

### Banking and Securities

Most major industrialized countries have moved to a financial conglomerate regulatory structure that allows for greater synergies between banking, securities 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. 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 has been a significant concern to Canadian financial institutions operating in Japan. It imposes considerable additional costs and does not allow for optimal efficiencies for clients. In some cases, it may actually increase risk. During 2002, some Canadian financial institutions in Japan dealt with this ongoing concern by significantly scaling back or moving to close down their bank branches. Canada continues to request that the Financial Services Agency (FSA) offer a more flexible regime that is sensitive to smaller institutions' need to contain costs. A longer-term goal, which fits with the FSA's current efforts to define a medium-term vision for the financial sector, should be to break down the walls between the lines of business noted above.

### Life Insurance

The Postal Life Insurance system or *kampo* holds about 40% of life insurance assets in Japan. Canada strongly welcomes the passage of legislation to establish the Postal Service Public Corporation, effective April 2003. However, this legislation does not alter the fact that *kampo* is not subject to the same kind of regulatory oversight, or operating costs, as private sector life insurers. *Kampo* is not subject to the Insurance Business Law, the Law on Sales of Financial Products or the Commercial Code. Furthermore, it is not supervised by the Financial Services Agency. Finally, because its products are fully guaranteed by the government, *kampo* is not required to contribute to the Policyholders Protection Corporation.

Canada is requesting that *kampo* be made to operate on the same basis as private life insurers, both foreign and domestic. As a first step toward rolling back *kampo*'s 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 is requesting that any new financial services 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. Canada is also requesting that any proposed report or legislation relating to the financial service activities of *yucho* be subject to full public notice, comment and consideration before policy decisions are taken by the government.

The life insurance industry has expressed a concern that the preferential treatment accorded by the Japanese government to *kampo* is a violation of the General Agreement on Trade in Services. Canada will study this issue carefully.

With the purported goal of ensuring consumer transparency, the FSA applies a micro-level analysis to product and rate approvals. This supervisory approach hinders competition because it is time consuming and stifles innovation. Canada notes the progress achieved since the establishment of the FSA but requests that greater efforts be made to move from a system of prior product approval to a system of notification combined with clear standards of disclosure.

### Legal Services

In the face of globalization, increased merger and acquisition activity, and domestic regulatory reform in Japan, there is an acute need for legal services with expertise in cross-jurisdictional issues to assure due diligence. These services could be provided through the cooperation of Japanese (*bengoshi*) and foreign lawyers (*gaiben*); however, due to the restrictive structure of the "specified joint-enterprise" system, 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 Japanese and foreign lawyers. Exceptions are made under the specified joint enterprise system, which allows for such partnerships but limits the scope of their practice to a tightly defined mandate. In addition, foreign lawyers cannot employ Japanese lawyers and are subject to restrictions with respect to the type of advice they are allowed to provide. Japanese lawyers are not subject to similar limitations. Canada continues to urge