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Overview of the Japanese Casino Law

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Key points of the Act Promoting Implementation of Specified Integrated Resort Areas (or more commonly referred to as the Japanese casino law) which was enacted on December 15th, 2016, the in the Japanese Diet session with an aim to legalize casino facilities in Japan.

1. Japanese Casino Law

On December 15th, 2016, the Act Promoting Implementation of Specified Integrated Resort Areas, or more commonly referred to as the Japanese casino law (the “**Japanese Casino Implementation Act**”), was enacted in the Japanese Diet session with an aim to legalize casino facilities in Japan.

Official discussions on whether to legalize casinos in Japan have been taking place for some time now, dating back to 2006 when the Liberal Democratic Party (the “**LDP**”) produced a report entitled “Japan’s Basic Policy concerning the Introduction of Casino Entertainment”. These discussions have continued since then, and in the 2016 Japanese Diet session, the LDP and certain other members of a cross-party group called the “Alliance for the Promotion of International Tourism” (the “**Alliance**”), including as its members Shinzo Abe, the current Japanese Prime Minister, and Taro Aso, the current Deputy Prime Minister and Treasurer (also a former Prime Minister), submitted the bill to legalize casinos to the Japanese Diet which was passed today with slight amendments.

The Japanese Casino Implementation Act in itself does not legalize casinos in Japan just yet. It aims to take a two-stage legislative process by: (i) first passing an act to “facilitate” the development of Integrated Resorts; and (ii) then passing an act to actually “implement” Integrated Resorts. Since the Japanese Casino Implementation Act, as currently proposed, focuses only on the first part, i.e. facilitating the development of Integrated Resorts, it simply contains 23 articles, which describe the basic policy and the process for the introduction of casinos in Japan.

Thus, the passage of various subsequent series of bills will be necessary in order to actually operate casinos in Japan. Below is a brief explanation of the Japanese Casino Implementation Act's key points.

2. The Japanese Casino Implementation Act's Aim to Legalize Only Land Based Casinos

Article 1 of the Japanese Casino Implementation Act provides that “[i]n light of the fact that promoting implementation of Specified Integrated Resort Areas contributes to the development of tourism and local economies, as well as improvement of the financial position, the purpose of this act is to set out the fundamental principles, fundamental policies and other fundamental matters relating to the promotion of the implementation of Specified Integrated Resort Areas, and to do so in a comprehensive and intensive manner by establishing the Headquarters of Promotion & Implementation of Specified Integrated Resort Areas”.

As indicated above, the Japanese Casino Implementation Act in its current form is only contemplating to legalize casinos where people actually visit, thereby promoting tourism and is not necessarily aiming to legalize online casinos. However, it is possible that online casinos could be legalized in the future through different legislation.

3. Private Entities as Casino Operators; Foreign Operators Permitted

Article 2.1 of the Japanese Casino Implementation Act expressly provides that a Specified Integrated Resort will have “casino facilities...and other facilities accepted to contribute to the promotion of tourism operated by a private entity”, thereby opening the doors for private entities to become casino operators. On the other hand, the Japanese Casino Implementation Act expressly excludes public entities from establishing and operating casino facilities.

The Japanese Casino Implementation Act includes no provision restricting the operator to an entity incorporated in Japan; thus, it is possible that there may be foreign casino operators.

Having said that, the Japanese Casino Implementation Act provides first that the Specified Integrated Resort Areas shall be promoted “by taking advantage of regional characteristics and the innovation and vitality of the private sector’s ability to contribute to the development of the regional economies and redistribute to the community the proceeds of the healthy casino facilities” (Article 3), and also that “[t]he government shall take necessary measures so that the Specified Integrated Resort Areas will have the features central to establishing genuine internationally competitive and attractive tourist destinations while utilizing regional characteristics” (Article 6).

Based on these provisions in the Japanese Casino Implementation Act, it can be surmised that a foreign operator considering whether to participate in the selection process needs to prepare a proposal that is appealing to the local government not only from a financial perspective, but also from the perspective of understanding the regional characteristics and the needs of the community.

Having to include this level of specificity in an application could be one of many cross-border difficulties that a potential foreign operator may face, since the regional characteristics and the needs of the community, especially in Japan, may be quite different from that in the operator's own country and other regions of operations.

4. Multiple Layers of the Selection Process

Article 2.2 of the Japanese Casino Implementation Act provides that a Specified Integrated Resort Area should be "*an area certified by the competent minister as an area where a Specified Integrated Resort can be established, based on the application of the local government*".

This wording in Article 2.2 indicates that there would be at least two layers of the selection process: (i) selection by the competent minister of the local government where the Integrated Resort would be established; and (ii) selection by the local government of the location where the operator plans to operate the casino.

The Japanese Casino Implementation Act is silent as to which selection procedure would precede the other; however, presumably the competent minister would not be able to select the local government where an Integrated Resort should be established by the location alone and without knowing the actual plans contained in the application of the local government.

As such, an applicant operator must propose a plan that is appealing and attractive to the local government, so that the local government will prepare the application to be submitted to the competent minister adopting such plan. The local government's application adopting the applicant operator's plan must then be selected by the competent minister as the location that is appropriate to be designated as a Specified Integrated Resort Area.

5. Conclusion

While it is clear that Japan is still at a very early stage of discussion regarding the legalization of casinos, the Japanese Casino Implementation Act states that the "*necessary legislative measures for this purpose should be taken with the intent of doing so within one year after the enforcement of this act*" (Article 5). Therefore, various legislative measures need to take place to actually "implement" the establishment of Integrated Resorts.

While the Japanese Casino Implementation Act provides that these measures should take place within one year, it is possible that debates on how to implement this act could take longer, particularly since the actual details and mechanisms for implementing the act, including the measures to be taken against gambling addiction problems, would be set forth in subsequent legislation and regulations which would be based on this Japanese Casino Implementation Act.

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