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Japan also should introduce a regulatory sandbox for FinTech

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At last the Japanese government has introduced the legislation to respond to the environmental changes involving the FinTech development. In addition to the enforcement from April 1 this year onward of the amended Act on Settlement of Funds (commonly called "Crypto Currency Act") which was enacted last May and the introduction of a registration system to electronic payment service providers, the government submitted to the Diet on March 3 a draft revision of the Banking Act that would define a framework of the relationship between the banking institutions and electronic payment service providers.

The Crypto Currency Act defines the registration system for crypto currency exchangers and supervisory regulations on them, for the details of which please see the article on "Enforcement of Japanese Law on Crypto Currency and Future Issues" dated on April 10 in the Eyes of IIMA series. The amendment of the Banking Act proposes in its supplement to oblige the banks to publish their collaborative policy with electronic payment service providers who wish to use an open API (application programming interface, a system that allows the payment service providers, with the consent of the depositors, to connect to the banking system for utilizing the depositors' account information.) Through this collaboration, it is expected that the so-called open innovation will be promoted among banks and FinTech companies.

In this context, a regulatory sandbox is regarded to become a powerful legislative card to promote the FinTech services. This is a scheme under which innovative financial service providers can be partially exempted from the application of the current regulations on condition of limited participants and terms in order to provide them with a "safe experimental environment" that will prevent spreading of any adverse effects if they occurred.

The effectiveness of a regulatory sandbox has been recognized even in Japan. For instance, the Council on Investments for the Future of which the Prime Minister takes the chair, at its second meeting held in November 10, 2016, incorporated a Japanese-version Regulatory Sandbox in the agendas to be addressed preferentially. Further, an advisory council on Challenges and Future Direction Concerning FinTech of the Ministry of Economy, Trade and

Industry discussed in detail the Japanese-version Regulatory Sandbox in its draft report proposed on March 28 this year as a policy measure to be adopted in the future. Yet, no concrete measures are presented by the Financial Services Agency, a key body responsible for the issue. Actually, although a Regulatory Sandbox was discussed at the first meeting (held on May 16, 2016) of a Panel of Experts on FinTech Start-ups, there has been no explicit argument since then.

On the other hand, several overseas countries have already introduced a regulatory sandbox. The UK is the most preceding country where its regulatory agency, the Financial Conduct Authority (FCA), following the release in November 2015 of an in-depth report on a regulatory sandbox, started to accept the applications to the scheme from May 2016. The Monetary Authority of Singapore (MAS), after publishing last June the draft guidelines for the use of a regulatory sandbox and collecting public comments on them, released the final version last November. Also, the Australian Securities and Investments Commission (ASIC) released in February this year the policy guidelines on its regulatory sandbox. What is common to the regulatory authorities in these countries is that they all recognize it a critical opportunity loss to make the financial service providers give up the business startups because of uncertainties regarding the application of regulations on the financial services that incorporate FinTech. It is noteworthy that these regulatory authorities have so deeply realized the importance of entrepreneurship.

These developments show that Japan has lagged behind the UK and Singapore at least by half a year to one year. This lag is not a small one in the world of rapidly changing FinTech services. Specifically, Singapore, together with Hong Kong, can be a strong rival for Tokyo that aims to become Asia's number one international financial city. The FSA in Japan has recently been taking regulatory policies that in general tend to be more regulated as is seen in the publication of draft revision of the Japanese-version Stewardship Codes (on March 28) and publication of "Principles concerning Customer-oriented Business Management" (March 30). It is strongly hoped, however, that especially in the area of FinTech, the FSA will introduce a regulatory sandbox as soon as possible so as to stimulate their entrepreneurship.