[TEXT OF FATCA COMMENT LETTER SUBMITTED BY
JAPANESE BANKERS ASSOCIATION]

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For the attention of:

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Re: Follow up comments by The Japanese Bankers Association to *Notice 2011-34*

Ladies and Gentlemen:

I. Introduction

The Japanese Bankers Association ("JBA") fully understands the background and progress of the enactment of FATCA in the United States is to prevent tax evasion. The JBA also recognizes and appreciates that the IRS understands that the success of FATCA implementation would depend on FFIs' appropriate performance of various requirements. Therefore, the IRS sincerely accepts opinions from financial institutions/associations all over the world regarding issuance of the final regulations, and that the IRS makes efforts to balance the burdens and the requirements placed on FFIs under FATCA.

In spite of those efforts currently being made by the IRS, the JBA has three major concerns over the implementation of FATCA as follows:

First of all, participating FFIs may face significant legal risks for punitive withholding and involuntary account closure requirements against recalcitrant account holders and for punitive withholding against non-participating FFIs under the FFI agreement, without resolving various legal impediments in each country. In fact, it would be extremely difficult for FFIs to conduct these procedures.

Secondly, even when specified U.S. persons are identified through the procedures performed by FFIs, "intentional tax evaders," who knowingly avoid taxation on their income, would not likely comply with disclosure or documentation requirements. As mentioned above, the punitive withholding and involuntary account closure would not work practically without resolving various legal impediments. Furthermore, the legislative goals of FATCA would not likely be achieved despite the substantial efforts to be made by participating FFIs, because it would be difficult for FFIs in many countries to provide the information on specific customers directly to the IRS without the consent of the customers. To make the matter worse, "intentional tax evaders," who may realize that they are suspected by FFIs through the due diligence procedures of FATCA, would likely make a further effort not to be identified by FFIs. As a result, over time, it would be even more difficult for FFIs to find specified U.S. persons. Consequently, we are concerned about the fact that there is relatively lower likelihood of successfully detecting information on specified U.S. persons, who potentially involve high risk factors to evade U.S. taxation, despite the burdens placed on participating FFIs, and that it is not reasonable to place excessive administrative costs on FFIs.

Third, it is highly predicted that the burdens of the FFIs in Japan would be significantly greater than the expected results achieved under FATCA due to the fact that the Japanese financial industry has special circumstances, which by and large differ from the U.S. and European counterparts.

The JBA, a representative of Japanese financial institutions that strengthens friendship and develops economic relation between the U.S. and Japan in a proactive manner, would like to suggest the following proposals with further consideration on the first and second concerns as mentioned above, in order to effectively achieve what FATCA originally intended. In addition, the JBA would like to explain special unique circumstances about the Japanese financial services industry and to suggest proposals to address some issues from the JBA's point of view in the final section.

II. Issues on "Recalcitrant Account Holders" and "Non-Participating FFIs"

Before considering specific matters, the JBA would like to explain our specific concerns about "recalcitrant customers" and "non-participating FFIs" that are among the most controversial issues faced by FFIs around the world.

First of all, our understanding is that FATCA defines "recalcitrant customers" as "U.S. persons who are subject to U.S. taxation and refuse to disclose the information under FATCA for purposes of tax avoidance". However, we believe that the majority of customers in this category are those who are not subject to U.S. taxation but hesitant to disclose the information (hereafter "passive recalcitrant account holders"). In this case, we are able to imagine the customers who tend to disregard unwanted direct mails quickly without paying attention to the contents, who strongly reject telephone calls from FFIs, or who do not reply to FFIs as they dislike tedious administrative procedures etc., who have changed to an unknown address, or who are deceased.

Similarly, it seems that the IRS has considered "non-participating FFIs" to be those financial institutions that may be obliged to make unwanted changes to their business model, as a result of entering into FFI agreements (e.g., FFIs assisting U.S. persons avoiding U.S. taxation). However, we believe that there seems to be a significant number of "non-participating FFIs", which prefer to avoid the significant costs and administrative burdens of participating FFIs (e.g., FFIs with little or no transactions with U.S. persons) and/or prefer to fully disinvest from the U.S. financial market. The majority of them, the JBA believes, would choose not to become participating FFIs. In most countries, there are a great deal of community-based small financial institutions which intend to liquidate all U.S. securities investment and would not enter into an agreement with the IRS unless they are classified as "deemed-compliant FFIs". Those types of local financial institutions in general might make significant contributions to the local economy and play a significant role in the interbank money market as depository institutions to which they advance funds. Accordingly, punitive withholding imposed on such institutions could potentially disrupt financial markets around the world. Furthermore, as there are no legal grounds for imposing such punitive withholding, it could trigger confusion in the financial markets of each country. (Those "non-participating FFIs" are hereafter called as "passive non-participating FFIs".)

