

1. Introduction

Thank you for the opportunity to meet with you today

My name is John Howland-Jackson. I am the CEO of ING Securities Japan and I am also a qualified UK barrister. I therefore have some knowledge as both a provider and recipient of legal services. By way of background I have been closely involved with Japan and Japanese financial services for 28 years. I first lived in Japan in the mid-1970s, then again in the early 1980s, I was President of Nomura Securities in Europe in the late 1980s and early 1990s and now I have been here again for 2 years. This history has given me a privileged perspective on 3 decades of business in Japan.

The ING Group operates insurance, banking and asset management business globally. Japan is a key strategic market for ING and we currently have 8 businesses here covering life insurance, asset management, pension administration, securities, banking, leasing and IT services. Although we have some in house legal capability we rely heavily on outside counsel for both our Group and client transactions.

2. Legal service we need

International businesses as such as ours need seamless legal services throughout major jurisdictions. Ideally we want a unified team of lawyers to take responsibility for all legal aspects of an entire transaction, regardless of jurisdiction.

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Typically our requirement for legal services arises out of complex financings for clients in the structured finance or capital markets, or in the event of a cross-border acquisition or disposal for ourselves or a client. In each case we need our lawyers (and importantly those of any counterparty) to

- have the experience to understand a multi-jurisdictional structure
- assist in the conduct of due diligence
- draft and negotiate agreements in different jurisdictions
- execute the agreements

In order meet our needs lawyers need to have highly specialised international experience, a thorough knowledge of different legal systems and different languages, and a multi cultural

approach. And from a practical viewpoint we would infinitely prefer our advice to come from a single unified team of lawyers all pursuing the same objective rather than from disparate sources which we have to piece together for ourselves.

3. Our experience to date

I cannot claim that any transaction has failed to happen because of the fragmented provision of legal services in a Japanese cross-border deal. We have become accustomed over many years to retaining both Japanese and non-Japanese lawyers where necessary on the same transaction. But overall the experience is less than satisfactory and is out of line with the accepted norms in other leading financial markets. To be more precise:-

- a) There is a real shortage of internationally experienced Japanese lawyers. In a major M:A transaction involving many potential parties the few experienced lawyers may become conflicted very quickly leaving an interested party inadequately advised. While plans to increase the number of lawyers over time will improve the situation, the freedom of association between Japanese and non-Japanese firms would provide practical and relevant experience much more quickly thereby increasing the universe of qualified advisors.
- b) In our own case we recently disposed of a business in Japan advised by a leading local law firm. The structure involved a significant offshore legal content. In the course of the transaction the in-house lawyers of our Group headquarters had cause to complain of conflicting advice and less than timely delivery. Their concern was sufficient that when we subsequently became involved in a potential acquisition in Japan they wanted to appoint a foreign firm in order to avoid any further misunderstandings. In fact they did not as it was not practical but this is significant when the client involved is one of the top financial groups in the world with a major commitment to Japan.
- c) We have also experienced significant delay in regulatory applications in Japan due to the inability of the few lawyers with regulatory specialisation to respond to our needs in anything like a proper timescale due to sheer workload.
- d) The hiring of two or more law firms for a simple transaction is ultimately inefficient. It takes more time and therefore cost to deal with two firms and two sets of fees are likely to amount to more than one.

4. Observation on the current situation

I do not think it is my role to argue the case for freedom of association of lawyers from a legal viewpoint or to point out that the issues of legal qualification and independence from pressure are separate issues entirely. Let me instead conclude by making some practical observation from 30 years evenly spent between Europe and Asia.

- a) There is unquestionably demand from Groups such as ours for a one-stop multi-jurisdictional legal service. Japan is the world's second largest economy and experiencing a significant increase in cross-border activity. It stands virtually alone amongst G-7 countries in failing to modernise its legal services.
- b) The removal of barriers to free association in the US, UK, Germany and elsewhere does not seem to have resulted in lower standards or a wholesale loss of business to local firms. To the contrary it has undoubtedly raised standards and made those markets more attractive to international businesses, as well as providing new growth opportunities for those firms.
- c) Over the last 30 years the advance of globalisation and communication technology has led to the deregulation of all other major business professions for the reason that protectionism and barriers to entry were no longer viable or economic sense. How is it that the banking, securities, insurance and accounting industries have moved ahead progressively and the Japanese legal profession has not?
- d) Ultimately it comes down to the competitiveness of Japanese industry and commerce that is at stake. Freedom of association amongst law firms is not a one-way conspiracy by foreign firms but a two-way opportunity to modernise the profession for the benefit of both its Japanese and foreign clients.
- e) Finally I should point out that Japanese law firms would have choice under freedom of association. If they were not to see any advantage they would not be compelled to associate. So where is there any disadvantage in permitting such freedom of choice?

Thank you for your attention.