



FINANCIAL SERVICES AGENCY
Government of Japan



Certified Public Accountants and
Auditing Oversight Board

Dr. Reto Sanwald
Chief Executive Officer
Federal Audit Oversight Authority
Bundesgasse 18
CH-3001 Berne
Switzerland

10 June 2021

Dear Dr. Sanwald,

EXCHANGE OF LETTERS BETWEEN *THE FINANCIAL SERVICES AGENCY AND THE CERTIFIED PUBLIC ACCOUNTANTS AND AUDITING OVERSIGHT BOARD OF JAPAN AND THE FEDERAL AUDIT OVERSIGHT AUTHORITY OF SWITZERLAND*

We recognize that further cooperation between the Financial Services Agency of Japan (“JFSA”) and Certified Public Accountants and Auditing Oversight Board (“CPAAOB”) and the Swiss Federal Audit Oversight Authority (“FAOA”) in matters related to the oversight of Auditors subject to both regulatory jurisdictions would be mutually beneficial with a view to ensuring the soundness of the securities markets and the investor protection in both jurisdictions, while avoiding duplication of efforts.

In this context, this Letter confirms the interest of the JFSA/CPAAOB in enhancing cooperation with the FAOA in a mutually beneficial manner and in establishing the principle of reliance, in accordance with respective Laws and Regulations.

1. The JFSA/CPAAOB and the FAOA (collectively, Authorities) recognise the need for mutual cooperation in matters related to the oversight of Auditors that are subject to the regulatory jurisdictions of both Authorities and who provide an audit report concerning the annual or consolidated accounts of a company with securities issued or traded on a market in the other Authority’s regulatory jurisdiction.
2. The purpose of this Letter is to facilitate mutual cooperation between the Authorities in the area of Audit Oversight in a reciprocal manner complementing the IFIAR Multilateral Memorandum of Understanding (“MMOU”) and based on the equivalence decisions.
3. In this context, the Authorities :
 - Recognise that the JFSA/CPAAOB and FAOA have signed the MMOU;
 - Recognise that the Swiss government has decided that the audit oversight systems for Auditors in Japan are equivalent to the corresponding systems in Switzerland;

- Recognise that the JFSA/CPAAOB have decided that the audit and public oversight systems for Auditors in Switzerland are equivalent to the corresponding systems in Japan; and
- Recognise that through this Letter, the Authorities agree to provide mutual cooperation in a reciprocal manner.

4. With regard to the exchange of Information, the Authorities:

- Acknowledge the *Swiss Federal Act of 16 December 2005 on the Licensing and Oversight of Auditors* (Audit Oversight Act, AOA; SR 221.302) and the implementation of the legislation based thereon which allows the FAOA, under certain conditions, to transfer to the JFSA/CPAAOB Information relating to Auditors that fall within the jurisdictions of both Authorities;
- Acknowledge the *Certified Public Accountants Act* (“CPA Act”) in Japan which allows the JFSA/CPAAOB, under certain conditions, to transfer to the FAOA Information relating to Auditors that fall within the jurisdiction of both Authorities; and
- Recognise that the transfer of personal data from the FAOA to the JFSA/CPAAOB and from the JFSA/CPAAOB to the FAOA has to be in accordance with their respective laws or regulations on data protection.

I. DEFINITIONS

5. For the purpose of this Letter, the terms and definitions in the MMOU are applied, except for the below:

“**Authority**” or “**Authorities**” means the JFSA/CPAAOB and/or the FAOA;

“**Party**” in the MMOU is replaced with Authority or Authorities, the CPAAOB/JFSA or the FAOA;

“**Information**” refers to non-public information and/or documents, which includes but is not limited to:

- 1) (reports on) the outcome of inspections and investigations, including information on firm-wide (quality control) procedures and engagement reviews (provided these reports relate to Auditors that fall within the regulatory jurisdictions of both Authorities); and
- 2) audit working papers or other documents held by Auditors provided that the information relates to matters that are subject to the regulatory jurisdictions of both Authorities; and
- 3) other areas of mutual interest for the purpose of supervision, provided that the information relates to matters that are subject to the regulatory jurisdictions of both Authorities.

II. COOPERATION

6. For the scope of co-operation, refer to the MMOU Chapter 4 except for the direct transfer of Information from the Auditor or other relevant Person(s) in section 4.3(b)(ii).

