

Japan



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1 Overview

1.1 What are the main trends/significant developments in the project finance market in your jurisdiction?

Renewable energy projects and the Renewable Energy Act

Since the introduction of the Feed-in-Tariff (“FIT”) scheme in 2012, a large number of renewable power plants, mainly solar power plants, have been developed and operated in Japan. However, in order to reduce the economic costs in relation to the FIT scheme and to integrate renewable energy to an electricity market the same as other energy sources, the procurement prices have been decreased and the Feed-in-Premium (“FIP”) scheme was introduced.

Under the previous FIT scheme, renewable energy generated by renewable energy projects was mandatorily purchased at fixed prices by creditworthy utility companies for 20 years; cashflow from these projects are foreseeable and suitable for project financing. However, under the FIP scheme, renewable energy plant operators need to sell renewable energy at an electricity market or to a company under a bilateral power purchase agreement (“CPPA”), though certain premiums are paid to such operators. Compared to the FIT scheme, the FIP/CPPA scheme has more risks, such as credit risk of off-taker and cost imbalances, and project financing to these projects would be more difficult. Recently, as the procurement prices have been decreased, there have been many renewable energy projects using the CPPA structure.

In 2024, as an amendment to the Act on Special Measures Concerning Promotion of Usage of Electricity from Renewable Energy Sources by Electricity Utilities (Act No. 108 of August 30, 2011) (“**Renewable Energy Act**”), an explanatory meeting to local residents was introduced as a requirement for an application of the new FIT/FIP project and an amendment to the existing FIT/FIP projects (such as transfer of the existing FIT/FIP project or transfer of equity interests in the renewable energy producer of the existing FIT/FIP project) that satisfy certain criteria. The background of this amendment is that, with the increase of the number of renewable energy projects, there have been a number of troubles with neighbours of renewable power plants, which cause local communities to be concerned about the impact of renewable energy power plants on the safety and environment of the community. The explanatory meeting to local residents is required to enable renewable energy projects to coexist with the local community through providing appropriate information to local residents. The Implementation Guidelines for Briefings and Prior Notification Measures (“**Guideline**”) sets forth

the detailed rules for the explanatory meeting. Though no approval of the local residents is required, since the relevant government agency examines whether the applicant made an explanation in accordance with the Guideline, if the government agency determines that the explanation did not follow the Guideline, the government agency rejects the application. There have been some cases where the government agency actually rejected the application. In 2025, amendments to the government ordinance of the Renewable Energy Act and the Guideline were implemented to relax the explanatory meeting requirement. After the amendments, if there were no neighbouring residents to whom the explanatory meetings shall be held or the operator meets certain criteria such as being a listed company, the explanatory meeting is not required.

Further, in 2025, a solar power plant operator began developing solar power plants near a national park with rare animals in Kushiro city of Hokkaidō, but its development was found to have violated several laws and regulations. This led to growing public opposition to the development of solar power plants and, in December 2025, the Japanese government announced plans to tighten regulations on solar power plant development.

Offshore wind power projects

As Japan is surrounded by sea and flat areas that are suitable for renewable energy projects, which have been decreased, offshore wind projects are one of the areas drawing the most attention. In April 2020, the Act on Promoting the Utilization of Sea Areas for the Development of Marine Renewable Energy Power Generation Facilities (Act No. 89 of December 7, 2018) (“**Marine Area Renewable Energy Act**”) was implemented and, under the Marine Area Renewable Energy Act, Japanese government designates areas suitable for offshore wind projects and conducts tender process for designating project developers.

Under the previous Marine Area Renewable Energy Act, the Japanese government was only able to designate and conduct tender process in the area within Japan’s territorial sea. In 2025, the Marine Area Renewable Energy Act was amended to expand the area for the tender process to the Exclusive Economic Zone (“**EEZ**”).

