan for Enhancement of Security Regarding Credit Card Transactions" (hereinafter, "**Implementation Plan**"), which was publicized by the Credit Transaction Security Committee of Japan, then that would suffice.

The 2016 Implementation Plan required merchants to implement (i) PCI DSS measures by 2018 for EC merchants and by 2020 for other merchants, (ii) IC card acceptance measures by 2020 and (iii) other measures to avoid security breakage and ID theft; provided, however, that merchants who did not process or store credit card numbers, for example by using registered sub-acquirers and having them process credit card numbers, would not be obligated to comply with PCI DSS.

The Implementation Plan was updated periodically taking into consideration the figures of credit card number leakage incidents and other matters, and it has been

replaced by the “Security Guideline for Credit Cards” in 2020.

(6) Will registration be necessary for the following cases?

a. A foreign bank issues credit cards in Japan.

Issuer Registration under the JISA is necessary for most cases.

b. A bank in Singapore issues a credit card to a Singapore resident, but such resident immigrates to Japan and the Singapore bank sends a credit card to such user for the renewed term.

Issuer Registration under the JISA is necessary for most cases.

c. A foreign bank conducts acquiring activities for credit cards in Japan.

Under the amended JISA, Acquirer Registration will be required.

Even if a foreign financial institution does not have any branch offices nor permanent establishments in Japan, if such financial institution acquires residents of Japan, including Japanese corporations, as merchants for credit card transactions, Acquirer Registration is required for most cases*. Of course, acquiring overseas branches of Japanese corporations alone would not require Acquirer Registration (unless such acquiring is interpreted as abusive evasion of the law).

* If a foreign bank (or MSB/PI) acquires a sub-acquirer (which is somewhat similar to an independent sales organization) located in Japan and delegates the final decision-making authority and responsibility of accepting merchants or not to such sub-acquirer, it is interpreted by the Japanese government that such foreign bank, would not need an Acquirer Registration in Japan. However, it is a difficult task for a foreign bank to delegate the final decisions of accepting or refusing merchants because most financial institutions owe anti-money laundering obligations themselves and may be subject to sanctions if such measures are not appropriately conducted. Anti-money laundering regulations in Japan do not obligate acquirers nor sub-acquirers to conduct customer due diligence of merchants or representatives, so the customer due diligence measures of Japanese sub-acquirers may not meet global standards. They do not owe reporting obligations of suspicious transactions either.

Also, in order for a foreign bank to have the sub-acquirer make the acceptance and refusal decisions properly, such foreign bank may need to provide the sub-acquirer with necessary information, including but not limited to black lists, which may be burdensome.

d. A foreign bank acquires, by itself or through PSPs, a merchant outlet located in Japan.

There is uncertainty left on the extent of cases that would be judged as "acquiring activity in Japan," but it is generally considered that entering into a merchant agreement with a Japanese corporation or other residents of Japan, directly or indirectly through a PSP, will likely be judged as an acquiring activity in Japan. The "final decision-making authority issue" as described previously in Section 2(4) c. is an area that needs further discussion.

On the other hand, in cases where, for example, a US bank acquires a merchant outlet or branch of a Japanese corporation located in the US, Acquirer Registration under the JISA will not be required.

(7) Is there any other license or registration requirements that a financial institution should take into consideration?

Most credit cards issued in Japan have a (i) loan function, in addition to (ii) a shopping function.

	Loan Function	Credit Card / Charge Card Function
Bank	Banking Act	Installment Sales Act (JISA)
Non-Bank	Money Lending Business Act (MLBA)	Installment Sales Act (JISA)

The loan function is regulated by the Banking Act or the Money Lending Business Act ("MLBA").

Thus, if a non-bank financial institution wants to provide loan functions, it would need a MLBA registration.

(8) Please explain the overall regulations under the JISA.

(a) Issuer

The main obligations of issuers are as follows:

- (i) Ensure compliance through internal control (JISA Article 30-2, paragraph 1, item 10, Article 33-5);
- (ii) Disclose requirements in relation with cardholders (JISA Article 30-2-3);
- (iii) Make investigations on the financial conditions of card applicants who are consumers³ (JISA Article 30-2);
- (iv) Use card bureaus for the investigations provided for in (iii) above (JISA Article 30-2, paragraph 3);
- (v) Set a statutory limit on the maximum amount of credit limit that an issuer can set in relation with consumer cardholders (JISA Article 30-2 and Article 30-2-2);
- (vi) Ensure security of credit card numbers (JISA Article 35-16);
- (vii) Abide by advertisement regulations (JISA Article 30, paragraph 3); and
- (viii) Not collect the remaining outstanding credit balance from a consumer, in cases where such consumer refuses to pay the outstanding amount, insisting a legitimate defense that such consumer has against the Merchant (JISA Article 30-4).

