IN-DEPTH

Asset Management

JAPAN

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Asset Management

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In-Depth: Asset Management (formerly The Asset Management Review) is an incisive general introduction to the complex regulatory frameworks governing asset management activities worldwide, and the related practical issues that arise in the sector. With a focus on recent trends and developments, it covers – among other things – key regulatory hurdles; common asset management structures; main sources of investment; tax implications; and an outlook for future developments.

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Japan

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Summary

Introduction

The asset management industry has seen a surge in interest in Japan in recent times.

Against a backdrop of prolonged deflation and widening inequality, the government recognises the significance of fostering a 'virtuous cycle of growth and distribution'. This cycle is predicated on three interrelated objectives: (1) encouraging households to transition their savings into investments to facilitate stable asset accumulation; (2) enabling enterprises to utilise these investments for growth, thereby enhancing corporate value; and (3) ensuring that the benefits derived from increased corporate value flow back to households, stimulating further investment and consumption.

To achieve this virtuous cycle, the government has implemented a series of measures targeting households, financial institutions, service providers, enterprises, and financial and capital markets, with the overarching aim of strengthening investment chains across all sectors.

To complete these measures, the Financial Services Agency (FSA) introduced the Policy Plan for Promoting Japan as a Leading Asset Management Centre (the Policy Plan) in December 2023.[1] The Policy Plan outlines five strategic objectives: (1) reforming the asset management industry; (2) improving asset owners' capabilities; (3) supplying growth capital and diversifying asset management services; (4) advancing effective stewardship activities; and (5) enhancing public relations and communication strategies. The specific measures under the Policy Plan are detailed below.

Year in review

Overview of recent activity

As a part of its efforts to support households in achieving stable asset accumulation, the government introduced reforms to the Nippon Individual Savings Account (NISA) in January 2024, making the programme permanent. The NISA is designed to incentivise retail investors to allocate funds toward specific financial products such as stocks, investment trust units and exchange-traded funds (ETFs), by offering tax exemptions on capital gains and income within prescribed limits. While the government expected that the number of NISA accounts would increase to 34 million by the end of December 2027, it had already reached approximately 28 million by the end of December 2025. And while the government expected the cumulative purchase value of the NISA accounts to be ¥56 trillion by the end of December 2027, that value exceeded expectations and reached approximately ¥71 trillion at the end of December 2025.

In the realm of corporate governance reform, the FSA published a revised Stewardship Code (third revision) in June 2025.[2] This revision aims to enhance transparency regarding beneficial shareholders and encourage collective engagements by institutional investors. Additionally, the FSA and the Tokyo Stock Exchange published an updated draft of the Corporate Governance Code in April 2026.[3] The updated draft aims to: (1) organise and simplify the existing Corporate Governance Code; (2) promote earlier disclosure of annual securities reports before annual general meetings of shareholders are held; (3) encourage appropriate allocation of management resources to achieve sustainable growth; and (4) strengthen the function of corporate secretaries to be able to support the board members (in particular outside directors) more effectively.

To foster growth within the asset management industry, the FSA requested major financial institution groups to develop their plans for improving investment management capabilities and governance systems.[4] In June 2024, the FSA introduced a policy package to establish special zones for financial and asset management businesses.[5] The FSA also updated the Guidelines for Supervision of Financial Instruments Business Operators (the Guidelines) to encourage investment trust management companies to adopt materiality policies. Furthermore, in September 2024, the FSA revised the Customer-Oriented Business Conduct guidelines to ensure effective product governance among investment managers and distributors.

To improve the capabilities of asset owners, the government published the Asset Owner Principles in August 2024.[6] These principles urge asset owners, including pension funds, insurance companies and educational institutions, to prioritise fiduciary duties in alignment with the best interests of their beneficiaries.

In response to the International Organization of Securities Commissions' Final Report on Revised Recommendations for Liquidity Risk Management for Collective Investment Schemes issued in May 2025, the Investment Management Association of Japan (IMAJ, a self-regulatory organisation established as a result of the merger of the Investment Trust Association Japan (ITAJ) and the Japan Investment Advisers Association (JIAA) in April 2026) proposed the rules on liquidity management for domestic investment trusts for public offerings in April 2026.

