April 19, 2011

Comments on European Commission Consultative Document
Consultation on Financial Sector Taxation

Japanese Bankers Association

The Japanese Bankers Association (JBA) is an industry association of 138 Japanese banks and 46 non-Japanese banks with operations in Japan.

JBA appreciates the opportunity to comment on the Proposal, *Consultation on Financial Sector Taxation*, released February 22, 2011, by the European Commission.

The consultative document analyzes and examines various options for tax system reform and their impacts in the European Union (EU). The JBA seeks in particular, 1) application of the beneficiaries-pay principle; 2) sufficient coordination by the European Commission in order to avoid double taxation (ensuring consistency); 3) avoidance of disruptions in the flow of funds from the introduction of a Financial Transactions Tax (FTT); and 4) avoidance of adverse effects from the introduction of a Financial Activities Tax (FAT).

We hope that our comments below will assist the EU in finalizing rules going forward.

1. The Beneficiaries-pay Principle should be ensured (*page 3-4: policy measures*)

One of the important policy objectives of taxing the financial sector is ensuring financial resources for public support to the financial sector in the EU. However, given that foreign banks, including Japanese banks, did not receive European public support during the recent financial crisis, we do not believe that it is appropriate to tax Japanese banks in order to realize EU policy objectives.

In carefully considering taxation measures and tax payers, the beneficiaries-pay principle, meaning that public costs should be borne by those who receive the benefits, should be applied so that an appropriate taxation measure vis-à-vis policy objectives is to be ensured.

2. Sufficient coordination by the European Commission in order to avoid double taxation (*page 7, etc., Financial Transaction Tax and Financial Activities Tax.*)

We would encourage efforts towards tax system reform in the EU for the purpose of improving transparency. In response to the 2008 banking crisis, several EU member countries have made efforts to reform their tax systems on their own. However, we are concerned that this type of uncoordinated responses could cause a double taxation problem to arise.

The main example is in relation to the bank levy, where rules are different in each country and tax treaties have not been updated to reflect the new tax. Therefore, in reforming tax systems in the EU, we request that the disparities among different countries' tax systems are considered and that legal systems and structures throughout the EU are made consistent.

3. Disruptions in the flow of funds from the introduction of a Financial Transactions Tax (FTT) should be avoided (*page 7: Financial Transaction Tax*)

We understand that realizing the precondition of simultaneous introduction of a Financial Transactions Tax (FTT) around the world in order to avoid disruptions to the flow of funds would be extremely difficult so that FTT has been recognized as unrealistic. We also understand that the consultative document addresses the introduction of the FTT only within the EU in order to increase the probability of realization. However, we are concerned that introducing the FTT only within the EU may cause the flow of funds avoiding the EU.

We believe the introduction of an FTT, including its feasibility, should be carefully examined, so that global flow of funds is not significantly distorted.

4. Adverse effects from the Financial Activities Tax (FAT) should be avoided (*pages 10-12: Financial Activities Tax*)

We understand that the Financial Activities Tax (FAT) is a tax levied on corporate activities. With regard to the FAT, we have the following concerns and believe that careful consideration of the tax is needed.

First of all, we note that, in the event an FAT is introduced, problems may arise relating to the Value-Added Tax (VAT) in the EU. Although VAT is a European tax, the tax rules in some EU countries are different, and consequently can result in a double tax charge. Furthermore, we are concerned that the proportionality principle, meaning that taxes are imposed proportionately based on the amount of earnings, may not be ensured.

Hopefully, a tax reform in Europe would seek to review some of these differences and have a consistent legislation throughout the EU in order to avoid tax cascading and to uphold the proportionality principle through the introduction of some measures like input tax credits. Furthermore, careful consideration in order to set appropriate tax rate levels is needed.