Please note that except for (vi), the above obligations (i) through (viii) are applied in relation to Monthly Clear Transactions.

Also, under the amended JISA, Issuers are required in most cases to comply with the Implementation Plan, which expired in April, 2020 and has been replaced by the “Security Guideline for Credit Cards”. This guideline is referred in the governmental document as the setting standard for measures taken pursuant to JISA Article 35-16. This means compliance with PCI DSS, issuance of IC Cards, etc. is expected.

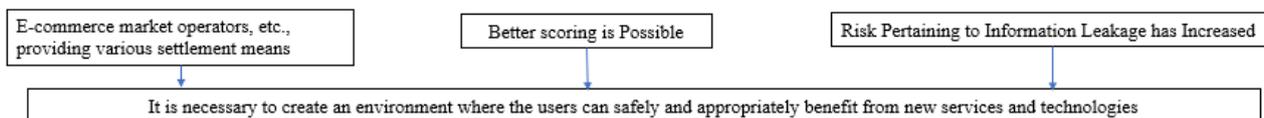
The overview of the 2020 Amendment is as follows. The overview is a translation of explanatory material published by METI.

³ Here, "consumer" means (x) an individual acting as a business owner and (b) legal entities are not included.

Overview of the Amended Installment Sales Act

1 Background

Development in Settlement Technology ⇒ Various Settlement Service Providers (incl FINTECH Companies)



2 Amendment

(1) Introduction of Small Amount Issuer Registration	(2) Enabling Adoption of Enhanced Scoring Models	(3) Expanding Security Measures Obligations to QR Code Payment Providers and Such		
If the issuer only permits settlement below 100 thousand yen, such issuer may register as Small Amount Issuer.	By analyzing usage, repayment data and such, creation of enhanced scoring models is possible.	Addition of QR Code Payment Service Providers, E-commerce Market Operators and such to the Entities Obligated to Implement Appropriate Handling Measures Regarding Credit Card Information (Such As Issuer, Acquirer and Merchant).		
For such issuer: <ul style="list-style-type: none"> • Net asset requirement may be achieved within 5 years and not [at the time of registration]. • Flexible scoring model may be permitted with prior check and after check depending on delinquency rate and such. • Statutory prior notice period for termination may be shortened to 7-8 days. For other regulations, no mitigation.	If issuer acquires approval of the government, such issuer may adopt a credit limit investigation method other than the one designated by law. (Article 30-5-4, paragraph 1) <table border="1" data-bbox="523 848 962 1028"> <tr> <td data-bbox="523 848 732 1028"> Prior Check <ul style="list-style-type: none"> • Checking the Scoring Model • Setting Delinquency Rate Standards • Ensuring Internal Control </td> <td data-bbox="740 848 962 1028"> After Check <ul style="list-style-type: none"> • Reporting to Government • If not appropriate, order to improve business operation or cancellation of approval </td> </tr> </table>	Prior Check <ul style="list-style-type: none"> • Checking the Scoring Model • Setting Delinquency Rate Standards • Ensuring Internal Control 	After Check <ul style="list-style-type: none"> • Reporting to Government • If not appropriate, order to improve business operation or cancellation of approval 	(4) Others <ul style="list-style-type: none"> - Enabling Credit Card Issuing Companies to Deliver Legally Required Documents by Emails and Such - Enabling the Government to Issue Order to Stop Operation of Business
Prior Check <ul style="list-style-type: none"> • Checking the Scoring Model • Setting Delinquency Rate Standards • Ensuring Internal Control 	After Check <ul style="list-style-type: none"> • Reporting to Government • If not appropriate, order to improve business operation or cancellation of approval 			

(b) Acquirer

The main obligations of acquirers under the amended JISA will be as follows:

- (i) Ensure compliance through internal control;
- (ii) Make investigations on credit card security measures and credit card fraud protection measures of merchants;
- (iii) Refuse to accept merchants who have insufficient security measures or credit card fraud protection measures;
- (iv) Ensure security of credit card numbers; and
- (v) File the names and other information of merchants to the "Japan Credit Association" when the acquirer has recognized improper solicitation and such by merchants in relation with cardholders.

