

December 6, 2022

Comments on the draft Amendments to Recommendation 25

Trust Companies Association of Japan

We, the Trust Companies Association of Japan, would like to express our gratitude for this opportunity to comment on the consultative document: *Revision of R25 and its Interpretive Note – Public Consultation*, released on October 25, 2022 by the Financial Action Task Force (FATF).

We hope that our comments below will contribute to further discussions.

Comment on the draft proposals for amendment to R25/INR25

We support the paragraph 3 of the draft proposals for amendment to R25/INR25 since this paragraph allows countries to take flexible options in line with risk-based approach which is represented by “as necessary” and “should consider”.

There are various risks among trusts. Trusts with a clear flow of assets, such as trusts to facilitate inheritance and business succession, are considered low risk. Moreover, because trust banks and trust companies in Japan are licensed or registered firms supervised by FSA and they are one of the obliged entities based on the Act on Prevention of Transfer of Criminal Proceeds in Japan, we do not assume that they have high ML/TF/PF risks considering their enhanced customer management system.

If parties other than the trustee should uniformly obtain or hold information on trusts, including low-risk products, the following issues would occur.

- ✓ In case that information on trusts were to be obtained by parties other than trustee, considering the obligation on the trustees to faithfully handle trust affairs for the beneficiaries, it would be necessary to explain to the parties to a trust, including the settlor, and obtain the consent of them. Countries

are required to establish laws and regulations to legalize these information sharing.

- ✓ Among trust assets, there is a huge number of beneficiaries for pension assets, and for investment trusts, beneficiaries are replaced on a daily basis. Therefore, when considering practical measures, there are many issues from the perspective of effectiveness.
- ✓ Since the trust companies will be required to bear the development period and costs for the system development, it will be necessary to secure a reasonable preparation period and manpower.

Therefore, in line with risk-based approach, we agree with the paragraph 3 that *“other than trustees or persons holding an equivalent position in a similar legal arrangement, on the basis of risk, context and materiality, countries should consider using any of the following sources of information as necessary”*.