We believe the number of "passive recalcitrant account holders" and "passive non-participating FFIs" is expected to be substantial for depository FFIs (i.e., those FFIs accepting deposits from customers). We would like to request your understanding that handling such customers would be quite burdensome for each FFI.

Furthermore, the following issue from "legal aspects" would be clearly highlighted when FFIs deal with those "passive recalcitrant account holders" and" passive non-participating FFIs".

III. Issues on the legal aspects regarding FATCA, FFI agreement

As you know, FATCA is a U.S. law, and therefore, legislative power might be generally applicable outside the U.S., while jurisdiction of enforcement should be limited within the U.S. Our under-

standing is that FATCA aims at supplementing the lack of the jurisdiction of enforcement by entering into a kind of agency agreement between the IRS and FFIs.

For FFIs, an FFI agreement is only a voluntary contract between the U.S. Government and a private company. An FFI must implement FATCA requirements subject to domestic laws where the FFI is operating, and apparently cannot be protected by the U.S. laws with respect to its actions outside the U.S. At the moment, numerous domestic legal issues have been identified in many jurisdictions regarding the performance of obligations pursuant to the FFI agreement. Among other things, as a general principle, the legal relationship between FFIs and customers is governed by their resident countries' laws. In the event of disputes between FFIs and customers by reasons of the FFIs' implementation of the FFI agreement, the JBA has concerns about excessive legal risk, or reputational risk as those disputes can only be resolved under their resident countries' laws.

The JBA's primary concerns over FATCA agreement lie in the following three requirements.

1. Issues on disclosure of personal information

Domestic laws protecting the confidentiality of customer information and the protection of personal information are common in many jurisdictions. Without consent by the customers, in general, FFIs may not disclose most of customer information and personal information. The JBA appreciates that FATCA guidance suggests that FFIs are only required to report the number and aggregate value of financial accounts held by recalcitrant account holders whenever FFIs cannot obtain waivers from account holders.

On the other hand, FATCA requires that FFIs try to reduce the number of recalcitrant account holders in the future, and the IRS should consider terminating FFI agreements due to the number of recalcitrant account holders remaining after a reasonable period of time. As mentioned above, the JBA believes that FFIs would have to bear substantial economic burden, and it is extremely difficult to obtain consent to disclose such protected information or to obtain waiver of their rights from numerous "passive recalcitrant account holders" and very few, "intentional tax evaders". The JBA thinks it is quite difficult for FFIs to conduct punitive withholding and involuntary account closure, as explained later, without a waiver subject to deposit terms and conditions, and domestic laws. Consequently, we are very concerned about the potentially significant number of "recalcitrant account holders" on a going forward basis.

This means that FATCA's real purpose to gather information about "intentional tax evaders" and to build a fair tax payment structure would be hardly achieved.

2. Issues on involuntary closure of accounts

Involuntary closure of accounts is generally governed by industry practice as well as deposit terms and conditions prepared in light of industry practice; therefore, accounts are involuntarily closed only in limited circumstances in many jurisdictions. In general, accounts are involuntarily closed by FFIs only

in the event of illegal acts conducted by customers or in the case of accounts held by anti-social organizations.

In Japan, no monthly maintenance charges are imposed by banks with respect to ordinary accounts (Note: equivalent to checking accounts in the U.S.), as those accounts are used as a necessity for daily economic activities of consumers, such as payment of wages and utility bills. Therefore, it would be an extremely serious problem if we have to close bank accounts involuntarily.

Apart from an apparent case where accounts are related to illegal tax evasion, it is extremely difficult to close the accounts involuntarily only because they are "recalcitrant account holders". Above all when the number of "passive recalcitrant account holders" is expected to be significant, FFIs would face a very high risk of litigation or the implementation of FATCA could lead to a serious social problem.

To cope with this situation, FFIs could change their deposit terms and conditions in advance, by incorporating the FATCA clause as one of conditions of closing accounts.

