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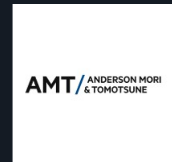
Country Comparative Guides 2025

Japan
Joint Ventures

Contributor



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This country-specific Q&A provides an overview of joint ventures laws and regulations applicable in Japan.

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Japan: Joint Ventures

1. In what industries or sectors are joint ventures most commonly used in your jurisdiction?

In Japan, joint ventures (JVs) take one of two forms:

- Corporate JVs, in an equity-based structure
- Contractual JVs, which are based on contractual relationships

Corporate JVs are the preferred JV structure in Japan and are generally used across industries. In some cases, governmental permits or licenses will not be granted to contractual JVs for the conduct of certain businesses, such as the real estate and pharmaceutical businesses.

Contractual JVs, which involve joint ventures without an independent legal entity, are used for forming JVs only in limited cases.

Contractual JVs are, however, not uncommon in the construction industry, particularly when construction companies undertake large and complicated construction work, such as public infrastructure projects. Contractual JVs are more advantageous in such projects because contractual JVs can be formed on a project-by-project basis and can easily be dissolved upon completion of the relevant project. Additionally, no tax is imposed at the JV level.

Contractual JVs are also formed in the entertainment industry for purposes of producing entertainment content, such as animation works, movies, and TV programs. Broadcasting companies, advertising companies, publishing companies, and film distributors commonly use a contractual JV structure to allocate the profits and the risks associated with the production of entertainment content.

2. What are the main types of joint venture in your jurisdiction?

Corporate JVs are the main types of joint ventures in Japan.

3. What types of corporate vehicle are most frequently used for equity joint ventures?

Under the Companies Act (Act No. 86 of 2005, as amended), there are two types of companies that can be used as a vehicle in a corporate JV:

- Stock companies (Kabushiki Kaisha) (KK)
- Limited liability companies (Godo Kaisha) (GK)

<KK>

The KK is the most commonly used vehicle for a corporate JV. This is because it is the most prevalent corporate structure in Japan and therefore, the structure most people are familiar with.

The main features of a KK are as follows:

- The liabilities of shareholders in a KK are limited to the amount of their contributions to the KK.
- KKs are required to hold shareholders' meetings and must have at least one director.
- The decisions of a KK are generally made by its board of directors (if the KK does not have the board of directors, a majority of the directors).
- Profits are required to be distributed to each shareholder in proportion to the amount of the shareholder's contribution (except for class shares).
- KKs can be listed on Japanese stock exchanges.

<GK>

The GK is sometimes also used as a JV entity, especially for joint ventures of a smaller size. This is because GKs are more flexible and cheaper to incorporate, govern, and operate.

The main features of a GK are as follows:

- The liabilities of equity holders in a GK are limited to the amount of their contributions to the GK.
- The decisions of a GK are made by the GK's equity holders themselves.
- Profits in a GK can be distributed to its equity holders in such proportion as provided for in the GK's articles of incorporation, regardless of the equity holders' contribution ratio.
- GKs cannot be listed on Japanese stock exchanges.

4. What are the key factors which influence the structure of the joint venture and the choice of

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joint venture vehicle?

The following elements may affect the choice of JV structure:

i. Segregation of JV from JV members
ii. Limitation of liability
iii. Size, prevalence, and familiarity
iv. Flexibility of organization
v. Cost of incorporation and operation
vi. Tax considerations

Corporate JVs vs. Contractual JVs

Corporate JVs are typically chosen as the JV structure when the preference is to separate the assets, debts, employees, and other aspects of the JV from those of its members.

On the other hand, contractual JVs are chosen if tax considerations are paramount. Specifically, tax is imposed at both the entity level and the member level in the case of corporate JVs, but is only imposed at the member level in the case of contractual JVs.

Corporate JVs: KK vs. GK

If JV members in a corporate JV contemplate a certain size of business and prefer to have a prevalent and familiar entity structure, establishing the JV as a KK would be recommended.

If, however, the JV members prefer a structure that enables flexible governance, the GK would be recommended.

5. What are the principal legal documents which set out the terms of a joint venture and how does the constitution of the joint venture vehicle interact with the joint venture agreement?

Articles of incorporation (*teikan*) of a KK or GK set out the basic terms of the JV's equity, governance structure, decision-making process, allocation of profits, etc.

To incorporate a KK or GK, articles of incorporation must be prepared. Further, in case of a KK, the articles of incorporation must be notarized by a notary public.

