



Never to Whistleblow JFBA's Approach

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When to whistleblow – a lawyer's guide

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The Japanese Attorney System

Practicing Attorneys (*bengoshi*)

- Mission of Practicing Attorneys (Art. 1)
 - Protect fundamental human rights
 - Realize social justice
- Practice of Law (Art. 3)
 - Litigation, Non-contentious matters
 - Administrative proceedings
 - Other legal matters
- Unauthorized practice of Law = Criminal (Art. 72)
 - Legal matters are reserved to practicing attorneys

The Japanese Attorney System

- Practicing Attorneys (Bengoshi) → Unlimited Scope of Legal services, including representation at all levels of court
 - Tax Attorneys (Zeirishi)
 - Patent Attorneys (Benrishi)
 - Judicial Scriveners (Shiho Shoshi)
 - Administrative Scriveners (Gyosei Shoshi)
- Limited Scope of Legal Services

The Japanese Attorney System

Self Governance

- JFBA is authorized to examine attorney qualifications
- JFBA membership is mandatory to practice law
- JFBA is authorized to take disciplinary actions
- JFBA is responsible for supervision of practicing attorneys
 - No supervision by any governmental authority
- JFBA operates entirely on its own dues and revenues

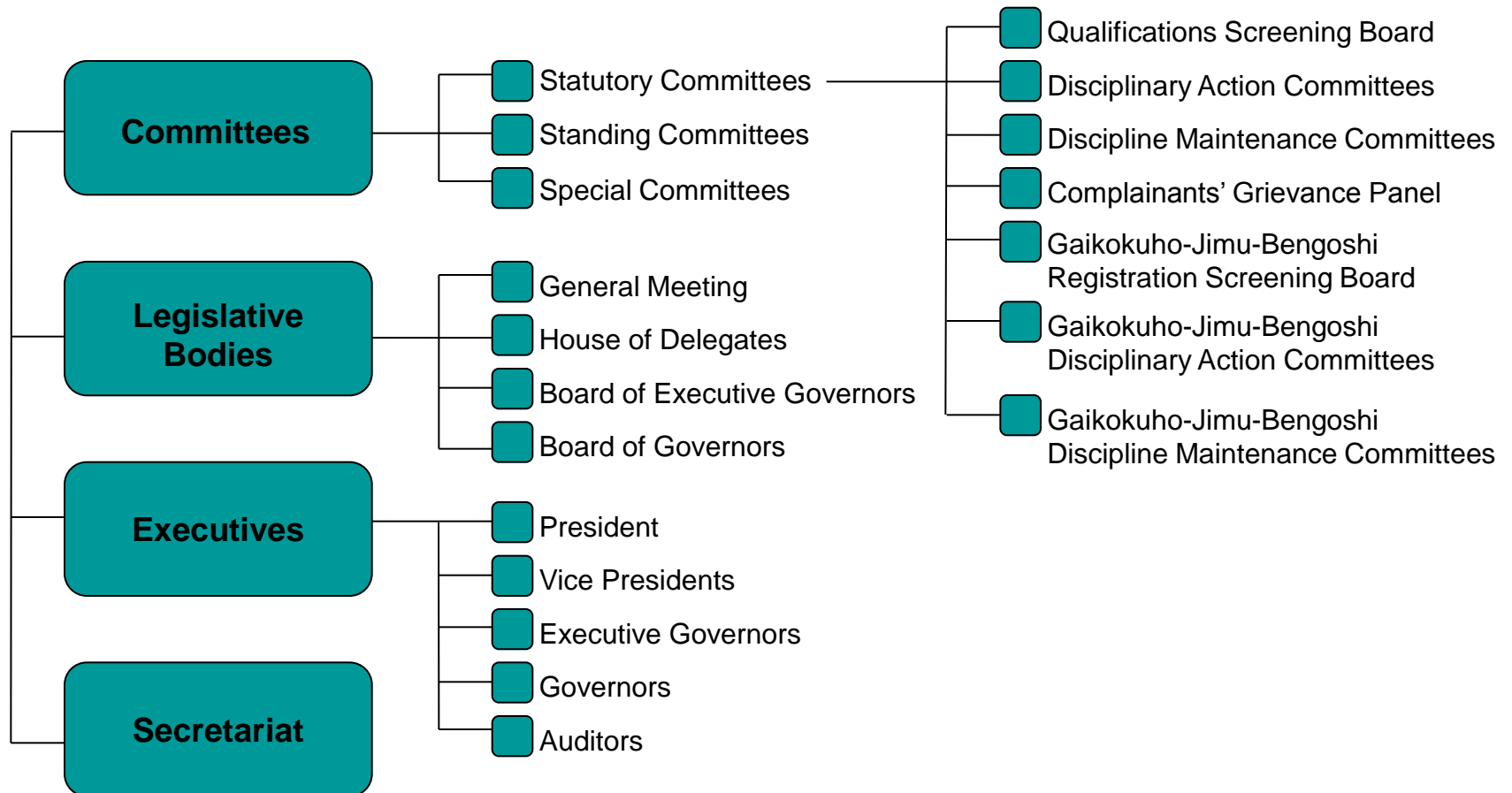
Japan Federation of Bar Associations

Members (as of October 1, 2011)

- Local Bar Associations 52
- Practicing Attorneys 30,529
(Bengoshi)
- Legal Profession Corporations 538
- Registered Foreign Lawyers 363
(Gaikokuho-Jimu-Benjoshi)

