

# Legal Consideration of TSE Listing for U.S. Companies

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# Table of Contents

## *I Check your listing/SEC filing status*

- 1. Possible Options*
- 2. Related Issues*

## *II Major IPO Issues*

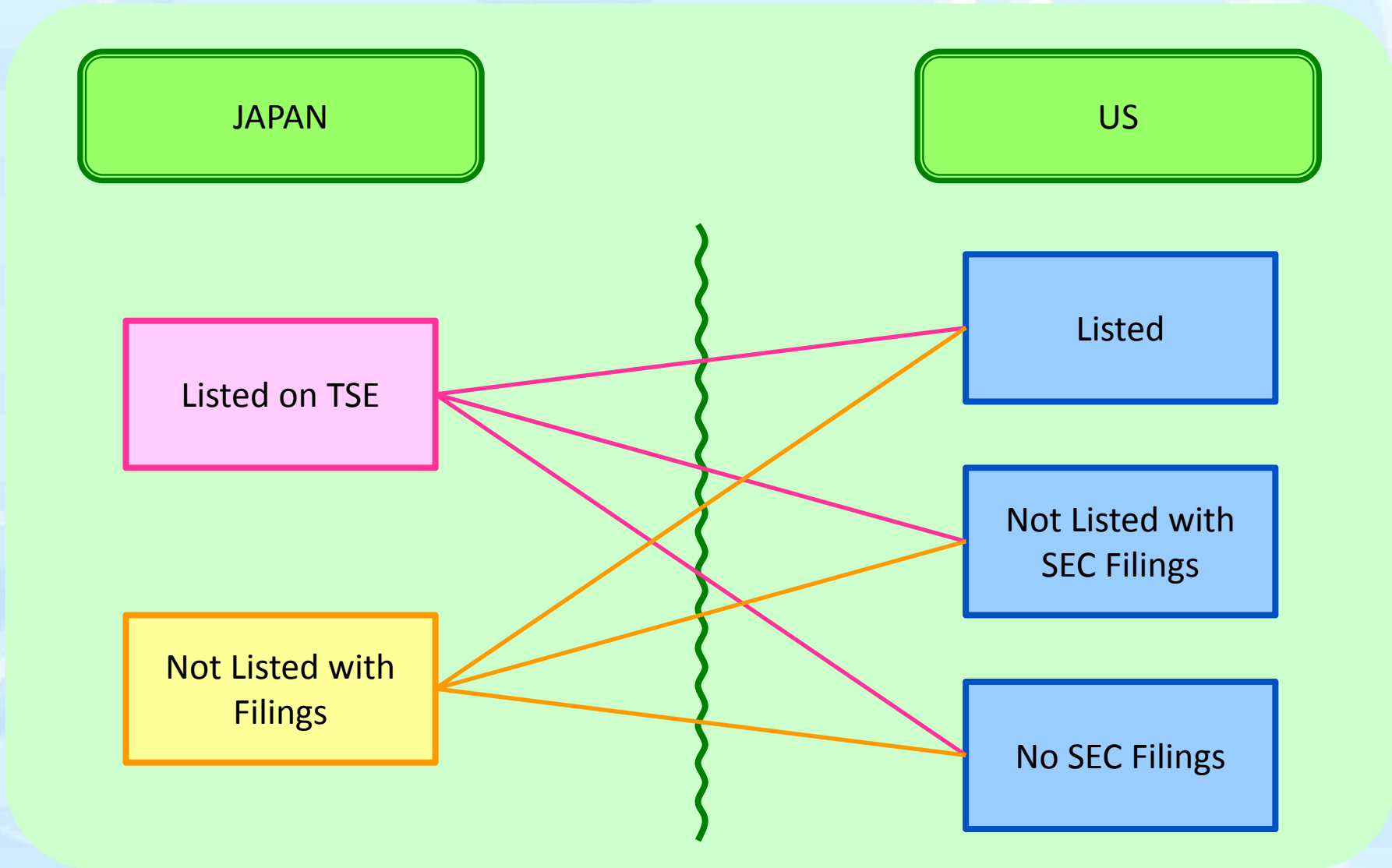
- 1. Accounting Standards*
- 2. Disclosure of Financial Statements*
- 3. Lockup Arrangement*

## *III Post-IPO Considerations*

- 1. FIEA Disclosure*
- 2. TSE Timely Disclosure*
- 3. English Language Disclosure (ELD)*

# I Check your listing/SEC filing status

## 1. Possible Options



- I Check your listing/SEC filing status
2. Related Issues

## Listing Market Choice

1

### [In U.S.] Listed in U.S. Stock Exchange or not?

- TSE listing requirements different between “primary listing” and “multiple listing”

2

### [In Japan] Listing on TSE Main Market or Mothers/JASDAQ?

- TSE listing requirements different between Main Market and Mothers/JASDAQ.

