

# Quadrilateral Meeting Sept. 13, 2012



## CLUSTER TWO

[Regulatory Regime Update Including Extraterritoriality Effects]

Principles of Cross-Border Application of Laws in Japan

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# General Principles

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- Three main areas of law and regulations
  - private (civil) law
  - criminal law
  - administrative law



# General Principles

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- Private law
  - conflict of law rules – Act on General Rules for Application of Laws (Act No. 78 of 2006)
  
- Criminal law
  - several provisions of Penal Code (Act No. 45 of 1907)
  
- Administrative law
  - no rules of general application



## Various Provisions in a Single Act

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- Financial Instruments and Exchange Act (Act No. 25 of 1948) and other financial laws and regulations in Japan e.g., Banking Act, Insurance Business Act, etc.
- All three types of law (i.e., private law / criminal law / administrative law) are included in each act in the form of different provisions



## Cross-Border Application – Administrative Law

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### ■ General Principles

- territoriality principle vs. effects doctrine
- FLB paper published in September 2002  
<http://www.flb.gr.jp/epage/edoc/publication11-e.pdf>

\*The suggested approach in 2002 FLB paper:  
“to maintain the ‘principle of territoriality’ but to expand the scope of application by adding the ‘principle of effect’ when it is not otherwise possible to fulfill the purposes of the law”



## Cross-Border Application – Administrative Law

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### ■ Examples – manipulative trades

Case 1: TSE listed Japanese company's stock / trades conducted outside of Japan

Case 2: LSE listed (also listed on TSE) UK company's stock / trades conducted in LSE



## Contact Details

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