Key trends

One notable trend emerging from the Policy Plan is the FSA's focus on facilitating the entry of emerging asset managers into the Japanese market.[7] Recent amendments to the Financial Instruments and Exchange Act (FIEA) and its subordinate regulations, effective from 1 May 2025, now permit investment managers to outsource functions such as net asset value (NAV) calculation and reconciliation, and compliance, which were previously required to be managed in-house. Service providers undertaking these outsourced functions may, but are not obliged to, apply for registration. Furthermore, investment managers are now allowed to outsource their entire investment management function, enabling them to concentrate on strategic planning and operational activities.

Another significant trend is the promotion of trading in unlisted securities. The amendments introduced a new registration framework, referred to as a 'simplified Type 1 financial instruments business', designed to facilitate trading in unlisted securities. In alignment with this initiative, the ITAJ amended its rules in February 2024, permitting domestic investment trusts for public offerings to invest in up to 15% in unlisted stock, whether directly or indirectly, under specific conditions. The ITAJ (merged into the newly created IMAJ in April 2026) further amended its rules in April 2026 to clarify the required actions when the 15% investment limitation on unlisted stock is breached. In March 2026, the ITAJ also proposed amended rules to lift the ban on investments in fund-of-funds products by domestic investment trusts with regard to certain products aiming at investments in real estate, infrastructure or private assets. These developments reflect the growing investor interest in private asset investment products.

In April 2026, the Cabinet submitted a bill to the Diet to amend the FIEA, the Payment Services Act (PSA) and other related statutes. The bill aims to: (1) change the regulation over cryptoasset businesses from the PSA to the FIEA in light of the reality that cryptoassets are used not as payment tools but as assets for investment; (2) introduce a corporate sustainability disclosure framework for certain large companies; (3) promote funding to startups by easing the disclosure requirements and expanding the scope of professional investors; and (4) tighten the rules on unfair activities such as insider trading.

Regulatory framework

General

The Japanese asset management industry is regulated primarily by the FIEA. A person who engages in a financial instruments business is required to be registered under the FIEA. A 'financial instruments business' under the FIEA includes an investment management business, an investment advisory/agency business, a Type 1 financial instruments business and a Type 2 financial instruments business.

The FSA serves as the primary regulatory authority overseeing the asset management industry. Certain responsibilities, such as registration examinations, are delegated from the FSA to either the Kanto Local Finance Bureau or another local finance bureau, depending on the business's location. Certain responsibilities, such as on-site inspections and recommendation of administrative sanctions, are delegated from the FSA to the Securities and Exchange Surveillance Commission.

Registration for asset management activities

A person who engages in an investment management business is required to be registered under the FIEA. Under the law, the investment manager of an investment management business manages clients' money and other assets by investing in securities and derivatives, both of which are defined in the FIEA, based on investment decisions derived from an analysis of these assets' value. The investment decisions are made by the investment manager, not by the client. The FIEA classifies investment management businesses into the following four sub-categories:

1. discretionary investment management businesses, in which the investment manager manages its client's assets pursuant to the bilateral discretionary investment management agreement;
2. asset management businesses for registered investment corporations, in which the asset manager manages the assets of the investment corporation registered under the Act on Investment Trusts and Investment Corporations (AITIC), typically a Japanese real estate investment trust (J-REIT);
3.

investment trust management businesses, in which the investment trust manager manages the assets of the investment trust created under the AITIC; and

4. fund management businesses, in which the fund manager manages the assets contributed by the clients into the fund typically formed as a collective investment scheme such as a limited partnership. It should be noted that a 'collective investment scheme' under the FIEA does not include an investment trust or investment corporation formed under the AITIC. A fund manager in this sub-category is not required to be registered under the FIEA if it does not invest more than 50% of the fund's assets in securities or derivatives.

If an investment manager manages the clients' assets by investing in any assets other than securities or derivatives, such as real estate and commodities, it may be required to notify or obtain approval from the FSA, as well as seek additional licences under other legal frameworks.