By 2024, three rounds of the tender process have taken place. In July 2025, the Japanese government designated off the coast of Matsumae, Hokkaido and off the coast of Hiyama, Hokkaido as the promotion zones and it was expected that the fourth round of the tender process would take place by the end of 2025. However, in August 2025, the consortium organised by the Mitsubishi Corporation announced that it decided to cease all of the project it was awarded in the first round of

the tender, and the Japanese government decided to re-tender these projects. As of January 2026, it is expected that in 2026 the re-tender of the first-round projects will take place and the fourth round of the tender will follow.

Long-Term Decarbonized Power Source Auction (“LTDSA”) and battery energy storage station (“BESS”) projects

The LTDSA was implemented in 2023 and the first auction took place in 2024. LTDSA is an auction conducted by the Organization for Cross-regional Coordination of Transmission Operators (“OCCTO”) and the winning bidder is awarded capacity revenue for 20 years. LTDSA was implemented to promote investment in decarbonised power source projects by ensuring a stable capacity revenue, which can cover fixed costs for the decarbonised power source projects.

The result of the first auction was released in April 2024, and the result of the second auction was released in April 2025. In both auctions, numerous bids for BESS were made. Recently, BESS projects have drawn more attention as a tool for balancing demand and supply from renewable energy power plants, and this trend will continue in 2026.

Corresponding to the increase of BESS projects, regulations on their operation have also been developed. In 2023, the Electricity Business Act (Act No. 170 of July 11, 1964) was amended and the operation of grid-scale BESS exceeding a certain capacity fall under the category of “power generation business” and, in principle, are subject to the same level of regulations as the operation of solar power plants under the Electricity Business Act.

1.2 What are the most significant project financings that have taken place in your jurisdiction in recent years?

In relation to offshore wind power projects, in February 2020, the Marubeni Corporation announced that the consortium led by the Marubeni Corporation executed (through a special purpose company (“SPC”) for a project) a project financing agreement for the offshore wind power project in Akita Port and Noshiro Port in Akita Prefecture, which was subject to the first tender process under the Marine Area Renewable Energy Act, from the syndicated lenders coordinated by MUFG Bank, Ltd., Mizuho Bank, Ltd., and Sumitomo Mitsui Banking Corporation. This would be the first publicly released project financing to an offshore wind project in Japan. Also, there have been subsequent project financing to offshore wind power projects, such as those in Ishikari Bay by the syndicated lenders coordinated by MUFG Bank, Ltd., Sumitomo Mitsui Banking Corporation, Mizuho Bank, Ltd. and other banks (September 2022) and in Kitakyushu Port Hibikinada by the syndicated lenders coordinated by Mizuho Bank, Ltd., MUFG Bank, Ltd. and Development Bank of Japan Inc. (April 2023).

In relation to BESS projects, in August 2023, SMFL Mirai Partners Co., Ltd. announced the execution of a project financing agreement for a utility-scale BESS project as a joint investment with Idemitsu Kosan Co., Ltd., Renova, Inc., and Nagase & Co., Ltd, and that this would be the first publicly released project financing to a utility-scale BESS project. In March 2025, RENOVA, Inc. announced the execution of a project financing agreement for grid-scale BESS projects in Hokkaido Prefecture and Shizuoka Prefecture through a project SPC with MUFG Bank, Ltd. and this would be the first publicly released project financing to a grid-scale BESS project awarded LTDSA. In May 2025, The Kansai Electric Power Company, Inc. announced the incorporation of an

SPC as a joint investment with KINDEN CORPORATION and Japan Extensive Infrastructure, Ltd., as well as the execution of a project financing agreement for a grid-scale BESS project in Osaka Prefecture between the SPC and MUFG Bank, Ltd. This would be the first publicly released non-recourse project financing to a grid-scale BESS project to be operated on a full merchant basis.

2 Security

2.1 Is it possible to give asset security by means of a general security agreement or is an agreement required in relation to each type of asset? Briefly, what is the procedure?

Under the current Japanese law, unlike some common law jurisdictions, there is no concept of all-assets security (or a general security or floating charge), which permits a single security interest to cover all assets of a person or entity in general. Accordingly, a security interest must be created individually over each type of assets, and the legal requirements for the creation and perfection of a security interest are different for each type of asset.