On the other hand, the shareholders/equity holders of a corporate JV usually enter into a joint venture agreement on or before the formation of the JV. The joint venture agreement sets forth and governs the rights and obligations of JV members to supplement the provision of the articles of incorporation.

Should there be any inconsistencies or conflicts between the articles of incorporation and the joint venture agreement, provisions under the articles of incorporation will prevail.

6. How long does it typically take to form a joint venture in your jurisdiction?

A corporate JV is formed by registering the incorporation of the relevant company with the relevant Legal Affairs Bureau.

<KK>

The establishment of a JV as a KK typically takes one to two months in practice.

The key steps involved in the incorporation of a KK are as follows:

i. Preparation of the KK's articles of incorporation
ii. Notarization of the articles of incorporation by a notary public
iii. Contribution of capital by the incorporators and other subscribers
iv. Election of directors (and corporate auditors, if any) upon incorporation
v. Examination by directors (and corporate auditors, if any) of the legality of the KK's formation and of whether the procedures in respect of capital contributions by the incorporators and other subscribers have been completed

Registration of the KK's incorporation in the commercial register is maintained by the Ministry of Justice, at the location of the KK's head office. The registration process will typically be completed within approximately two weeks after the date on which the application is filed, but the incorporation date of the company will be deemed to be the date of application.

In parallel with the above incorporation process, a joint venture agreement is usually negotiated and prepared by the JV members.

<GK>

Although a GK is easier to incorporate than a KK, it will usually take one to two months to establish a JV as a GK, given the negotiation period involved in arriving at a joint venture agreement between the JV members.

The key steps involved in the incorporation of a GK are as follows:

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i. Preparation of the GK's articles of incorporation
ii. Contribution of capital by the GK's members
iii. Registration of the GK's incorporation in the commercial register maintained by the Ministry of Justice, at the location of the KK's head office

As with the case of a KK, the registration process in respect of a GK will typically be completed within approximately two weeks after the date on which the application is filed, but the incorporation date of the company will be deemed to be the date of the application.

While the GK is being incorporated, the members of the JV typically enter into a joint venture agreement that governs the relationship between the JV members.

7. Is using a corporate joint venture structure effective in shielding the joint venture parties from liabilities for the operations of the joint venture entity under local law?

A corporate JV, such as a KK/GK, is an entity independent and separate from its members. In a corporate JV, members' liabilities are limited to the amount they have invested in the entity under the Companies Act of Japan.

8. Are there any legal considerations which apply to the financing of the joint venture or the contribution of assets to it?

As KKs require, pursuant to the Companies Act, a more strict governance structure than GKs and accordingly have a higher creditability, we can generally say that, in practice, it is easier for KKs to receive financing from banks than is the case for GKs.

In case of KKs, however, at least a half of the invested amount is required to be registered in capital, which means a higher registration tax is imposed. In addition, if an investor makes an investment in kind in KKs, such in-kind contribution, in principle, needs to be checked by an independent inspector (*kensayaku*), which requires additional cost and adds to the process for the contribution of assets.

On the other hand, in the case of GKs, there is no requirement for the amount to be registered in capital among the invested amount, and it is flexible for GKs to set the capital amount within the limits of the invested amount and, thus, GKs can reduce the amount of the registration tax by minimizing the amount of capital. Also, unlike KKs, an investment in kind in a GK does not have to be checked by an independent inspector.

9. What protections under local law apply to minority shareholders and what additional or enhanced minority protection mechanisms are typically agreed between the joint venture parties?

<KK>

Under the Companies Act, minority shareholders in a KK who hold one-third (1/3) or more of the voting rights in the company have veto rights on certain matters, such as amendments to the articles of incorporation, entering into M&A or reorganization transactions (such as mergers, business transfers and company splits), capital reduction, and company dissolution.

The Companies Act also allows a KK to issue class shares with veto rights for certain matters to be resolved at a board or shareholders' meeting. If such class shares are issued, those matters have to be resolved at the meeting of such a class shareholders, in addition to requiring a resolution passed by the board or shareholders' meeting, as the case may be. The rights attached to class shares must be stipulated in the KK's articles of incorporation and appear on the corporate register, the latter of which is publicly available.

