

**Recommendations  
of the  
EU-Japan Business Round Table  
to the Leaders of the European Union and Japan**

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**Working Party D  
Financial Services, Accounting and Tax Issues**

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## List of Abbreviations

<b>Abbreviation</b>	<b>Meaning</b>
BEPS	Base erosion and profit shifting
APA	Advance Pricing Agreement
FTT	Financial Transaction Tax
EIOPA	European Insurance and Occupational Pensions Authority

## Introduction

Japan and the EU are more than ever facing the need to restore sustainable growth. The leaders of the G20 have agreed on timely, full and consistent implementation of financial regulation reforms to promote stability which ultimately will contribute to growth. The financial sector and such global efforts for the reform implementation are being monitored closely by the Financial Stability Board to ensure international consistency.

It is essential that governments and global supervisory bodies take a coordinated approach to the implementation of regulations or measures, to identify their full and cumulative implications on markets which have different circumstances and practices, and to ensure consistency and efficiency. This is also applicable beyond financial regulations to tax measures for example, as the common objective is to preserve efficient resource allocation for companies operating globally as well as level playing fields for all participants. Japan and the EU should unite their efforts to steer through this challenging time and achieve recovery most effectively.

The above is reflected in our selection of Recommendations for this Working Party D document.

## Recommendations from both European and Japanese industries

### **WP-D / # 01\*\* / EJ to EJ Recommendation regarding Financial Reform and Regulation**

The BRT requests that regulating bodies continue to address the impact of reforms and new regulations on the real economy and take a co-ordinated approach to reduce extraterritorial impact of rules introduced in one jurisdiction on other locations and to recognise substituted compliance.

#### <Recent Progress>

Numerous consultations are taking place. Notably, the International Organization of Securities Commission Task Force on Cross-Border Regulation has launched a consultation on regulatory tools and challenges in November 2014 after extensive discussions with a variety of stakeholders. The European Commission has adopted equivalence decisions for Japan concerning the regulatory regimes of central counterparties in October 2014 and the banking supervisory and regulatory arrangements in December 2014. EIOPA finalised a report on the Solvency II equivalence assessment of the Japanese reinsurance supervision in March 2015.

#### <Background>

Both the European and Japanese authorities have expressed their commitment to implementing the measures designed to protect the real economy and to ensure economic growth and stability of the financial system. The authorities are pursuing regulatory dialogues and believe equivalence would serve to prevent double or overlapping requirements to operators.

### **WP-D / # 02\*\* / EJ to EJ Recommendation on BEPS Action Plan and Other Tax Issues**

The BRT maintains the following recommendations.

### BEPS (base erosion and profit shifting) Action Plan

The authorities should carefully consider the risks of excessive disclosure requirements and anti-tax avoidance measures so as not to hamper multinational enterprises' business activities.

Furthermore, in order to realise fair taxation and to enhance direct investment between the EU and Japan, the following measures should be adopted:

#### Tax Treaties

The EU Member States and Japan should modernise the tax treaties between them and ensure, to the greatest possible extent, that dividend, royalty and interest payments are exempted from withholdings taxes and that corresponding adjustments and arbitration in case of transfer pricing taxation are provided.

#### Transfer Pricing

The BRT requests the harmonisation and simplification of documentary requirements in transfer pricing taxation and the facilitation of the conclusion of bilateral and multilateral APAs (Advance Pricing Arrangements).

#### Participation Exemption

The BRT recommends further introduction of participation exemption that will exempt dividends and capital gains received from business investment from further corporate taxation.

#### <Recent Progress>

The BRT understands the Commission Services are giving consideration to a balanced approach to disclosure between effective tax collection, transparency and legitimate business interest. The OECD released its first recommendations for a co-ordinated international approach to combat tax avoidance by multinational enterprises in September 2014, causing some concerns.

Some progress has been seen for the recommendation on the modernisation of tax treaties. No progress has been seen on transfer pricing and participation exemptions.