This registration requirement generally applies to a person who engages in an investment management business in Japan, or overseas in relation to any client located in Japan. However, as an exception, a foreign investment manager may engage in an investment management business without any registration under the FIEA if it exclusively serves, from overseas, an investment manager registered under the FIEA.

A person who engages in a non-discretionary investment advisory business is required to be registered under the FIEA. Under the law, an 'investment advisory business' is one in which the investment adviser provides investment advice based on the analysis of the value of securities and derivatives to its clients pursuant to the investment advisory agreement, for a fee. The investment adviser does not make any investment decisions; the client does.

This registration requirement generally applies to a person who engages in an investment advisory business in Japan or from overseas in relation to any client located in Japan. However, as an exception, a foreign investment adviser may engage in an investment advisory business without any registration under the FIEA if it serves from overseas only to an investment manager registered under the FIEA.

Registration for fund distribution activities

A person who engages in a Type 1 or Type 2 financial instruments business must be registered under the FIEA.

In connection with the asset management business, a person who offers units of an investment trust or shares of an investment corporation for and on behalf of the issuer must be registered as a Type 1 financial instruments business operator. Units of an investment trust, or shares of an investment corporation, are classified as 'Paragraph 1 securities' under the FIEA.

By contrast, a person who offers interests in a collective investment scheme such as a limited partnership for and on behalf of the issuer must be registered as a Type 2 financial instruments business operator. Interests in a collective investment scheme are classified as 'Paragraph 2 securities', which are deemed securities under the FIEA. In addition, an issuer that makes a self-offering of certain securities, such as units of an investment trust or interests in a collective investment scheme, must also be registered as a Type 2 financial instruments business operator.

This registration requirement generally applies to a person who engages in a Type 1 financial instruments business or a Type 2 financial instruments business in Japan or from overseas in relation to any client located in Japan. However, under the Foreign Securities Firm Exemption, a foreign securities firm may engage in certain securities-related businesses without any registration under the FIEA if it exclusively serves, from overseas, certain financial institutions (eg, banks, trust banks, insurance companies, trust companies, investment managers and securities firms) located in Japan.

The FSA states in the Guidelines that a foreign securities firm posting an advertisement relating to its securities-related business on its website is generally considered as engaging in an ‘offering’ of securities, which requires registration under the FIEA, unless the firm takes reasonable measures to prevent securities transactions with investors located in Japan. 'Reasonable measures' may include posting a disclaimer on the website stating that the service is not targeted at any investors located in Japan and using a decipherable language in a clearly visible location on the website. Furthermore, it would be prudent to implement measures to prevent any securities transactions with investors located in Japan by confirming the investors’ location.

Although the term 'offering’ is not clearly defined in the FIEA, it is broadly interpreted as meaning any act that encourages an investor to acquire securities. In this regard, it should be noted that the ‘reverse solicitation’ theory is not officially accepted in Japan. Therefore, if you are looking to distribute a foreign investment fund to Japanese investors, it is advisable to consider retaining a local distributor that is duly registered under the FIEA or relying on the Foreign Securities Firm Exemption.

Registration application process and requirements

The FSA’s Guidebook for Registration of Investment Management Business and Other Financial Instruments Business (the Guidebook)[8] provides detailed guidance for foreign asset managers entering the Japanese markets. The registration application process is detailed in the Guidebook.[9] A foreign applicant can ask the Financial Market Entry Office[10] to complete the registration process in English. This process typically involves extensive prior consultation, during which the regulator examines, among other things, the applicant’s business model, personnel structure and operational control.

The registration requirements for each type of financial instruments business are also detailed in the Guidebook.[11] In this regard, an investment management business is subdivided into a category specifically for qualified investors. An investment manager of this nature may target only ‘qualified investors’[12] and must limit the total amount of assets under management to ¥20 billion. The registration requirements are somewhat relaxed. An investment manager of this nature may, by obtaining a registration of a Type 2 financial instruments business, distribute units of the investment trust or shares of the investment corporation to which it provides investment management services.