(9) What other laws and regulations should a financial institution worry about?

Advertisements and Award Programs	<ul style="list-style-type: none"> - Act against Unjustifiable Premiums and Misleading Representations - Act on Specified Commercial Transaction - Act on Regulation of Transmission of Specified Electronic Mail
Anti-Money Laundering	Act on Prevention of Transfer of Criminal

(Know Your Customer Regulation etc.)	Proceeds
Antitrust	Act on Prohibition of Private Monopolization and Maintenance of Fair Trade
Consumer Protection (Ensuring Fairness of transactions, etc.)	Consumer Contract Act
Interest Rate	- Interest Rate Restriction Act - Act Regulating the Receipt of Contributions, the Receipt of Deposits, and Interest Rates
Loan	- Banking Act - MLBA
Personally Identifiable Information	Act on the Protection of Personal Information

Also, there are rules and guidelines by the government (METI) and by the Japan Consumer Credit Association which is the industry's self-regulatory organization.

3 Bank Cash Cards and Bank Debit Cards

(1) Money Transfer

In Japan, only licensed banks and registered Fund Transfer Service Providers ("FTSP") can engage in the business of "*Kawase Torihiki*", which is equivalent to money transfer businesses (Banking Act Article 4, paragraph 1 and Payment Services Act Article 2, item 2, Article 37)⁴. So, it can be said that FTSP is equivalent to **money services businesses** in the US, although there are many differences.

(2) What are Bank Cash Cards and Debit Cards?

Bank cash cards are cards that are issued by banks to accept deposits and that can be used by cardholders (i) to withdraw money deposited from bank ATMs and (ii) to send money through wire transfer to other bank accounts. On the other hand, bank cash cards may not be used to pay for purchasing goods at merchant outlets. They may not have a debit card function.

⁴ There are a few exceptions by special laws. Also, credit card transactions, charge card transactions and certain other transactions are not regarded as "*Kawase Torihiki*."

Bank debit cards are cards that can be used to purchase goods and services at a merchant outlet.

In Japan, there are mainly two types of debit cards; one is "J-Debit", which is operated by the Japan Debit Card Promotion Association and the other is the so-called "Brand Debit Card," which is operated by international card networks like Visa, Mastercard, and JCB⁵.

	Bank Cash Card	Bank Debit Card
Withdraw deposited money	Possible	Possible
Send money through Wire Transfer	Possible	Possible
Purchase Goods and Services at Merchant Outlet	Not Possible	Possible

(3) Who can issue Bank Cash Cards?

Only banks with a banking license under Japan's Banking Act ("JBA") can issue bank cash cards. This is because only banks can accept deposits.

A branch office of a foreign bank in Japan can also apply for a license under the JBA.

(4) Who can issue bank debit cards?

Only banks⁶.

(5) Who can acquire merchants for bank debit cards?

The government's interpretation is not clear.

If it is said that bank debit card transactions are like wire transfers (or they fall under *Kawase Torihiki*), then only banks or FTSPs may engage in the acquiring business of debit cards.

⁵ In Japan, we call international card networks like Visa, MasterCard, and JCB "Brand" companies, so a debit card under such Brand is generally called a "Brand Debit Card."

⁶ There are some arguments that insist that a non-bank financial institution issuing a debit card could directly deduct debit funds from a user's bank account, but I do not agree with such argument.

However, it seems that the FSA is not regarding debit card transactions as *Kawase Torihiki*, as many Japanese non-bank financial institutions with the Acquirer Registration are engaging in the acquiring of debit cards.

Such interpretation seems to be not in line with the global anti-money laundering regulations or the FATF Recommendations, but this is the situation in Japan.

(6) Which regulations should one take into consideration pertaining to bank cash cards and bank debit cards?

Mostly, the JBA. The following regulations should also be taken into consideration.

