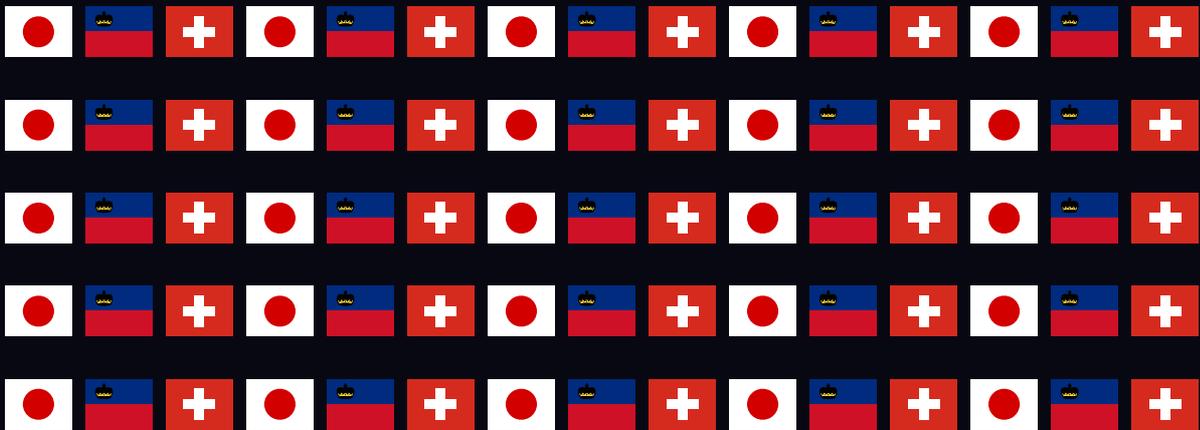


PRIVATE BANKING & WEALTH MANAGEMENT

Japan



Private Banking & Wealth Management

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Quick reference guide enabling side-by-side comparison of local insights, including into regulation and licensing; anti-money laundering and financial crime prevention requirements; client categorisation and protection; exchange controls and withdrawals; confidentiality; cross-border considerations; tax disclosure and reporting; asset-holding structures; types of contract, liability standards and mandatory legal provisions; disputes; and recent trends.

Generated 14 July 2023

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PRIVATE BANKING AND WEALTH MANAGEMENT

Regulation

What are the main sources of law and regulation relevant for private banking?

Although there is no legal definition for 'private banking' in Japan, it is considered comprehensive asset management and administration to meet the financial needs of high net worth individuals and recognised as a broad concept including the following:

- asset management services using discretionary accounts;
- investment and insurance advice;
- creation and sale of investment trusts;
- trust services (testamentary trusts and executions);
- normal banking services;
- securities trading;
- buying and selling currency and funds; and
- custody services.

These operations are primarily regulated by (1) the Financial Instruments and Exchange Act (FIEA) and related laws and regulations, which aim to ensure the fairness of transactions in financial instruments and the protection of investors, (2) the Banking Act and related laws and regulations, which provide for the licensing of banks and the regulation of bank conduct and (3) the Trust Business Act and related laws and regulations, which regulate trust related businesses. In addition, these regulations are under the jurisdiction of the Financial Services Agency (FSA), which publishes not only laws and regulations but also supervisory guidelines and guidelines as soft law, which businesses are also required to comply with. The Comprehensive Supervisory Guidelines for Major Banks , etc (guidelines for the banking industry) make some reference to private banking and wealth management and provide some points to bear in mind when engaging in such complex financial services.

Law stated - 31 May 2023

Regulatory bodies

What are the main government, regulatory or self-regulatory bodies relevant for private banking and wealth management?