However, deposit terms and conditions of FFIs are usually based on each country's business practice. Without public support for FATCA, amending deposit terms and conditions may not likely be accepted by the public at large and would likely lead to a social problem. As a result, the FFIs' reputation would be impaired in those countries.

Furthermore, amending terms and conditions to be in compliant with FATCA may be a significant disadvantage for customers from their perspectives, and thus the amended terms would not be allowed to be retroactively applied to pre-existing customers even if successfully amended.

This means that FATCA's real purpose of creating disincentives for "intentional tax evaders" would be hardly accomplished.

3. Issues on withholding

The JBA is concerned that the IRS might think the punitive withholding from "recalcitrant customers" and "non-participating FFIs" under FATCA is only intended to motivate participation and cooperation by FFIs and their account holders. In other words, we are very concerned about the situations where FFIs would be forced to deal with a large number of the punitive withholding, contrary to the presumptions appear to be made by the IRS that the punitive withholding is intended to be an exception.

The JBA is concerned, as mentioned above, that participating FFIs would be forced to actually withhold on a broad range of transactions as the participation and cooperation with FATCA regime by "recalcitrant customers" and "non-participating FFIs", mainly "passive recalcitrant account holders" and "passive non-participating FFIs" would not turn out to be as expected by the IRS and involuntary account closures are difficult to implement under the restrictions of laws and social rules.

FFIs are supposed to be familiar with withholding from U.S. source income because of the QI system as a precedent. However, as punitive withholding from "recalcitrant customers" and "non-participating

FFIs" would apply to domestic bond coupon payments and interests of domestic deposit as proposed by *Notice 2011-34,* FFIs would be required to withhold U.S. tax on income paid to a broad range of customers including FFIs with limited overseas business and customers who only maintain deposit accounts in domestic branches. On the other hand, the withholding under the QI regime mainly focused on U.S. source income received by investors who understand and anticipate the U.S. withholding tax on their investment portfolio. Accordingly, the impact FATCA makes on society as a whole and financial industry is expected to be significantly greater than that of QI.

Further, the punitive withholding imposed under the "pass-through payment" concept proposed by *Notice 2011-34* is based on the notion that the profits earned by FFIs in the U.S. or through the investment income from U.S. source are deemed to be the source of payment of bond coupon and deposit interest to any customer outside the U.S. Once the concept of "pass-through payment" becomes the established practice, the sourcing of income could be modified by many other jurisdictions in an effort to enhance tax enforcement. The JBA has concerns about such potential ramification.

If the above concept is adopted and FFIs' payments of bond coupon and deposit interest outside the U.S. are deemed U.S. source income, the JBA believes that the issues of jurisdictions over tax and income sourcing rules should be evaluated in light of various income tax treaties to which the U.S. is a contracting party. In addition, we think that it is essential for taxing authorities around the world, as part of resolving legal impediments in each country as we stated earlier, to reach a consensus regarding the jurisdictional and sourcing issues prior to the implementation of FATCA.

If FFIs are to comply with the punitive withholding requirements of FATCA before these problems have been resolved, it would be highly certain that many of participating FFIs all over the world would face legal actions by customers regarding the validity of FATCA withholding. As such legal actions are brought by customers outside the U.S. pursuant to non-U.S. laws, it would be the FFIs that face legal and reputational risk, while the IRS is not a party to such legal actions.

4. Issues on potential derivative action risk by shareholders

As mentioned above, it may be difficult for FFIs to comply with the FFI agreement under the current legal environment in each country, in other words, the decision by FFIs to make a contract with the IRS would bring about problems for them, such as a breach of "duty of diligence" by the director, as FFIs would face legal and reputational risk just to comply with FATCA agreement. Furthermore, the JBA would like to request your understanding as to the risk faced by FFIs for potential derivative actions by their shareholders, resulting in a situation in which most FFIs, if not all, possibly could not enter into an FFI agreement.

5. Practical flow chart

Based on the above legal discussion, we would like to present a flow chart of practical actions taken by FFIs on FATCA as follows. Link-to-image-2011235131

(1) “Cooperative U.S. customers” are customers who present documentations and agree to disclose information to the IRS. They are customers who have paid taxes correctly, who have forgotten to pay taxes, or those without awareness of tax obligation.

(2) “Recalcitrant account holders” are customers who do not agree to present documentations, but agree to close accounts. They are highly likely “intentional tax evaders”. FFIs would report the number and aggregate value of financial accounts held by “recalcitrant account holders”, but FFIs would not report them to the IRS as accounts that are closed.