Advertisements and Award Programs	- Act against Unjustifiable Premiums and Misleading Representations - Act on Regulation of Transmission of Specified Electronic Mail
Anti-Money Laundering (Know Your Customer Regulation etc.)	Act on Prevention of Transfer of Criminal Proceeds
Antitrust	Act on Prohibition of Private Monopolization and Maintenance of Fair Trade
Cross Border Money Transfer or Money Transfer between resident users and non-resident users	Foreign Exchange and Foreign Trade Control Act
Cross Border Payments	Act on Submission of Statement of Overseas Money Transfers for Purpose of Securing Proper Domestic Taxation (*) * Requires collection of Social Security and Tax Number of users, etc..
Interest Rate	- Interest Rate Restriction Act
Loan (e.g. through overdraft)	- Banking Act
Personally Identifiable	Act on the Protection of Personal Information

Information	
Social Security and Tax Number (the so-called "My Number")	Act on the Use of Numbers to Identify a Specific Individual in the Administrative Procedure

Also, there are rules and guidelines by the government (FSA).

4 Money Service Business Cards

(1) What are Money Service Business Cards?

Money Services Business Cards are cards that are issued by FTSPs to their users.

Most FTSPs have their users create an account and accept funds from the users in advance.

Some Japanese non-bank financial institutions issue Visa Debit Cards as FTSPs.

(2) Which act regulates Money Services Business Cards?

Japan's Payment Services Act ("**JPSA**") regulates Money Services Business.

(3) What are the main obligations of FTSPs under the JPSA?

The main obligations under the JPSA are as follows:

- (i) Obtain registration as an FTSP (JPSA Article 37);
- (ii) The maximum transaction amount of a money transfer transaction through FTSP is limited to 1 million yen per transaction (JPSA Article 2, paragraph 2, which will be amended in 2020 to review the regulations for money transfer business, such as establishing a category that can handle high value remittances (Type 1 Money Transfer Business) and a category that handles only small value remittances (Type 3 Money Transfer Business).);
- (iii) Make a security deposit to the government, obtain an assurance by banks, or take other equivalent measures (JPSA Article 43);
- (iv) Take necessary measures to ensure proper and secure handling of information regarding Funds Transfer Service (JPSA Article 49);
- (v) Implement measures to ensure proper and secure operation of Funds Transfer Service by outsourcing companies in cases where the FTSP uses such outsourcing companies (JPSA Article 50);
- (vi) Provide or disclose certain information provided for under the JPSA (JPSA Article 51 and Cabinet Ordinance Article 29);
- (vii) Provide receipts to each user upon acceptance of funds from each such user

(JPSA Article 51 and Cabinet Ordinance Article 30); and
 (viii) Maintain proper records pertaining to the Fund Transfer Business (JPSA Article 52).

(4) What other laws and regulations does an FTSP need to worry about?

Advertisements and award programs	<ul style="list-style-type: none"> - Act against Unjustifiable Premiums and Misleading Representations - Act on Specified Commercial Transaction - Act on Regulation of Transmission of Specified Electronic Mail
JBA	One needs to be careful that the funds that it receives from users will not be interpreted as deposits, because if an FTSP accepts deposits, that will be illegal.
Personally Identifiable Information	Act on the Protection of Personal Information
Loan	<ul style="list-style-type: none"> - Banking Act - MLBA
Interest Rate	<ul style="list-style-type: none"> - Interest Rate Restriction Act - Act Regulating the Receipt of Contributions, the Receipt of Deposits, and Interest Rates
Antitrust	Act on Prohibition of Private Monopolization and Maintenance of Fair Trade
Anti-Money Laundering (Know Your Customer Regulation etc.)	Act on Prevention of Transfer of Criminal Proceeds
Cross Border Money Transfer or Money Transfer between resident users and non-resident users	Foreign Exchange and Foreign Trade Control Act
Cross Border Payments	Act on Submission of Statement of Overseas Money Transfers for Purpose of Securing Proper Domestic Taxation
Social Security and Tax Number (the so-called "My Number")	Act on the Use of Numbers to Identify a Specific Individual in the Administrative Procedure

Consumer Protection (Ensuring Fairness of the terms and such)	Consumer Contract Act
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Also, there are rules and guidelines by the government (FSA) and by the Japan Payment Service Association, which is the industry's self-regulatory organization.

(5) What is the main advantage of MSB Cards compared to E-money Cards?

They can be used to withdraw funds overseas. E-money Cards cannot be used in such way.

5 Prepaid Payment Instrument Cards (Brand Prepaid Cards, E-money, and Gift Cards)

(1) What are Prepaid Payment Instrument Cards?