Apart from the Companies Act, a joint venture agreement may also provide for certain matters in respect of a KK to require the approval of shareholder(s) who hold a certain percentage of voting rights. The typically provided for matters are approvals of the company's business plan, commencements of new businesses, entering into a business alliance with a third party, material capital expenditures, and the distribution of dividends. Besides, a JV agreement often gives minority shareholders a right to appoint directors in proportion to their shareholding ratio. However, even if such required approval is not obtained or such designated director is not appointed, resolutions passed on such reserved matters at a shareholders' meeting or by the board will not automatically become void. The dissenting shareholder(s) may, however, take remedial actions as permitted under the JV agreement, such as by exercising put and/or call options or by making a claim for indemnification.

<GK>

The Companies Act contemplates that all equity holders in a GK will in principle participate in the GK's management, and the business of the GK will be decided upon by a majority of equity holders (in terms of headcount), unless otherwise stated in the GK's articles of incorporation. If the articles of incorporation specify

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certain equity holder(s) as managers of the GK's business, the management of the GK will in principle be based on the decisions of such equity holder(s) (or by the majority of such equity holders (in terms of headcount), as applicable, unless otherwise stated in the articles of incorporation).

Accordingly, if minority shareholders desire to secure their minority protection rights, such rights, including certain veto rights and the appointment rights for directors, should be provided for in the GK's articles of incorporation or in the joint venture agreement.

10. What are the duties of directors of an equity joint venture, including in relation to conflicts of interest?

Under the Companies Act, directors of a KK-type JV owe the following duties:

- Duty of care of a good manager (*zenkan chui gimu*)
- Duty of loyalty
- Duty of supervision of the management of the company
- Duty not to compete with the company
- Prohibition on conflicting interest transactions with the company
- Prohibition on profit sharing in relation to the exercise of shareholder's right

The duty of care of a good manager is similar to a fiduciary duty, regarding the determination of a breach of which Japanese courts have granted directors wide discretion by asking whether reasonable information gathering, investigations and deliberations have been conducted.

As for the duty of loyalty, directors are required to perform their duties with loyalty and in compliance with applicable laws and regulations, with the articles of incorporation and with shareholders' resolutions.

11. What is the typical structure of a joint venture's management body/board?

The most typical organizational structure of a joint venture is a KK with a board of directors and several corporate auditors, in practice. Although it is possible to establish a JV company without a board, such a company may be deemed to have a weak governance and may not be appropriate for a JV.

A board of directors consists of at least three directors. The number of directors and the appointment right of such directors are matters usually decided in proportion to the shareholding ratio of the JV partners.

In the case of a company with a board of directors, at least one representative director must be appointed among the directors. We sometimes see that JV companies have two representative directors, and each JV partner has the right to appoint one representative director.

Corporate auditors have the authority to audit the execution of duties by directors.

If a JV company desires a stronger governance structure, it can establish a board of corporate auditors. A board of corporate auditors consists of at least three corporate auditors. The majority need to be outside corporate auditors, and there must be at least one full-time corporate auditor.

12. Does local law imply any fiduciary duties or duties of good faith between the parties to a joint venture?

As mentioned in No. 10, directors of a KK-type JV owe the duty of care of a good manager, which is similar to a fiduciary duty, and the duty not to conduct conflicting interest transactions with the company.

Thus, it should be noted that if a director from one JV partner entity decides to enter into a transaction between such JV partner entity and the JV company, the conflicts of interest issue may arise and, in such case, said director needs to disclose the content of any such transaction to the board of the JV company, and to seek approval for the transaction at a board meeting before the execution of the transaction.

13. Do any restrictions, such as foreign direct investment rules, apply to foreign joint venture parties?

The Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949, as amended; the FEFTA) places certain restrictions on the participation of foreign members in JVs in certain industries.

The FEFTA requires advance notice to be provided to the relevant authority if, among others, (i) the nationality of a foreign investor is not one of those specified in the Act (i.e., if the investor is not from the U.S., the UK, or one of the other 161 countries specified in the Act), or (ii) the

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business of the company into which the foreign investment will be made falls under those industries designated by the Act (including arms manufacturing, information processing devices, components or software manufacturing, information and communications services, crop farming, and livestock agriculture industries) unless exemptions are otherwise applied.

An entity that provides advance notice to the relevant authority in accordance with the FEFTA is prohibited in principle from making the proposed investment for 30 days following the reception of notification by the relevant authority. If the proposed investment is found to raise problems (such as where there are safety concerns), the governmental authority can recommend changing or prohibiting the proposed investment. The waiting period may be extended by up to five months for the examination by the governmental authority. If the proposed investment is found to raise no issues, the waiting period can normally be shortened to two weeks.