Following the recent amendments to the FIEA, a new subcategory of simplified Type 1 financial instruments business has been introduced. A 'simplified' Type 1 financial instruments business operator may offer unlisted securities for and on behalf of the issuer only to professional investors in Japan. Such ‘unlisted securities’ include units of an investment trust and shares of an investment corporation, including foreign ETFs, which are not listed on a Japanese stock exchange or over-the-counter market. The registration requirements are somewhat relaxed or even exempted in certain aspects. For further detail, please see our firm's newsletter.[13]

QII Exemption and Foreign Fund Exemption

The so-called QII Exemption or Article 63 Exemption (Special Business Activities for Qualified Institutional Investors) is available to the operators of collective investment schemes, such as the general partner of a limited partnership and the operator of a silent partnership (as mentioned below). The QII Exemption is explained below, using a limited partnership as an example.

As mentioned above, a general partner that raised capital for and on behalf of a limited partnership from investors located in Japan is generally required to be registered as a Type 2 financial instruments business operator. Similarly, a general partner that manages the assets of a limited partnership with Japanese investor(s) by investing more than 50% of such assets in securities or derivatives is generally required to be registered as an investment manager.

However, a general partner may be exempted from these registration requirements by relying on the QII Exemption. The key requirements of the QII Exemption are summarised below:

1. The general partner must file a short-form notification called a 'Form 20' with the Kanto Local Finance Bureau or other competent local finance bureau before undertaking fundraising and asset management activities;
2. The limited partnership must have at least one 'qualified institutional investor' (QII)-[14] and may have up to 49 'eligible non-QIIs'.[15] In any case, the limited partnership may not have any investors that are neither a QII nor an eligible non-QII. Note also that the limited partnership may not have 'disqualified investors' who are, broadly speaking, investment vehicles with investors other than QIIs;
3. The general partner must enter into an agreement with the relevant Japanese investors stating that: (1) an investor who is a QII may not transfer its interests to a person who is not a QII; and (2) an investor who is an eligible non-QII may not transfer its interests except where it transfers all of its interests to another single QII or eligible non-QII; and
4. The general partner must comply with certain rules under the FIEA, including an amendment filing on the Form 20 and an annual reporting requirement to the Kanto Local Finance Bureau.

In terms of asset management activities, another exemption is available for a foreign limited partnership: the Foreign Fund Exemption. By relying on this exemption, a foreign general partner may be exempted from the registration requirement of an investment management business. The key requirements of the Foreign Fund Exemption are summarised below:

1.

All direct investors must be QIIs and, if any, persons who have made filings of the QII Exemption;

2. All indirect investors, limited to those investing via another Japanese domestic collective investment scheme, if any, must be QIIs;
3. The aggregate number of direct and indirect investors must be less than 10; and
4. The aggregate amount of the capital contributions from direct investors must be less than one-third of the total capital contribution from all investors.

The Foreign Fund Exemption does not exempt from the registration requirement of a Type 2 financial instruments business in terms of its fundraising activities.

Common asset management structures

Domestic investment trust and investment corporation

An 'investment trust' is a form of trust created by a bilateral agreement between a manager (an investment trust management company) and a trustee (a trust bank) under the AITIC. Units are issued to investors (beneficiaries). An investment trust is a versatile vehicle that lends itself to a variety of contexts, ranging from undertakings for collective investment in transferable securities-like retail mutual funds to institutional funds that resemble alternative investments. An investment trust is most commonly used as an open-ended fund, but it is also possible to structure it as a closed-ended fund.

An 'investment corporation' is a form of corporation incorporated under the AITIC. An investment corporation is typically used for a J-REIT. A J-REIT for public offering is structured as a closed-ended fund under the listing rules of the stock exchange, while a J-REIT for private placement is often structured as an open-ended fund. An investment corporation is subject to stringent governance and operational requirements under the AITIC.

