

As a general concern, Canada believes that most government-backed financial institutions in Japan significantly overlap with services that private-sector institutions can provide efficiently. The involvement of government enterprises in the financial sector, some of which (such as the postal savings system or *yucho*) have very sizeable market shares, has a distorting effect on competition. Public institutions should be made to compete in a manner that does not discriminate against the private sector through, for example, government-backed guarantees. Canada supports the efforts of the Japanese Government to streamline and privatize government-backed financial institutions.

Banking

The Government of Japan has stated that it has a long-term policy objective of turning Tokyo into one of the world's most innovative financial centres. To the extent that Japan is able to restructure the financial system, notably the banks, this objective will be more achievable. In addition, Canada believes that modernizing Japan's financial regulatory structure is critical to Japan's future as a global financial centre. Most major industrialized countries have moved to a financial conglomerate regulatory structure, which allows for greater synergies between banking, securities, insurance and fund management. The United States was the most recent major economy to adopt such an approach, with the repeal of the Glass-Steagle Act, which required a strict separation between banking and securities ("firewalls"). In Japan, the Glass-Steagle approach to regulation is still in place.

The requirement in Japan to maintain so-called "firewalls" between banking and securities is a significant concern to Canadian financial institutions operating in Japan. It imposes considerable additional costs, and does not allow for optimal efficiencies for clients. Canada continues to request that the Financial Services Agency (FSA) offer a more flexible regime, which is sensitive to smaller institutions' need to contain costs.

Securities and Investment Advisory Companies

The Government of Japan has set the policy objective of developing deep and liquid securities markets in order to reduce the current over-reliance on banks for financing. The Government should encourage greater household and pension fund investment in securities and investment trusts by increasing the safety, flexibility

and understandability of investment trusts and by lowering the costs of providing this key investment vehicle. The Financial Services Agency should amend the investment trust regulations so that it is easier for a fund management company to close down a fund, while respecting investor rights.

Insurance

The postal insurance system or *kampo* holds some 25% of life insurance assets in Japan. It is not subject to the same kind of regulatory oversight as private-sector life insurers although this should change. As a first step toward rolling back its activities, the Government should instruct *kampo* not to engage in the creation of new products that could be provided by private-sector insurers. Failing this, Canada requests that any new financial service activities proposed for the postal financial institutions (whether *kampo* or *yucho*) be subject to full public notice and comment, and that the responses be given due consideration by officials before their introduction.

With the purported goal of ensuring consumer transparency, the Financial Services Agency applies a micro-level analysis to product and rate approvals. This supervisory approach hinders competition because it is time-consuming and stifles the forces of innovation. Canada's federal life insurance regulator, the Office of the Superintendent of Financial Institutions, applies an *ex post* supervisory approach that promotes efficiency and competition, whereas Japan adopts an *a priori* regulation and supervision approach. In a sector in which there is demand for new products closely tailored to consumer needs, Japan's financial supervisory practices should promote competition and innovation.

Legal Services

In the face of globalization, increased merger and acquisition activity, and domestic regulatory reform in Japan, the demand for legal services with expertise in cross-jurisdictional issues to assure due diligence is acute. These services could be provided through the cooperation of Japanese (*bengoshi*) and foreign lawyers (*gaiben*), however, due to the restricting structure of specified joint-enterprise system, the expertise in Japan is limited and Japan-based businesses often seek services abroad. The Foreign Lawyers Law explicitly forbids partnerships and most joint enterprises between