The FSA is the main regulator of financial administration and has jurisdiction over many of the various activities that fall under the private banking and wealth management categories. Furthermore, the Local Finance Bureau, one of the local branches of the Ministry of Finance, carries out local FSA operations under the mandate of the FSA Commissioner. The Japan Securities Dealers Association (JSDA) formed by the securities companies and registered financial institutions in Japan and the Japanese Bankers Association (JBA) formed by banks, bank-holding companies, and bankers' associations in Japan are the main self-regulatory organisations in Japan for the area related to private banking and wealth management.

Law stated - 31 May 2023

Private wealth services

How are private wealth services commonly provided in your jurisdiction?

While the individual businesses that make up wealth management are carried out by securities companies (Type 1 financial instruments business operators), megabanks, ordinary regional banks, and trust banks, the provision of one-stop wealth management services for high net worth individuals is dominated by comprehensive financial groups (including domestic offices of foreign financial groups), which include banks, trust companies, and securities companies as group companies.

Law stated - 31 May 2023

Definition of private banking

What is the definition of private banking or similar business in your jurisdiction?

There is no definition of 'private banking' or wealth management services for high net worth individuals. However, private banking is considered comprehensive asset management and administration to meet the financial needs of high net worth individuals.

Law stated - 31 May 2023

Licensing requirements

What are the main licensing requirements for a private bank?

Although there is no legal definition for 'private bank', this depends on which entity (specifically, a securities company, bank, trust bank, etc) performs services constituting private banking.

If an entity intends to engage in Type 1 financial instruments business or discretionary investment management business, it needs to be registered by the Prime Minister but, if the following requirements are not met, such a registration will be refused: it must comprise, among others:

- sufficient human resources and business execution systems;
- it must be a joint stock company or similar type of entity;
- having in-country business offices;
- keeping a certain level of assets (ie, the minimum amount of state capital or amount of net asset);
- its major shareholders are not certain disqualified individuals or companies; and
- not concurrently engaging in a prohibited business.

To engage in banking business, a banking business licence must be obtained, the examination for which will determine whether the following criteria are met: (1) the applicant has a sufficient financial basis to carry out a banking business soundly and efficiently, and the applicant's prospects for balancing-related earnings and expenses are good, and (2) the applicant has the knowledge and experience to carry out this business accurately, fairly, and efficiently in light of its personnel composition and other factors, and has sufficient social credibility.

Most trust business is carried out by licensed banks referred to as trust banks. In order for financial institutions to engage in trust business, they must obtain approval from the Prime Minister based on the Act on Engagement in Trust Business by Financial Institutions, the examination for which is based on whether the financial institution in question

meets the following criteria: (1) it must have a sufficient financial basis for carrying out the trust business soundly and be able to carry out the trust business properly, and (2) its performance of this business must be unlikely to disturb the financial order.

Law stated - 31 May 2023

Licensing conditions

What are the main ongoing conditions of a licence for a private bank?

As the registration, licence or authorisation is subject to revocation if any of the relevant requirements are no longer met, these must continue to be met. The Comprehensive Supervisory Guidelines for Major Banks, etc (guidelines for the banking industry) focus on and clarify the supervision of the following aspects of private banking and wealth management business: (1) setting sound and appropriate profit and business targets and supervising and controlling business operations, (2) establishing a framework for supervising and controlling appropriate business operations, (3) establishing an information management framework, etc, (4) establishing a system for eliminating violations of laws and regulations and ensuring fair and appropriate transactions, etc, and (5) establishing systems to detect and eliminate money laundering and suspicious transactions, etc.

Law stated - 31 May 2023

Organisational forms

What are the most common forms of organisation of a private bank?

In order to carry out the main businesses constituting private banking business (eg, Type 1 financial instruments business, discretionary investment management business and banking business), it is necessary to take the form of a joint stock company. Securities companies registered as Type 1 financial instruments businesses, trust banks or large-scale ordinary banks under the Banking Act often engage in private banking-like business. Overseas securities companies and banks carry out the main activities comprising said business in the form of Japanese subsidiaries for securities-related business or Japanese branches for banking business.

Law stated - 31 May 2023

Jurisdictions

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