7. The Authorities acknowledge that under Swiss law, Auditors are not allowed to transfer Information directly to the JFSA/CPAFOB (Art. 271 Swiss Criminal Code, SCC; SR 311.0), hence Information will be requested and transferred solely via the Authorities and will not be requested or transferred directly from the Auditors.
8. The Authorities will use their best endeavours to notify each other, prior to or immediately after taking any significant public oversight measures, in respect to relevant Auditors that are registered/notified or seek Registration/notification in the other country, to the extent permitted or required by Laws and Regulations.
9. The Authorities will rely on the oversight of the Auditors in their home country and therefore refrain from public oversight activities, including Inspections, Investigations and Enforcement with respect to Auditors from the other country:
 - a) to the extent permitted by their respective national Laws or Regulations; and
 - b) provided the conditions for mutual reliance, including preconditions set out under paragraph 3 and 6 and the effectiveness of this Letter, are continuously fulfilled.
10. For the requests for Information, refer to the MMOU Chapter 5.
11. For the execution of the requests, refer to the MMOU section 6.1.
12. The requested Authority may refuse to act on a request where:
 - a) It concludes that the request is not in accordance with the MMOU and this Letter;
 - b) Acceding to the request would contravene Laws and Regulations of the requested Authority's country;
 - c) It concludes that it would be contrary to the public interest of the requested Authority's country for assistance to be given;
 - d) The provision of Information would adversely affect the sovereignty, security or public order of the requested Authority's country; or
 - e) Judicial proceedings (civil, criminal or administrative) have already been initiated, in respect of the same actions and against the same Persons before the Authorities of the country of the requested Authority.
13. The requested Authority will promptly inform the requesting Authority of the reasons why it refuses to act on a request made under the MMOU and this Letter. For the consultation process, the Authorities adhere to the MMOU sections 6.3 and 9.1.
14. Communication between the Authorities will be in English. If the requested Authority needs to provide Information in a language other than English, the requested Authority will inform the other Authority to that effect in advance. When Information provided are in a language other than English, the requesting Authority bears the costs of translation.

III. CONFIDENTIALITY

15. Each Authority will keep confidential all Information received or created in the course of cooperating, to the extent consistent with its Laws or Regulations. Article 100 of the National Public Service Act in Japan and Article 34 AOA in Switzerland, respectively, bind employees and the former employees of the Authorities to official secrecy or restrict the disclosure of Information provided in respect of audit regulation and oversight. The confidentiality prescribed in the MMOU and this Letter also applies to all Persons who are or have been involved in the governance of the Authorities or otherwise associated with the Authorities.

IV. USE OF INFORMATION

16. The Authorities may use Information received or created in the course of cooperation only for the exercise of their functions of public oversight, Inspections, Investigations and Enforcement of Auditors. If any Authority intends to use the Information received or created in the course of cooperation for any purpose other than those stated in the request made under the MMOU Chapter 5, it must obtain the prior written and specific consent of the requested Authority. If the requested Authority consents to the use of the Information for a purpose other than that stated, it may subject its such use to conditions.

V. EXCEPTIONS TO CONFIDENTIALITY

17. If an Authority is legally required to disclose the Information received from the other Authority in order to comply with its obligations under domestic Laws or Regulations, that Authority will consult with the other Authority before disclosing or transferring it. It will provide at least fifteen working days written notice to the other Authority prior to its disclosure or transfer, stating the reasons as to why the Authority is required to disclose or transfer such Information.
18. If the other Authority objects to the disclosure referred to in paragraph 17, the Authority will prevent the disclosure or onward transfer, or make its best efforts to resist the disclosure or onward transfer of the Information.
19. Information received should not be used in criminal proceedings carried out by a court or judge, including as evidence in a criminal court. In the case that such use is required by law, a separate request is made by the relevant authorities in accordance with procedures prescribed in the relevant law for international mutual assistance in a criminal investigation.
20. An Authority that intends to disclose or transfer to a third party any Information received or created in the course of cooperation, other than in cases referred to in paragraph 17, must obtain the prior written and specific consent of the Authority which provided the Information. The Authority which intends to disclose or transfer this Information shall indicate the reasons and the purposes for which the Information would be disclosed or transferred. If the requested Authority consents to the disclosure or transfer of the Information, it may make its consent to the disclosure or transfer subject to conditions.

VI. THE TRANSFER OF PERSONAL DATA

21. The Authorities will only transfer personal data in accordance with their respective national Laws or Regulations on data protection.

VII. OTHER

22. This Letter does not create any binding legal obligations, nor does it modify or supersede any Laws and Regulations in Japan or in Switzerland. This Letter does not give rise to a right on the part of the JFSA/CPAAOB, the FAOA, or any other governmental or non-governmental entity or any private Person, to challenge, directly or indirectly, the degree or manner of cooperation between the JFSA/CPAAOB and the FAOA.
23. This Letter does not prohibit the Authorities from taking measures with regard to the oversight of Auditors that are different from or in addition to the measures set forth in the MMOU and in this Letter.
24. The Authorities will, at the request of either Authority, consult on issues related to the matters covered by this Letter, about a request or proposed request or about any Information provided, and otherwise exchange views and share experiences and knowledge gained in the discharge of their respective duties to the extent consistent with their respective Laws and Regulations. The Authorities also express their willingness to hold a dialogue or exchange views about matters of common interest and concerns as appropriate, with a view to deepening mutual understanding between the Authorities.
25. The Authorities may consult and revise the terms of this Letter in the event of a substantial change in the Laws and Regulations affecting the operation of this Letter, or if the Authorities themselves wish to modify the terms of their cooperation.

VIII. DURATION

26. The cooperation under this Letter will be commenced from the date of signature.
27. The cooperation under this Letter may be terminated by either Authority at any time upon written notice to the other Authority. The Authorities will continue to maintain as confidential, consistent with sections III to VI, any Information exchanged pursuant to this Letter.

Yours sincerely,



Mr. Ryozo Himino
Commissioner
Financial Services Agency
Government of Japan
3-2-1 Kasumigaseki
Chiyoda-ku, Tokyo
Japan 100-8967



Mr. Hisakatsu Sakurai
Chairperson
Certified Public Accountants and
Auditing Oversight Board
Government of Japan
3-2-1 Kasumigaseki
Chiyoda-ku, Tokyo
Japan 100-8967