(3) “Recalcitrant account holders” are holders who do not agree to present documentations, and do not agree to close accounts. It would be difficult for FFIs to report customer information or close accounts as we explained in section III. 1.2.. As stated in III. 3., FFIs would face legal and reputational risk if FFIs, without development of environment, withhold taxes based on FFI agreement.

“Recalcitrant account holders” could be either “intentional tax evaders”, or “passive recalcitrant account holders”. In any case, FFIs would continuously request presentation of documentation and consent to close accounts. But the number of such “recalcitrant account holders” would not be expected to decrease because of intentional disregard by the former type of customers and the reasons explained in the section II with respect to the latter type of customers. As a result, the burdens placed on FFIs would not produce intended results and could be merely a waste of time.

IV. Issues on proposed account identification and documentation effectiveness

1. Practical effectiveness in identifying U.S. Indicia and U.S. Taxpayers

The JBA has concerns over the proposed procedures to identify U.S. persons, as the effects on “intentional tax evaders” whom FFIs would primarily have to prioritize to detect are very limited. The reason is that “intentional tax evaders” know well about FATCA’s “six U.S. indicia” to identify U.S. persons, and they would make efforts to manipulate and conceal such information. Even if such procedures were

provided, it would be more difficult day by day for bank employees to find those indicia for "intentional tax evaders".

Even when FFIs can successfully detect any of six indicia, it would be difficult to obtain Form W-9 from "intentional tax evaders". Repeated requests from participating FFIs would only accelerate manipulations or concealment of information by "intentional tax evaders".

2. Excessive workload on FFIs relative to the doubtful effectiveness

According to the procedures currently under discussion by the IRS, FFIs have to continuously make calls, send mails, visit customers, and keep records of those activities etc., even when FFIs know the effectiveness cannot be secured against "recalcitrant account holders", including numerous "passive recalcitrant account holders". In addition, FFIs have to establish a new adequate procedure to identify accounts of specified U.S. persons and to educate and train substantial numbers of employees across the organizations including employees in charge of customers and tellers. The cost and resource which FFIs have to bear would be incredibly enormous.

On the other hand, there would be very few specified U.S. persons' accounts actually identified by performing the procedures, and FFIs bear too much burden considering the information FFIs could ultimately obtain. Such a gap could damage motivation for employees who perform such burdensome procedures. That would ultimately impair the quality of the procedures performed by FFIs.

As a result, there would actually be FFIs with unsuccessful attempts in fulfilling FATCA obligations. Although the IRS recognizes that FFIs have only few customers who are "intentional tax evaders", they would need to examine a possibility of terminating the FFI agreement and assess penalties to be consistent with other countries.

3. Consequence

As a consequence, the JBA is concerned that proposed procedures would not be effective and the use of six U.S. indicia would only identify non-U.S. accounts or, would fail to detect "intentional tax evaders" who manipulate and conceal information.

V. Our proposals to "detect tax evaders" in light of the ultimate legislative purposes of FATCA

Based on the above stated issues, the JBA would like to make proposals which provide helpful information to detect tax evaders in order to achieve the ultimate legislative purpose of FATCA.

1. Discussion between competent government bodies around the world to design a framework of effective exchange of information

Domestic legal framework for protecting personal information (or protecting the confidential information of customers) is currently available in most jurisdictions. It is essential to establish inter-governmental information exchange mechanisms to allow FFIs to provide the personal information

of customers without obtaining customers' consent, in order to achieve the fundamental objectives of FATCA.

The U.S. government does currently have tax treaties including information exchange provisions in force with many countries. By utilizing or adjusting such provisions, the JBA is of the opinion that it is possible to design a framework to exchange personal information without obtaining customers' consent.

2. Inter-governmental discussions to design legal framework

The legal framework which enables FFIs to comply with obligations under FFI agreements needs to be properly designed to resolve the aforementioned domestic legal issues. From the standpoint of FATCA's purpose to detect U.S. tax evaders, it is necessary to build frameworks under which FFIs could comfortably handle "recalcitrant accountholders" and "non-participating FFIs", including "passive recalcitrant accountholders" and "passive non-participating FFIs".

Specifically, if the provisions concerning involuntary account closure and withholding taxes remain in the FATCA regime, the JBA would like to request sufficient discussions among government authorities with respect to designing a legal framework for FFIs to implement such requirements and measures for various potential risk, which might be incurred by FFIs in the future.