Restrictions in relation to certain industries include (i) refusal by the governmental authority to provide a license or the approval necessary to conduct certain businesses, (ii) prohibiting a company from registering any share transfer to non-Japanese entities, and (iii) restricting non-Japanese entities from exercising their voting rights at shareholders' meetings.

Additionally, there are some industry-based regulations that restrict foreign members from investing in a JV in specific industries, such as the aviation, telecommunications, and broadcasting industries.

14. What competition law considerations apply to the set up and operation of a joint venture?

The Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947, as amended; the "**Antimonopoly Act**") prohibits unfair business practices and acts that substantially restrict competition in a particular field of trade.

The Japan Fair Trade Commission (the "**JFTC**") has the power under the Antimonopoly Act to issue a cease-and-desist order against a JV if the JFTC determines that the establishment of a JV constitutes an unfair business practice or substantially restricts competition in a particular field of trade. The JFTC has established two guidelines for determining whether a JV substantially restricts competition in a particular field of trade:

- Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination (the "**Business Combination Guideline**").
- Guidelines Concerning Joint Research and Development under the Antimonopoly Act (the "**R&D Guideline**").

<u>Business Combination Guideline</u>

The Business Combination Guideline provides a safe harbor rule which applies based on the Herfindahl-Hirschman Index ("**HHI**"). The HHI is in principle calculated by summing up the squared market share of each business operator. Specifically, the safe harbor rule for horizontal business combinations under the Business Combination Guideline applies where:

- The HHI after the establishment of a JV is 1,500 or less.
- The HHI after the establishment of a JV is more than 1,500 but does not exceed 2,500, and the increase in the HHI is 250 or less.
- The HHI after the establishment of a JV is more than 2,500, and the increase in the HHI is 150 or less.

The JFTC will also determine, in cases where a JV does not fall under the safe harbor rule, whether the establishment of the JV will substantially restrict competition in a particular field of trade, by taking into consideration the following factors:

- Market position of the JV and its group companies, as well as the circumstances surrounding its competitors.
- Conditions surrounding the JV's transactions, such as the possibility of the JV knowing the business terms of its competitors, past market share, and past price movements.
- Whether foreign importers operate or are likely to operate in the market.
- Existence of barriers to entry.
- Existence of competitive pressures from contiguous markets.
- Efficiency of the JV's business and the economic circumstances of the JV and its group companies.
- Existence of competitive pressure from those who demand certain products/services.
- Comprehensive business capability.
- Business condition of the JV and its group companies.
- Scale of industry area.

<u>R&D Guideline</u>

The R&D Guideline, which applies to JVs performing joint research and development ("**R&D**"), regulates:

- Substantial restrictions on competition in the product

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and technology markets.
- Any private monopoly with respect to technology.
- Agreements on the performance of joint R&D.

In determining whether substantial restrictions on competition exist, the JFTC will consider whether the establishment of a JV substantially restricts competition, by taking into account the following factors:

- Number of participants in the market and their respective market shares.
- Nature of the research being conducted.
- Necessity of joint R&D.
- Duration and scope of the joint R&D.

The R&D Guideline also provides, in respect of private monopolies, that joint R&D may be deemed to create a private monopoly with respect to technology if all of the following occur:

- Total market share of the participants is substantially high.
- Joint R&D is performed for the purpose of developing a technology that is essential for the business of the participants in the joint R&D.
- Any participant excluded from the joint R&D would face difficulty in conducting its business due to such exclusion and may thereby be excluded from the market.

Additionally, the R&D Guideline categorizes agreements on joint R&D into the following:

- Arrangements that in principle do not constitute unfair business practices (such as, for example, prohibiting participants from conducting independent research in the same areas as those in the joint R&D for the duration of the joint R&D).
- Arrangements that could constitute unfair business practices (such as, for example, prohibiting participants from introducing a technology similar to the technology that is being researched under the joint R&D beyond the scope necessary for the joint R&D).
- Arrangements that are at high risk of constituting unfair business practices (such as, for example, prohibiting participants from conducting independent research in the same area as those in the joint R&D after the termination of the joint R&D).