- I Check your listing/SEC filing status
- 2. Related Issues

## Main Disclosure Documents in IPO

TSE

Securities Report for  
Initial Listing Application (Part I)

TSE Listing  
Rules

FSA  
(KLFB\*)

Securities Registration Statement  
("SRS")

Financial  
Instruments  
and  
Exchange Act  
("FIEA")

Investors

(Statutory) Prospectus

\*Kanto Local Finance Bureau

## II Major Issues

### 1. Accounting Standards

#### U.S. GAAP or J GAAP

1

#### If you wish to use US GAAP upon IPO in Japan.....

- Need to be subject to Securities Act of 1933 / Securities Exchange Act of 1934 (Need to file US GAAP financial statements with SEC)
- Financial Statements need to be audited by “Registered Foreign Audit Firm”

2

#### Otherwise.....

- Must use Japanese GAAP
- Financial Statements need to be audited by Japanese audit firm

(Note) Difficult to use IFRS?

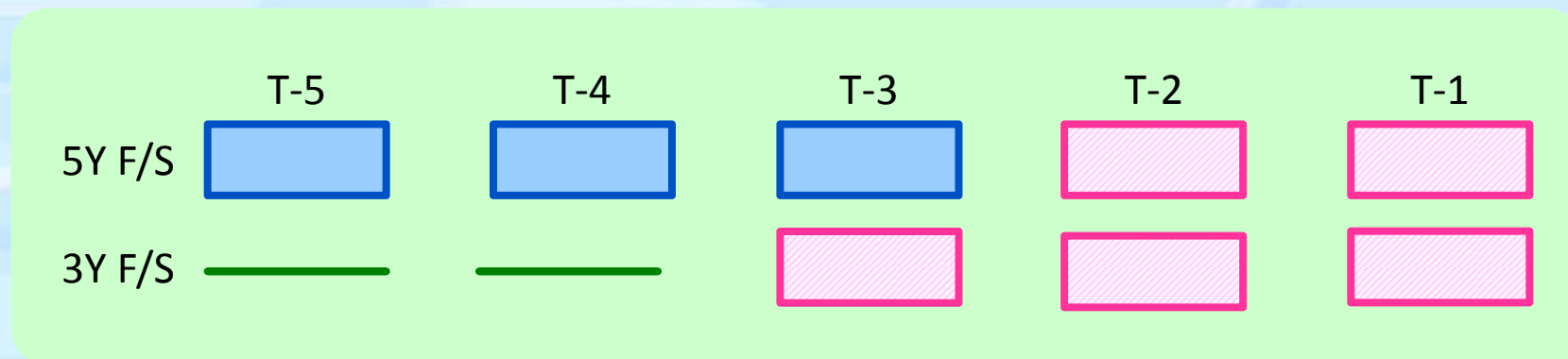
## II Major Issues


### 2. Financial Statements

# How to present U.S. GAAP Financial Statements

## Five-Year Disclosure or Three-Year Disclosure

- (a) Five-year financial statements (only the latest two years must be audited, and included in the prospectus); or
- (b) Three-year financial statements (all years must be audited)



\*  Need to be audited

## II Major Issues

### 3. Lockup Arrangements

#### Lockup Arrangements Vary

1

#### Lockup by agreements with Lead Manager

- Selling Shareholders (VCs) subject to 90-day (or 180-day) lockup period (may sell if the market price exceeds 1.5 times of IPO price)

2

#### Commitment to Holding of Shares under TSE Listing Rules

- Shareholders whose shares allotted in the fiscal year immediately before the IPO application fiscal year may be subject to 6-month (or 1-year) holding requirements.



### III Post-IPO Considerations

#### 1. FIEA Disclosure

## Subject to FIEA Continuous Disclosure Obligations

- Annual Securities Report (ASR) ----- equivalent to SEC Form 10-K  
(Independent Auditor's Report of financial statements is required.)
- Quarterly Securities Report (QSR) ----- equivalent to SEC Form 10-Q  
(Review Report of interim financial statements not required.)
- Extraordinary Report ----- Similar to SEC Form 8-K with many differences
- Confirmation Form ----- Similar to SEC Requirements
- Report on Internal Control ----- Similar to SEC Requirements  
(Auditors' Report required, but exempted for the first three years for certain small companies)

### III Post-IPO Considerations

#### 2. TSE Timely Disclosure

## Subject to FIEA Insider Trading Regulations and TSE Timely Disclosure Requirements

- Listed Company must disclose certain material events to the public via TSE website.

### III Post-IPO Considerations

#### 3. English Language Disclosure (ELD)

## Corporate Information may be disclosed in English

### 1

#### How to apply for ELD

- Japanese FSA accepts SEC Disclosure Documents (Form 10-K, 10-Q and 8-K)
- Upon application, need to send KLFB Draft ELD documents with Comparison Table between FIEA disclosure items and SEC Disclosure items
- FIEA proper items must be supplemented either in Japanese or English

### 2

#### Need to Note...

- Certain material items (risk factors, business description and selected financial data) must be summarized in Japanese
- Information on offering of securities must be all in Japanese

### III Post-IPO Considerations

#### 3. English Language Disclosure (ELD)

#### Number of Foreign Companies using ELD