3. Specific requirements for participating FFIs

(1) Identifying U.S. Indicia

With respect to customers' addresses on records required to be verified under the present account opening procedures around the world, FFIs would identify existing accounts with U.S. address as well as accounts with U.S. address voluntarily presented by customers. Further, FFIs would electronically indentify customers to the maximum extent possible that have at least one prior (electronic) record of remittance transaction with an address in the U.S. of the period subject to be monitored. However, with respect to corporations, in order to exclude entities with active trade or business, the usage is limited to businesses other than import/export as well as financing transactions.

The reasons why we focus on remittance to U.S. addresses are explained as follows. Providing information regarding "standing instructions to transfer funds to an account maintained in the United States" is based on the fourth of six U.S. indicia as proposed by the IRS. The record of "remittance" focuses on the existence of a transaction, while the other five indicia focus on the characteristics of customers (objective indicia vs. subjective indicia). Other than the reported address, which is required in KYC procedures, the U.S. indicia highly depend on self-declaration by customers, and the U.S. indicia require a substantial amount of work but could generate relatively unreliable results (i.e., subjective) due to efforts by "intentional tax evaders" to hide and disguise indicia, as mentioned above. On the other hand, the existence of a prior record of remittance transaction would likely be less manipulated or concealed by tax evaders (i.e., objective). Accordingly, the JBA thinks that as more information based on objective indicia by FFIs, would lead to detection of tax evaders for the IRS. It is truly difficult

for the FFIs to get additional information, such as U.S. addresses and TIN from customers retroactively after transactions. It would be more practical for the IRS to match up the information with the IRS database by indication of name and date of birth, etc. provided by FFIs.

(2) Repealing other Indicia identification procedures and identification of U.S. taxpayers

Additional detection of accounts by other indicia, requests of documentations such as Form W-9, or various identification documents, etc. from preexisting accounts to identify U.S. taxpayers' accounts, and to identify "recalcitrant account holders" shall be repealed. Because, as we mentioned earlier in section IV, we cannot expect significant effect through the additional work, and the identification process itself would have adverse effects as "intentional tax evaders" might know they are being detected.

As for new individual accounts, it is possible to adopt a new procedure to get TIN or any other information which the IRS needs on a voluntary basis to improve effectiveness for the IRS to identify U.S. taxpayers.

(3) Reporting

We would report the IRS account information that might belong to "U.S. taxpayers" in which we had already acquired (name, address, date of birth, etc.) through the above explained procedures without notifying customers under the framework we described in *section 1*.

(4) Involuntary closure of accounts and pass-through payments

It would take time to build the frameworks as explained in *section 1* and, 2. It is extremely difficult for FFIs to close accounts involuntarily or withhold taxes for "recalcitrant accounts'" and "non-participating FFIs accounts" without the above explained framework. The JBA would like to request a delayed implementation of involuntary accounts closure, withholding and pass-through payment concept outside the U.S. until the proper legal framework has been established.

VI. Financial Services Industry in Japan

1. Overall environment in Japan

As mentioned in the JBA's comments already provided to the IRS, there are some specific characteristics of the norms and expectations in Japan to consider. The JBA believes that the risk for specified U.S. persons to evade tax intentionally would be significantly low in Japan. On the other hand, in spite of the threshold set up by the currently proposed by FATCA, the number of deposit accounts subject to identification processes would be much larger than that in other countries. This means that the benefit expected to be achieved by FATCA would be disproportionate to the burdens borne by FFIs. To comply with the currently proposed FATCA completely as well as to meet the IRS's expectation would result in excessively substantial pressure on the management of Japanese FFIs.

Characteristics of the Japanese financial market

(1) The number of U.S. persons is very limited

U.S. persons represent only 52,000 (0.04%) within the entire Japanese population of 128,062,000.

(2) Unfavorable market for tax evasion due to the unique frameworks of taxation in Japan

Unlike U.S. taxation, under the Japanese tax laws, interest income is taxed separately from other incomes. It is subject to withholding tax either at the resident rate or nonresident rate.

Furthermore, in the case of nonresidents, financial institutions are required to comply with strict control of accounts, such as confirmation of applicability for tax treaties.

(3) Sales volume of investment products are extremely limited among banks' responsibilities

Most members of the JBA provide traditional commercial banking services, such as accepting deposit from individuals and business entities, and making loans. The balance of public offered investment trusts, which JBA member banks have dealt with, is 26 trillion yen as of March 31, 2011, and it only accounts for about 1.7% of the individual financial assets of 1,487 trillion yen.