A Prepaid Payment Instrument is a prepaid value issued under the Japanese Payment Services Act.

The Prepaid Payment Instrument Card may only be used to purchase goods and services and cannot be redeemed except for statutory exceptions.

One type of a Prepaid Payment Instrument Card is e-money cards or gift cards issued by global digital content platform service providers (e.g. Apple) or Japanese online game platform service providers and sold through convenience stores.

Users purchase these because (i) they are easy to buy, (ii) no Customer Identification processes are required(*), (iii) there is no risk of ID theft compared to credit card transactions, (iv) users may use the e-money anonymously, and (v) users may give the e-money to friends or family as gifts.

* This may change in the future because not imposing the AML obligations at all on e-money seems to be a violation of the FATF Recommendations.

The other type of Prepaid Payment Instrument Card is Brand Prepaid Cards. Some Japanese financial institutions issue Visa Prepaid Cards and operate such businesses with e-money registration.

As long as the Visa Prepaid Cards cannot be used at ATMs to withdraw money, in Japan or overseas, payment transactions through such cards will not be regarded as *Kawase Torihiki* for most cases and would not require FTSP registration in Japan.

(2) Who can issue Prepaid Payment Instrument Cards?

Entities holding a registration for Prepaid Payment Instrument for Third Parties⁷.

Banks can also acquire such registration. For example, MUFG Bank, Sumitomo Mitsui Banking Corporation, AEON Bank, and Rakuten Bank have this registration.

(3) What are the advantages of Prepaid Payment Instrument Cards compared to MSB Cards?

The regulations are much lighter compared to MSB Cards.

For example, for non-bank financial institutions, anti-money laundering related regulations are not applied for most cases.

(4) Why are they less heavily regulated than MSB Cards?

Prepaid Payment Instrument Cards cannot be redeemed in most cases.

So, for example, if a user purchases a Prepaid Payment Instrument Card at a convenience store and sends it to his/her friend, such friend will not be able to redeem the e-money to get cash. Thus, the risk of the e-money being used for money laundering purpose is deemed to be lower than MSB Cards, and thus is less heavily regulated than MSB Cards.

(5) What are the main regulations of Prepaid Payment Instrument Issuers?

The main obligations are as follows:

- (i) Obtain registration (JPSA Article 7);
- (ii) Display or provide certain information pertaining to the Prepaid Payment

⁷ If the Prepaid Payment Instruments can only be used to purchase goods and services provided by the Issuer, such Prepaid Payment Instruments are called Prepaid Instruments for Own Business, and if the Prepaid Payment Instruments can be used to purchase goods and services provided by entities other than the Issuer, then they are called Prepaid Instruments for Third Parties. The two types are regulated differently, but, since most of prepaid cards commonly used are the latter, I will only comment on it in this newsletter.

- Instrument (JPSA Article 13);
- (iii) Make a security deposit to the government, obtain an assurance by banks, or take other equivalent measures except for cases where the issuer is a bank (JPSA Article 14);
 - (iv) Take necessary measures to ensure proper and secure handling of information regarding the Funds Transfer Service (JPSA Article 21); and
 - (v) Maintain proper records pertaining to the Fund Transfer Business (JPSA Article 22).

(6) What other regulations should a Prepaid Payment Instrument Issuer be careful of?

The Prepaid Payment Instrument Issuer will have to be careful of the following regulations.

Advertisements and Award Programs	<ul style="list-style-type: none"> - Act against Unjustifiable Premiums and Misleading Representations - Act on Specified Commercial Transaction - Act on Regulation of Transmission of Specified Electronic Mail
Antitrust	Act on Prohibition of Private Monopolization and Maintenance of Fair Trade
Consumer Protection (Ensuring Fairness of the terms and such)	Consumer Contract Act
<i>Kawase Torihiki</i>	<p>JBA and JPSA *</p> <p>* One must be careful so that the payment transactions will not fall under <i>Kawase Torihiki</i> or else banking license or MSB registration will be required.</p>
Personally Identifiable Information	Act on the Protection of Personal Information

Also, there are rules and guidelines by the government (FSA) and by the Japan Payment Service Association which is the industry's self-regulatory organization.

6 Crypto Assets

(1) How are Crypto Assets regulated?