Japan Federation of Bar Associations

Organization



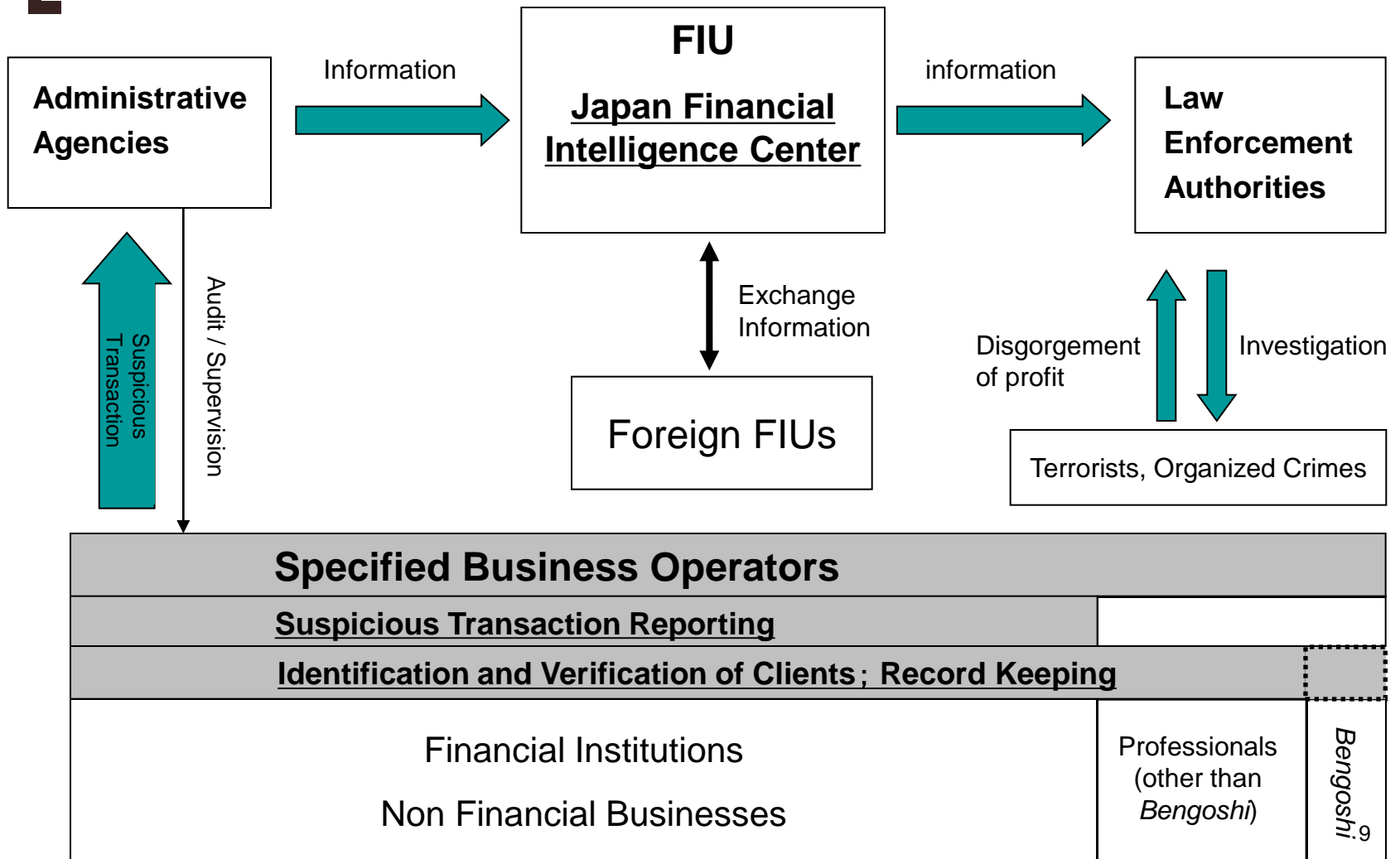
Japan Federation of Bar Associations

Code of Ethics

Adopted by the General Meeting of November 10, 2004

- Codifies professional ethics for attorneys, including confidentiality obligations and conflict of interest
- Also, provides that an attorney shall not:
 - * Promote any fraudulent transactions, violence, or any other illegal or improper conduct, nor shall utilize such conduct (Art. 14)
 - * Conduct any business which is degrading or against public morals, nor participate in such business, nor let his or her name be used for such business (Art. 15)
 - * Receive any subject matter of a dispute (Art. 17)

Combating Money Laundering AML Act of 2007



Combating Money Laundering Never to Whistleblow

- Duty of Confidentiality ← Consultation with lawyers with confidence should be fundamental to the justice
- Lawyers excluded from the reporting obligations ← JFBA active lobbying before the bill submitted to the Diet
- Article 8 of the AML Act – delegate the rulemaking authority regarding *bengoshi* to JFBA; the rules should be comparable to the obligations imposed on the other professionals

Combating Money Laundering JFBA Regulations

- Client identification and verification
- Record keeping
- Additional duty – particular to *Bengoshi*
 - To consider carefully, when accepting an instruction from client, whether or not the purposes of the instruction relates to a transfer of crime proceeds