15. Are there requirements to disclose the ultimate beneficial ownership of a joint venture entity?

If a JV member's action with regards to the JV entity involves a foreign direct investment, such action is subject to regulations under the FEFTA. (See 13 above for Foreign Investment for details of the regulations under the FEFTA.) When a foreign investor, especially an investment fund, files a pre-closing FDI notification under the FEFTA, information regarding general partners (and parent companies) of the funds may also need to be disclosed to the relevant authority, but not disclosed to the public.

16. What issues relating to the ownership and licensing of intellectual property rights generally apply to the set up and termination of a joint venture?

With respect to the ownership and licensing of intellectual property rights, the following are often stipulated in joint venture agreements:

- Licensing of intellectual property rights used in the JV business and the royalties from the JV entity to JV members.
- Ownership and licensing of intellectual property rights invented or created by the JV entity or invented or created in relation to the JV business.

17. What legal considerations apply when transferring employees into a joint venture?

In principle, the consent of employees who are to be transferred to a JV entity is required to transfer their employment contracts to the JV entity. One of the exceptions is that in the event of a company split (*Kaishabunkatsu*), which is a statutory business/assets transfer procedure available under the Companies Act of Japan, the employment contracts may be transferred to the JV entity (acquiring company) without each employee's individual consent, in accordance with the procedures set forth in the relevant legislation.

In practice, it is also common for the JV members to dispatch their employees to the JV entity. In such a case, the JV entity enters into a new employment contract with the employee while the JV member retains the employment contract between the JV member and the employee. It is common for the JV entity and the JV member to enter into a secondment agreement and agree on cost sharing, etc.

18. Do any additional requirements apply to joint ventures when a joint venture party is a publicly listed company?

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When a JV member is a publicly listed company, in accordance with the rules of the relevant stock exchange such as the Tokyo Stock Exchange, a timely disclosure requirement may apply. For example, if forming a JV entity involves an acquisition of shares that involves a change in subsidiaries of that listed company, the listed company will be required to make a timely disclosure. Other events that may require timely disclosure include, among others, mergers, company splits, and capital and/or business alliances.

19. What are the key tax considerations for both the joint venture parties and the joint venture vehicle itself?

In contractual JVs, no tax is generally imposed at the JV level while tax is imposed at the JV level in corporate JVs. This could be a critical consideration when choosing which type of JV to establish.

In terms of KKs or GKs, in the case of KKs, at least half of the invested amount is required to be registered as capital, which means that a higher registration tax will be imposed.

On the other hand, in the case of GKs, there is no requirement for a certain minimum amount of the invested amount to be registered as capital, and GKs can flexibly set the capital amount within the limits of the invested amount. Accordingly, GKs can reduce the amount of the registration tax by minimizing the amount of capital.

20. Are there any legal restrictions on the distribution of profits by a joint venture entity?

In the case of corporate JVs, there are restrictions on the total amount of dividends that can be paid, depending on the type of corporation chosen as the JV entity. Generally, stricter regulations apply to KKs than to GKs. For example, in the case of KKs, there are deductions such as capital reserve and profit reserve that are taken into account when calculating the amount of dividends that can be paid, but in the case of GKs, there are no such deductions.

In addition, in the case of corporate JVs, dividends must be decided in accordance with the procedures stipulated in the Companies Act of Japan. In the case of KKs, in principle, a resolution by the general meeting of shareholders is required to distribute dividends. In the case of GKs, under the default rules of the Companies Act of Japan, dividends can be paid only at the request of the equity holder, but in practice, many companies stipulate separate procedures in their articles of incorporation, such as requiring a majority vote of the equity holders.

21. How are deadlocks in decision making usually dealt with in a joint venture agreement?

In the event of a deadlock, the following steps are often agreed in a joint venture agreement to resolve the deadlock situation.

(i) Consultation between JV members in charge of the JV's operations.

(ii) Consultation between the JV members at the executive level.

(iii) Call/put of the other member's equity by one party.

Regarding (iii) above, there are cases where the JV agreement specifies which JV member holds the call/put option, or where it is stipulated that the JV member that proposes to purchase the other JV member's equity at a higher price in the event of a deadlock is eligible to purchase the other JV member's equity.

22. What exit or termination provisions are typically included in a joint venture agreement?

With regards to exit or termination provisions, the following methods are typically agreed on in a joint venture agreement.

- Methods related to the acquisition of one JV member's equity by the other JV member (e.g., put option / call option).
- Methods related to the sale of a JV member's equity to a third party (e.g., tag along rights / drag along rights / rights of first refusal).