An amendment bill to the JPSA was passed in the Japanese Congress on May 25, 2016 and came into effect during April 2017. Under the amended JPSA, Crypto Assets Traders or Crypto Asset exchanges need to be registered under the JPSA.

Also, another bill to reform the regulations on Crypto Assets was proposed to the Japanese congress on March 15, 2019 (“2019 Bill”) and was passed on May 31, 2019. The amendment came into effect on May 1, 2020.

The main changes that the 2019 Bill will realize are:

- (i) the term Virtual Currency will be replaced by Crypto Asset (JPSA Article 2 item 5, etc.);
- (ii) fraudulent advertisement and other acts will be prohibited (JPSA Article 63-9-3);
and
- (iii) measures to secure values of Crypto Assets of customers will be required (JPSA Article 63-11-2).

(2) What are Crypto Assets?

Crypto Assets are defined as either of the following:

- (i) a proprietary value electronically recorded on an electronic device, etc. which can be transferred to a third party using an electronic system and which can be used as a means to purchase goods or services or to borrow goods from many and unspecified persons; or
- (ii) a proprietary value electronically recorded that can be exchanged with (i) interchangeably (JPSA Article 2, item 5).

Please note that if a proprietary value as stated in (i) is dependent on the value of a certain fiat currency, then it would not be a Crypto Asset under the JPSA.

Thus, gift cards and prepaid cards usually do not fall under Crypto Assets.

(3) Who will be required to register?

Any person engaging in the Crypto Asset Exchange Business (or "**Crypto Assets Traders**") will need to register (JPSA Article 63-2).

Here, the Crypto Asset Business means engaging in either of the following items:

- (i) sales and purchase of Crypto Asset, or the exchange of a Crypto Asset with

- another type of Crypto Asset;
- (ii) intermediary, brokerage, or agent service of (i);
 - (iii) administering money for its users for the services listed in (i) or (ii) that it provides to such users; or
 - (iv) administering Crypto Assets on behalf of someone else (JPSA Article 2, item 7).

(4) What are the main obligations of Crypto Asset Traders?

The main obligations of Crypto Asset Traders are as follows:

- (i) Obtain registration as a Crypto Asset Trader under the JPSA (JPSA Article 63-2);
- (ii) Separately administer the Crypto Asset that it holds on its own account with those that it holds for its users (JPSA Article 63-11, paragraph 1);
- (iii) Periodically undergo an audit by a certified auditor or accounting firm (JPSA Article 63-11, paragraph 2);
- (iv) Take necessary measures to ensure proper and secure handling of information regarding the Funds Transfer Service (JPSA Article 63-8);
- (v) Implement measures to ensure proper and secure operation of the Crypto Asset Business by outsourcing companies in cases where the FTSP uses such outsourcing companies (JPSA Article 63-9);
- (vi) Provide or disclose certain information items provided for under the JPSA (JPSA Article 63-10);
- (vii) Display that the Crypto Asset is not a currency of Japan nor of another country (JPSA Enforcement Ordinance Article 17);
- (viii) Establish an internal control system to implement necessary measures to protect the users and to ensure appropriate operation of the Crypto Asset Business (JPSA Enforcement Ordinance Article 18 and 19); and
- (ix) Maintain proper records pertaining to the Fund Transfer Business (JPSA Article 63-13).

(5) What other laws and regulations should Crypto Asset Traders be careful of?

Crypto Asset Traders should take into consideration the *Kawase Torihiki* regulation, or else it will require a banking license or MSB registration.

Also, Crypto Asset Traders are subject to anti-money laundering regulations, so this needs to be dealt with.

Advertisements and award programs	<ul style="list-style-type: none"> - Act against Unjustifiable Premiums and Misleading Representations - Act on Specified Commercial Transaction - Act on Regulation of Transmission of Specified Electronic Mail
Personally Identifiable Information	Act on the Protection of Personal Information
Antitrust	Act on Prohibition of Private Monopolization and Maintenance of Fair Trade
Anti-Money Laundering (Know Your Customer Regulation etc.)	Act on Prevention of Transfer of Criminal Proceeds
<i>Kawase Torihiki</i>	<p>JBA and JPSA</p> <p>* One must be careful so that the payment transactions will not fall under <i>Kawase Torihiki</i> or else banking license or MSB registration will be required.</p>
Consumer Protection (Ensuring Fairness of the terms and such)	Consumer Contract Act

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