 - If a *bengoshi* finds out, after accepting an instruction, that the purposes of the instruction relates to a transfer of crime proceeds, the lawyer shall explain to the client that is illegal and persuade the client to abandon the achievement of the purpose.

Combating Money Laundering JFBA Regulations

- Events triggering obligations to identify the client and verify the identification
 - acceptance or administration of client assets;
 - buying and selling of real estate;
 - investing for the purpose of establishing or managing a company, or contributing similar funds;
 - establishment of a legal person or a similar entity;
 - conclusion of a trust contract; or
 - buying and selling of a company

Combating Money Laundering 2011 Amendments to AML Act

- Enhance Customer Due Diligence Obligations
 - ← 2008 FATF mutual evaluation
- To be implemented in April 2013
- Scope of CDD deepened
 - purposes of transaction, beneficial owner
 - Financial Institutions and non financial businesses only
- Events triggering CDD broadened
 - suspicious clients, high risk jurisdictions
 - including professionals → JFBA regulations need to be amended
- Internal Control System
- The principle of “never to whistleblow” unchanged

[For more information, please visit]

- IBA Anti-Money Laundering Forum
<http://www.anti-moneylaundering.org>
- Japan Federation of Bar Associations
<http://www.nichibenren.or.jp/en/>
- Japan Financial Intelligence Center (FIU)
<http://www.npa.go.jp/sosikihanzai/jafic/jaficenglishpage/jaficenglish.html>
- English language translation of JFBA rules and regulations are at:
<http://www.nichibenren.or.jp/en/about/us/regulations.html>