In this connection, on June 7, 2024, the National Diet of Japan enacted the Act on the Promotion of Cash Flow-Based Lending (“New Act”), which will introduce a new type of security interest called “Enterprise Value Charge” (“EVC”) and can create a floating charge over all assets of a debtor, including intangible assets (such as goodwill). The New Act will be effective from May 25, 2026. The main purpose of an EVC is to facilitate smooth fundraising for small and medium-sized enterprises and start-ups that do not possess substantial tangible assets. However, it also presents the possibility of a new security regime for project finance. Financial institutions and other market players of project finance in Japan are closely monitoring and considering the availability of this new type of security interest, while it is unclear how extensively financial institutions will adopt this new type of security interest. Some important features of an EVC are as follows:

- an EVC can only be created over the assets of a “company” incorporated under the Companies Act (Act No. 86 of July 26, 2005) and is not available to individuals, partnerships or other non-company enterprises (including any entities incorporated outside of Japan);
- an EVC can only be created through a security trust structure, and the debtor must enter into a security trust agreement with a company that holds a special trust licence granted by the Prime Minister pursuant to the New Act;
- an EVC only becomes valid and effective when it is registered with the debtor’s commercial registry (the registration tax (*torokumenkyo ze*) for the creation of an EVC is JPY 30,000);
- even when an EVC is created and perfected as a first rank, when enforcement actions are carried out by general creditors, other security interest holders (even those subordinated to an EVC), or through disposition for national tax delinquency against any asset of the debtor before an EVC is enforced, an EVC holder will not be entitled to receive payments from the realisations of the individual assets subject to those proceedings and can only file an action against these procedures when it can demonstrate that the procedures would hinder the continuation of the debtor’s business; and
- an EVC will be deemed to be mortgages (*teitouken*) for the purposes in the application of insolvency laws in Japan.

2.2 Can security be taken over real property (land), plant, machinery and equipment (e.g. pipeline, whether underground or overground)? Briefly, what is the procedure?

Security interests can be created over any type of assets, including real property, plant, machinery, equipment, receivables, deposits, insurance, shares (equity interests) and so forth, unless otherwise prohibited or restricted under the applicable law.

Real property (land and building)

A mortgage is the security interest commonly used for real property. In renewable energy projects, land, building and superficies rights (*chijoken*) are typically taken as the mortgaged property, as applicable. A mortgage securing real property is created by an agreement between the mortgagor and the mortgagee. In order to perfect the mortgage against a third party, the mortgage needs to be registered with the Legal Affairs Bureau.

Plant

In the power generation context, a typical “plant” consists of land, building, machinery and equipment. Security interests over land and building can be created in a form of mortgage. On the other hand, machinery and equipment are classified as movable assets, and security interests over these assets can be created by security assignment (*kyoto-tampoken*) (see section 3 for more details).

In addition to the above, in the power generation context, it is possible to create collective security interests for collective assets in a form of factory foundation mortgages (*kojo zaidan teitouken*), where a security interest can be collectively created over the land and the power generation facilities (machineries, equipment and other eligible assets) located in the land. As the same with a mortgage securing real property, a mortgage securing factory foundation (*kojo zaidan*) is created by an agreement between the mortgagor and the mortgagee and, in order to perfect the mortgage against a third party, the mortgage needs to be registered with the Legal Affairs Bureau.

Movable assets (e.g. machinery and equipment)

A pledge (*shichiken*) and security assignment are the security interests that can be used for movable assets. However, in project financing in Japan, security assignment is the security interest typically used to cover movable assets owned by the project owner, given the distinction of the perfection requirements of these security interests.

In order to effectuate and perfect a pledge over movable assets, an actual delivery of the subject property is required. In contrast, a security assignment can achieve perfection through constructive delivery of the subject property (such as an occupant’s manifestation of its intent to occupy the subject property on behalf of the secured parties) and does not require actual delivery. Since the subject property needs to be held and operated by the project owner for its operation until a specific credit event occurs, this distinction makes security assignment a practical choice for securing movable assets.