An investment trust or investment corporation must invest more than 50% of its assets in ‘specified assets’ defined under the AITIC. They include securities, derivatives, monetary claims, commodities, real estate and certain infrastructure-related assets. In this regard, the FSA is generally prohibited by the Guidelines from creating or marketing any investment trust or investment corporation product that invests mainly in assets that are not specified assets, such as cryptoassets, aircrafts, ships, wine, reinsurance, emissions or intellectual property.

Domestic limited partnership and other collective investment schemes

A 'limited partnership' is a form of partnership created under the Limited Partnership Act for Investment (LPS Act). A limited partnership is a structure commonly adopted for private equity funds and venture funds. A limited partnership is generally used for a closed-ended fund. The LPS Act imposes certain limitations on the assets in which a limited partnership may invest. Such assets include equity securities, debt securities, monetary claims, other collective investment schemes, certain types of intellectual property and certain cryptoassets. Furthermore, the LPS Act prohibits a limited partnership from investing 50% or more of its assets in any securities issued by, or any cryptoassets issued for, foreign issuers. In this regard, a limited partnership under the LPS Act is not suitable for foreign investment purposes.

A partnership may be created under the Civil Code. A partnership of this nature is not subject to any investment limitation or prohibition under the LPS Act, but all partners owe unlimited liabilities to the partnership's creditors.

A 'silent partnership' is a form of contractual relationship created by a contract under the Commercial Code. An investor (silent partner) contributes money to the business, which is then used by an operator (proprietor) for business operations and profit distribution. While a silent partnership is a bilateral contractual relationship, it is possible for an operator to enter into multiple, identical silent partnership agreements with multiple investors. Consequently, a silent partnership may be used for collective investment purposes. There is no legal limitation or prohibition on the assets in which an operator may invest. In practice, a silent partnership is often referred to as a 'TK-GK' structure, meaning a silent partnership agreement with a Japanese limited liability company (GK) as an operator.

Because the FIEA gives a broad definition of 'collective investment scheme', it is not limited to those outlined above. It is advisable to make a product-specific analysis and determine whether the relevant product falls under the definition of a collective investment scheme.

Other domestic investment vehicles

A 'TMK' (*tokutei mokuteki kaisha*, or specified purpose company) is a form of corporation incorporated under the Act on Securitisation of Assets. It is typically used for real estate investment purposes.

A trust issuing beneficiary certificates is a form of trust created under the Trust Act. It is used for ETFs, as well as for an investment fund issuing 'tokenised' (digitalised) securities.

Foreign investment vehicles

Units of a foreign investment trust and shares of a foreign investment corporation may be offered to investors in Japan by filing a notification with the FSA in advance pursuant to the AITIC. A unit trust created under the laws of the Cayman Islands or other common law jurisdictions or an FCP (*fonds communs de placement*) created under the laws of Luxembourg is generally regarded as a 'foreign investment trust' under the AITIC, provided it is comparable to a domestic investment trust. A SICAV (*société d'investissement à capital variable*) incorporated under the laws of Luxembourg. A VCC (variable capital company) or an ICAV (Irish collective asset-management vehicle) incorporated under the laws of Ireland is generally regarded as a 'foreign investment corporation' under the AITIC, provided it is comparable to a domestic investment corporation.

Interests in a foreign limited partnership may be offered to investors in Japan. The QII Exemption and the Foreign Fund Exemption are often used for this type of vehicle.

Regardless of circumstances, when introducing a foreign investment fund product to the Japanese market for distribution, it is advisable to conduct a product-specific analysis and determine the legal nature of the relevant product under the laws of Japan.

Main sources of investment

According to the JIAA (which, together with the ITAJ, became the IMAJ in April 2026) discretionary investment management businesses managed approximately ¥606 trillion as at December 2025. A total of 88.94% of those funds were sourced from Japanese investors, specifically public pension funds (53.73%), private pension funds (5.4%), other institutional investors (29.79%) and retail investors (0.01%). The remaining 11.06% of those were sourced from foreign investors, specifically pension funds (0.39%), other institutional investors (10.65%) and retail investors (0.01%).