(4) The number of accounts to be identified on FATCA is enormous, and inclusive of various large and small FFIs

Total accounts, mainly with the JBA member banks, etc. (187 members), are more than 800 million in Japan. Furthermore, there are several hundred million accounts with very small local depository institutions (431 members), which are called "Shinyo-Kinko" and "Shinyo-Kumiai". They contribute to local industries and markets, and the size is very small.

2. Private Banking in Japan (totally different from private banking businesses in the U.S. and in Europe)

Notice 2011-34 adopts a risk-based approach to the identification of accounts. We understand the IRS attempts to reduce the compliance burdens associated with identification, especially for private banking customers. While the definition of "private banking" is exceptionally broad and abstract, we do not think this approach would serve the original intention. The framework of "risk-based approach" is essential to effectively detect accounts of U.S. persons. However, the definition of "private banking" is difficult in laws or in contractual relationship even for financial professionals.

Each country or each FFI has a different type of customer and business model for private banking, therefore, we would like to propose that the IRS repeal the idea of "private banking" and adopt more simple rules based only on a certain threshold of account balance or on the prior record of the remittance transaction with an address in the U.S.

3. Local banks (Deemed Compliant FFIs)

Financial institutions in Japan are two types, major financial institutions which expand international businesses and local financial institutions which concentrate on domestic business, called "Chigin" (the first category of local banks) and "Daini-Chigin" (the second category of local banks). Comparing the volume of foreign exchange transactions (Note: includes currency exchanges, import/export transactions, and all other cross-border transactions), while the major 13 financial institutions account for over 97% of whole foreign exchange transactions in Japan, "Chigin" only accounts for 2.7%, and "Daini-Chigin" for 0.2%. Sorted by an individual financial institution (excluding the 13 major institutions), the fifth highest one's annual transaction volume is 1569.8 billion yen (converted by the rate of $ 1=[#194]?77), the tenth is 698.9 billion yen, the 20 and below do not reach 300 billion yen. Most of the local financial institutions have their branches in the local area, intended for providing financial services to local communities. Therefore, their customer base hardly includes U.S. tax payers.

With regard to the deemed-compliant status of FATCA, our understanding is that the conditions proposed in *Notice 2011-34* presume that small and medium sized financial institutions are in strong contrast with large international institutions having global branch networks with which intentional tax evaders are likely do businesses. We also understand that the conditions are designed to prevent the abuse by small and medium sized institutions that provide assistance to intentional tax evaders. However, almost no financial institution in Japan meets all five requirements to be a deemed compliant FFI since these requirements are unfortunately too strict, especially the fifth one. There are no regulations, policies, or guidelines provided by the authority which stipulate that no bank accounts shall be opened for nonresidents, and thus financial institutions are not required to restrict transactions with nonresident customers, much less internal policies and procedures to that effect. Furthermore, such policies and procedures inherently lack practicality, as it is not feasible for FFIs to verify whether all of their entity customers are engaged in active trade or business because such procedures can only be accomplished through physical inspection.

We sincerely request that the fifth requirement be omitted.

It seems that "deemed compliant financial institutions" in *Notice 2011-34* assume groups of financial institutions. We need clarification that a deemed compliant is applicable to the stand-alone financial institutions since many of the local financial institutions are of this type.

4. Customer identification procedure for "entity accounts"

We would like to propose the following procedures for identifying "entity accounts" be consistent with these follow up comments as follows.

FFIs would provide account information to the IRS regardless of new/existing accounts if there is at least one prior record of a remittance transaction with an address in the U.S. Such information would be limited to the type of information required to be obtained under the relevant KYC rules in Japan. FATCA defines "substantial United States owner" as a U.S. person who owns, directly or indirectly, more than 10 percent of the stock of a corporation (by vote or value). As FATCA seems to follow KYC

procedures to identify substantial U.S. owners, it is quite reasonable to use the information obtained through KYC procedures in each country, and the threshold should be limited to the one required under the local KYC rules. Therefore, we request that the ownership threshold for a given country be individually provided pursuant to the KYC procedures in effect for that country. In addition, the JBA strongly requests the setting forth of a threshold account balance, in the same manner as individual accounts, to reduce burdens for FFIs.

Very truly yours,

Japanese Bankers Association
Tokyo, Japan