#### <Background>

The BEPS Action Plan was proposed by the OECD and endorsed by G20 Finance Ministers and Central Bank Governors in July 2013. The BRT supports the idea of modernising international taxation rules that would

include non-OECD countries to cope with the globalisation and digitalisation of economy. However, the BRT is concerned that the requirement of BEPS Action Plan for multinational enterprises to disclose information on their global allocation of income, economic activity and country-by-country taxes paid to all relevant governments would lead to an increase of administrative burden on enterprises and of a risk of double taxation. The BRT recommends that the introduction of excessive disclosure and anti-tax avoidance rules should be avoided so that legitimate business activities would not be hampered.

In order to enhance direct investment between the EU and Japan, measures to reward for taking risks associated with cross-border investment are essential. In particular, the measures to avoid double taxation of the same profit should be regarded as *sine qua non*.

While there is a convergence of policies on transfer pricing taxation among major countries according to the OECD Guidelines, companies find it costly and complicated to comply with the transfer pricing requirements of various countries.

In addition, compliance costs associated with the transfer pricing taxation requirements are potentially very high. Although APAs are increasingly used in the EU Member States as well as in Japan, the conditions differ country by country and companies have to satisfy the requirements of each country. An EU-Japan transaction often involves three countries or more. For such businesses, multiple APAs are necessary to obtain sufficient assurance. However, multiple APAs are still its infancy even within the EU and the implications for costs and managerial resources are often prohibitive.

Participation exemption, by which dividends and capital gains received from business investment above certain holding threshold are exempted from further corporate taxation, is one measure to encourage mutual direct investment.

#### **WP-D / # 03\*\* / EJ to E Recommendation on Financial Transaction Tax**

The BRT maintains its serious concern over the EC's proposed financial transaction tax (FTT), particularly with respect to its wider application. If imposed, the FTT will result in reduced volume of financial transactions and decreased liquidity, significantly increase funding costs and impair legitimate

hedging activities by parties such as business corporations. The decreased liquidity in secondary markets is also likely to cause impacts on primary markets eventually.

Impact on liquidity, funding costs and hedging costs should be carefully considered in the ongoing discussion on scope of transaction, place to tax and tax rate in one harmonised tax regime so as to develop and integrate capital markets in EU.

#### < Background >

The EC announced proposals in September 2011 to impose a Financial Transaction Tax on financial instruments between financial institutions when at least one party to the transaction is located in the EU but it has concluded since that a common FTT system could not be attained within a reasonable amount of time by the EU as a whole. On 14 February 2013, the EC has adopted a proposal for a Council Directive implementing enhanced cooperation between 11 Member States in the area of financial transaction tax. Despite some delays in the process, 2016 is maintained as the start year.

#### **WP-D / # 04\*\* / EJ to J Recommendation on Japanese Fiscal Soundness**

The BRT urges the Japanese Government devise a detailed roadmap towards its goal of primary-balance surplus by fiscal 2020.

#### <Background>

Fiscal soundness is a fundamental issue for regaining trust in the Japanese economy. Primary-balance deficit risks leading to jump in interest rate and abrupt retrenchment in budget, and resulting in serious impact to the Japanese economy. Reforms of Japan's social security and taxation systems are keys for both economic growth and the realisation of fiscal soundness.

#### **WP-D / # 05\* / EJ to J Recommendation on Japanese Tax system**

Attracting and encouraging foreign direct investment to Japan would induce Japanese economic growth with jobs and technological innovation by

inviting prominent technologies and individuals. Reduction of effective corporate tax rate and abolition or reduction fixed asset tax on depreciable assets are necessary measures for providing a globally competitive business environment.

<Recent Progress>

The Cabinet decided Fiscal Year 2015 Tax Reform (Main Points) which mentions the reduction of effective corporate tax rate in January 2015.

<Background>

There is expectation that in addition to revitalisation of Japanese corporations, foreign direct investment to Japan will contribute to Japanese economic growth. So as to encourage foreign direct investment to Japan as one of the attractive markets in Asia, a globally competitive corporate tax system should be adopted.