According to the ITAJ, domestic investment trusts and investment corporations managed ¥437 trillion as at December 2025. In total, 71.70% of these were sourced from public offerings and 28.3% were sourced from private placements; 96.19% were invested in securities and 3.81% were invested in non-securities such as real estate and infrastructure investments.

The statistics above do not include foreign investment trusts or investment corporations distributed in Japan, or domestic or foreign collective investment schemes.

Sectoral regulation

Insurance

The Insurance Business Act imposes certain limitations on asset classes that may be used for asset management purposes. An insurance company may invest in securities, both Paragraph 1 and Paragraph 2 securities, real estate, monetary claims, short-term bonds, gold bullion, loans, securities lending, investments in partnerships, deposits and savings, certain trust beneficiary rights and certain derivatives. The Insurance Business Act further imposes certain limitations on an insurance company’s credit exposures to a single person or group. While there used to be a limitation on the investment ratio of each asset class, this limitation was abolished in 2012.

Pensions

The pension laws, such as the Defined Benefit Corporate Pension Act, impose certain limitations on available asset management methods. As the in-house management of pension assets is permitted only under very limited conditions, it is standard practice for a pension fund to outsource its asset management functions to an external investment manager. A pension fund entrusts money to a trust bank and retains an investment manager instructing the trust bank to manage the pension assets by investing in securities.

A trust structure is used here because a discretionary investment manager is generally prohibited from receiving and holding clients' assets under the FIEA.

Real property

A TK-GK structure is frequently used for real estate investment purposes. An operator acquires and holds ‘securitised’ real estate (ie, real estate trust beneficiary right) and a silent partner invests in the operator in accordance with the silent partnership agreement. This structure enables the bankruptcy remote from the originator’s credit risks and the avoidance of double taxation. However, should an operator acquire and hold unsecuritised real estate, the operator may be subject to the Act on Specified Joint Real Estate Ventures, which imposes permission requirements and other onerous obligations. An operator may also be required to be licensed as a real estate agent under the Real Estate Brokerage Act. To circumvent these requirements, it is customary to create a TK-GK structure under which the operator acquires and holds securitised real estate. The operator must outsource its asset management function to an investment manager that is registered both under the FIEA and as a general real estate investment adviser under the notice of the Ministry of Construction (currently, the Ministry of Land, Infrastructure, Transport and Tourism).

Another option is a TMK structure under the Act on Securitisation of Assets. This structure allows a TMK (1) to raise capital from investors by issuing preferred equity securities, and (2) to borrow money from financial institutions and by issuing bonds. The TMK may then acquire and manage real estate, which may be securitised or not. A TMK is required to outsource the management of real estate to a trust bank if it is securitised, or to an asset manager that has sufficient financial basis and personnel structure to manage real estate appropriately if it is unsecuritised. A TMK is required to file an asset securitisation plan with the relevant local finance bureau. It must raise funds, and acquire and manage real estate, in accordance with the terms of the plan.

As outlined above, the two structures are typically used for investment in single real estate assets. By contrast, an investment corporation under the AITIC, also known as a J-REIT, is used for portfolio investment in real estate assets. A J-REIT is required (1) to be registered under the AITIC, and (2) to outsource its asset management function to an external asset manager. The asset manager must be registered under the FIEA, and licensed as a real estate agent and approved by the Ministry of Land, Infrastructure, Transport and Tourism under the Real Estate Brokerage Act.

A Type 2 financial instruments business operator distributing real estate investment fund products is required under the FIEA to deploy staff who have special knowledge and experience in real estate transactions.

Numerous laws and regulations are relevant to real estate transactions and investments. It is advisable to conduct a preliminary analysis to identify any applicable laws and regulations.

Hedge funds

There are no legal or regulatory rules that specifically address hedge funds. A domestic investment trust structured as a fund-of-funds investing in a foreign hedge fund is used as a hedge fund. A foreign hedge fund is also directly distributed in Japan as a foreign investment fund.

A person who engages in high-speed trading is generally required to be registered as a high-speed trader under the FIEA. A registered high-speed trader is subject to supervision.