A security assignment securing movable assets is created by an agreement between the assignor and the assignee. In order to perfect the security assignment against a third party, delivery of the subject property from the assignor to the assignee is required. As mentioned above, delivery can be made by both the actual delivery and constructive delivery. In

addition, it is also possible to satisfy the perfection requirements by registration of the assignment with the Legal Affairs Bureau, if the assignor is a corporation.

Although security assignment has been widely used in practice in Japan, they lacked explicit statutory provisions and relied solely on court precedents and industry practice. In this connection, on May 30, 2025, the National Diet of Japan enacted the Act on Contracts for Security Interest by Assignment and Retention of Title (“**Security Assignment Act**”), which clarifies and regulates the rules for security assignment over movables and receivables in Japan. The effective date of the Security Assignment Act will be separately determined within two-and-a-half years from its promulgation date (June 6, 2025). It should be noted that the Security Assignment Act will apply to all agreements for security assignment, whether executed before or after its effective date.

Receivables

Pledge and security assignment are the security interest that can be used for receivables. In project financing in Japan, it is customary to create a security interest over receivables through either a pledge or a security assignment. A pledge or security assignment securing receivables is created by an agreement between the pledgor and pledgee, or assignor and assignee.

Perfection of pledge and security assignment against the third-party obligor (i.e. debtor of the relevant receivables) and a third party can be achieved by either (i) notifying the third-party obligor of the creation of a pledge or security by assignment with a date certain stamp (*kakutei hiduke*) of a notary public, or (ii) obtaining the third-party obligor’s consent with a date certain stamp of a notary public. In addition, it is also possible to satisfy the perfection requirements by registration of the pledge or assignment with the Legal Affairs Bureau if the pledgor or assignor is a corporation, provided that the perfection against the third-party obligor is not achieved until a Certificate of Registered Matters is delivered to such third-party obligor. However, in the case of project financing in Japan, registration with the Legal Affairs Bureau is not a common way of perfecting a security interest over receivables.

Contractual status

While it is not a formal security interest recognised under the Japanese law, a “reservation of contractual status assignment” is a type of security agreement frequently executed between the debtor and the secured parties in project financing in Japan to secure material project agreements entered into by the project owner. Under this arrangement, an option regarding the contractual status is granted to the secured parties, and the secured parties may exercise the optional right to conclude the applicable contract covered by the option. In order to effectuate and perfect the assignment of the debtor’s contractual status, including the assignment of receivables under the relevant contract, it is generally considered necessary to obtain a consent of the counterparty to the relevant contract with a date certain stamp of a notary public once the option right is exercised.

Since this option right is not a formal security interest recognised under the Japanese law, there is no concept of “perfection” for the grant of such option right. However, as the same with the security interest created over the receivables, a consent of the counterparty to the relevant contract with a date certain stamp of a notary public is generally obtained when the option right is granted.

2.3 Can security be taken over receivables where the chargor is free to collect the receivables in the absence of a default and the debtors are not notified of the security? Briefly, what is the procedure?

It is customary to create a security interest over receivables through either a pledge or a security assignment. In both cases, the security interest can be created by an agreement between the pledgor and pledgee, or assignor and assignee, without the direct involvement of the debtor, but those security interests are not perfected against the debtor until the debtor is notified of or acknowledges the creation of such security interest (please see question 2.2 for more details).

When a pledge or a security assignment has been created over the receivables, the pledgee or assignee can legally collect those receivables, but the pledgee or assignee commonly delegates the collection to the pledgor or assignor until a specific credit event, such as an event of default, occurs. Upon the enforcement of the security interest, typically by notifying the debtor of the intent to enforce the security interest and collect the receivables, the pledgee or assignee will directly collect the receivables from the debtor, and the pledgor or assignor are no longer allowed to collect the receivables by themselves.