For termination, in addition to termination due to a material breach of the joint venture agreement by one of the JV members, the deterioration of the business conditions of the JV's business (such as operating losses for three consecutive fiscal years) is often stipulated as a cause for terminating the joint venture agreement.

23. What restrictions under local law apply when joint venture parties agree to restrictive covenants eg non-compete or non-solicitation obligations?

In joint venture agreements, it is common for JV

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members to be subject to restrictive covenants such as non-compete and non-solicitation obligations. The effectiveness of strongly restrictive clauses has been limited in some court cases, but no clear standards have been established. In practice, restrictive covenants regarding non-compete and non-solicitation obligations are often set for a period of around six months to one year after the dissolution of the JV.

In addition, if a JV member is subject to a non-compete obligation, there is a possibility that this will be seen as a restrictive practice and result in an issue under competition law (see No.14 above).

24. What dispute resolution mechanisms usually apply to joint ventures and are there any legal restrictions on the parties' choice of governing law or choice of dispute resolution mechanism?

Arbitration or litigation is usually chosen to be the dispute resolution mechanism stipulated in the joint venture agreement. It is also common for the joint venture agreement to stipulate that the parties should consult in good faith with each other before filing for arbitration or litigation. Mediation is available, but it is rarely chosen as a dispute resolution mechanism in joint venture agreements.

There is no specific legislation that comprehensively restricts the choice of governing law, but there may be exceptions for certain situations. For example, if a KK or GK established under the Japanese Companies Act is chosen as the JV entity, the establishment procedures, governance, etc. of the KK and GK will be governed by the Companies Act of Japan, regardless of the choice of governing law.

25. What are the key market trends affecting joint ventures in your jurisdiction and how do you see these changing over the next year?

Reformed foreign direct investment framework

From the perspective of foreign direct investment in Japan, there was a significant amendment to the inbound foreign direct investment regulations in 2020. The amendments to the FEFTA, which took effect on 7 June 2020, strengthened the screening of proposed foreign inward investments, mainly from a national security viewpoint, by, among other things, requiring foreign investors to follow stringent, pre-transaction review procedures enforced by Japanese authorities if 1% or more of the shares or voting rights of a Japanese listed company are to be acquired, which is far below the original threshold of 10%, with certain exemptions. In addition, the necessity of protecting domestic companies engaging in healthcare/medical activities related to COVID-19 prompted the government in July 2020 to add relevant sensitive business areas that require pre-transaction scrutiny.

In addition, to address recent vulnerability issues in the supply chain, the government added certain sensitive business areas to the list of "Core Business Sectors" where pre-transaction scrutiny is required. The newly added business areas include, among others, manufacturing of machine tools / industrial robots, storage batteries, permanent magnets, and semiconductors. In the case where the JV's business falls under one of these core business sectors, it will take more time and costs to form such a joint venture.

Reform of Tokyo Stock Exchange

Since April 2022, the Tokyo Stock Exchange (the "**TSE**") has re-categorised its market divisions and introduced new requirements that companies must meet to continue to be listed in each market division. Since not all listed companies in the former 1st Section were able to meet such new requirements in order to continue to be listed in the newly formed Prime Market (the equivalent to the former 1st Section) in their current state, one option for these companies to remain in the Prime Market would be to expand by way of M&A transactions. On the other hand, for those who no longer wished to remain as a public company, they could take the option of conducting an MBO or other transition to private company status.

Furthermore, in order to increase their tradable share ratio and tradable share market cap, and also to ensure that they can endure the stricter supervision from outside directors that is now required under the reformed TSE rules, more listed companies are increasingly turning their attention to streamlining their business portfolios. Namely, they are focusing more on profitable business units and disposing of unprofitable business units to third parties.

The TSE reform was thought of as an inducement for the expansion of M&A transactions and, so far, it has indeed been a strong factor in the increase in the number of M&A transactions.

In addition, on 25 January 2023, the TSE held a "Council of Experts Concerning the Follow-up of Market Restructuring" and put forth a strong request for the management and board of directors of listed companies with P/B ratios consistently below 1 to "properly identify

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the company's cost of capital and capital efficiency, evaluate those statuses and its stock price and market capitalization, and disclose policies and specific initiatives for improvement and the progress thereof as necessary". This announcement appears to have accelerated the trend of listed companies with P/B ratios below 1 deciding to go private. As a result, it seems likely that there will be more opportunities for forming joint ventures, one of the important elements in buy-out/MBO schemes, in the next year.

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