Private equity

There are no legal or regulatory rules that specifically address private equity funds. A limited partnership is a structure used primarily for private equity investments in the Japanese market. If an asset manager is targeting overseas private equity investments, it is advisable to consider a foreign limited partnership. In either case, it is advisable to rely on the QII Exemption and, in the case of a foreign limited partnership, the Foreign Fund Exemption.

Tax law

Trust

A trust is generally treated as a tax-transparent vehicle. A trustee is not subject to any tax, while beneficiaries are subject to tax as if they directly held assets and liabilities, and acknowledged revenues and expenses of the trust, proportionally.

However, this general rule does not apply to: (1) a domestic 'securities investment trust' investing more than 50% of its assets in Paragraph 1 securities; (2) a domestic investment trust, more than 50% of units of which are offered by way of a public offering in Japan; (3) a foreign investment trust; and (4) a 'specified trust issuing beneficiary certificates' that is designed to distribute the profits so that the retained earnings does not exceed 2.5% of the total principal amount. A trust of this nature is treated as a 'collective investment trust', which means that the taxation is deferred at the level of the beneficiaries until capital gains or income are realised.

Corporation

A shareholder of a corporation is generally subject to double taxation because dividends are paid from after-tax profits, meaning corporate tax is levied at the level of the corporation, and the shareholder receives dividends after the withholding tax, meaning income tax is levied at the level of the shareholder.

It is possible to circumvent double taxation by employing a TK-GK structure. If an operator allocates the profits and losses arising from the silent partnership business to the silent partner, the operator may treat such allocated profits as its own deductible expenses and such allocated losses as its own taxable income. This can result in a substantial reduction in its taxable income and corporate tax.

A domestic investment corporation may also circumvent the issue of double taxation by meeting certain conditions. They include the following: (1) the domestic investment corporation pays out more than 90% of its distributable profits as dividends to the shareholders; and (2) the units are held by either no less than 50 investors or only institutional investors (as defined in the tax law). A J-REIT is required, under the listing rules of the stock exchange, to adopt this mechanism, which enables it to substantially reduce its corporate tax by deducting any dividends paid to shareholders from its taxable income.

Partnership

A partnership is generally treated as a tax-transparent vehicle, not subject to any tax, while partners are subject to tax as if they directly held assets and liabilities and acknowledged revenues and expenses of the partnership proportionally.

The tax rules stipulate that the profits of the partnership must be distributed in proportion to each partner's investment ratio. They do not allow any profit distribution that is not proportional or based on economic rationality. However, a partnership often allocates carried interests to the general partner that do not correspond to its investment ratio. In this regard, the FSA publishes a summary on economic rationality of carried interests, which has been confirmed by the National Tax Agency.[16]

A foreign investor that invests in a domestic partnership is considered to have a permanent establishment in Japan, as the general partner is regarded as an agent of the foreign investor. However, such a foreign investor may be exempted from income tax and corporate tax arising from such permanent establishment, provided that: (1) it is a limited partner; (2) it does not engage in any execution of the partnership business; (3) its investment ratio is less than 25%; (4) it has no special relationship with the general partner; and (5) it has no other permanent establishment in Japan.

Outlook and conclusions

Current market trends indicate a continued focus on the entire asset management industry. The NISA is expected to drive the increase of assets under management contributed by retail investors. It is also anticipated that the investors' preference for private asset investment products will persist. However, it is uncertain whether Japanese institutional investors, especially local banks, will maintain their preference for securities investments in the low interest rate environment, or whether they will shift to normal banking activities in the face of signs of an interest rate hike.

While the US Securities and Exchange Commission approved Bitcoin ETFs in January 2024, the FSA still prohibits the creation or marketing of an investment trust or investment corporation investing in cryptoassets. In this regard, as mentioned above, the Cabinet submitted a bill to the Diet to amend the FIEA, the Payment Services Act (the PSA) and other related acts. This bill aims to, among other things, change the regulations for cryptoasset businesses from the PSA to the FIEA. It is expected that this will result in, for instance, allowing the creation and marketing of investment trusts or investment corporations investing in cryptoassets such as Bitcoin ETFs.

Endnotes

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