2.4 Can security be taken over cash deposited in bank accounts? Briefly, what is the procedure?

Under Japanese law, cash is not recognised as an asset that can be the subject of a security interest. A security interest can be created over the bank accounts in the form of either a pledge or a security assignment over the contractual receivables against the bank with which the bank account is opened, where a pledge is the more commonly selected method. It should be noted that terms and conditions of deposit transactions of a bank usually prohibits the customer of the bank to create security interest over receivables under the deposit agreement, so the security provider should acquire the prior consent of the relevant depository bank to create pledges over the bank account.

In order to perfect the pledge against the depository bank and a third party, a date certain stamp of a notary public needs to be affixed to the consent of the depository bank.

2.5 Can security be taken over shares in companies incorporated in your jurisdiction? Are the shares in certificated form? Briefly, what is the procedure?

In the context of project financing in Japan, in many cases, a stock company (*kabushiki kaisha*) or a limited liability company (*godo kaisha*) is the type of entity selected as the project company, and the shares (in the case of a stock company) or membership interests (in the case of a limited liability company) in the project company are provided as security typically by way of a pledge. The perfection procedure over shares or membership interests differs depending on the type of entity and whether the share certificates are issued, as follows:

- in the case of a stock company where share certificates are issued, in order to create a pledge over the shares, physical delivery of the share certificates to the pledgee is necessary, and the pledge is perfected through the pledgee's continuous possession of the share certificates. However, a stock company commonly refrains from issuing share certificates, so this method is not commonly used in the context of project financing in Japan;

- in the case of a stock company where share certificates are not issued, the pledge is perfected upon recording the pledge in the shareholder ledger (*kabunushi meibo*) of the issuing company; and
- in the case of a limited liability company, a pledge created over a membership interest is considered to be perfected in the same manner as a pledge over receivables and, in practice, is perfected by obtaining the issuing company's (i.e. limited liability company's) consent with a date certain stamp of a notary public.

2.6 What are the notarisation, registration, stamp duty and other fees (whether related to property value or otherwise) in relation to security over different types of assets (in particular, shares, real estate, receivables and chattels)?

Registration tax

Registration taxes are imposed on (i) real estate mortgage registration at 0.4% of the registered secured obligations (and 0.25% for a factory foundation mortgage), (ii) movable assignment registration at JPY 7,500 per registration (up to 1,000 movable assets), and (iii) receivables pledge/assignment registration at JPY 7,500 per registration (up to 5,000 receivables). In practice, in order to avoid a large amount of registration tax for mortgage registration, it is sometimes agreed to use a provisional registration (*kari toki*) (for which the registration tax is JPY 1,000 per registration) for a real estate mortgage to ensure the ranking of the security interest, provided that subsequent definitive registration (*hon toki*) is necessary to implement foreclosure on the mortgage.

Fee to obtain date certain stamp

A date certain stamp can be obtained at a notary public and Legal Affairs Bureaus, at JPY 700 per case.

Stamp duty

Security assignment agreement of receivables may be subject to a stamp duty of JPY 200.

2.7 Do the filing, notification or registration requirements in relation to security over different types of assets involve a significant amount of time or expense?

See questions 2.2 and 2.6 above for the filing, notification or registration requirements and relevant expenses for each type of security interest. The most significant item is the registration tax for the mortgage registration, while other costs related to the creation and perfection of security interest are not substantial.

Also, the creation and perfection of security interests typically do not require much time as registration is considered to take place upon submission of the registration application.

However, with respect to factory foundation mortgages, in cases where the factory foundation is established with both real property and movables, a notice in relation to the factory foundation is required to be published in the official gazette (*kanpo*) and the factory foundation establishment cannot be completed until a specific period (ranging from one to three months) has passed without objection from interested parties. To avoid this waiting period, in the context of project financing in Japan, factory foundations are often established initially with real property only, and a mortgage is created over such factory foundations, while movables are separately secured

through security assignments. In such cases, movables will be subsequently integrated into the initial factory foundation by completing the necessary procedure, including the publication of notice in the official gazette and the lapse of the waiting period without objection from interested parties.

2.8 Are any regulatory or similar consents required with respect to the creation of security over real property (land), plant, machinery and equipment (e.g. pipeline, whether underground or overground), etc.?

In the case where a pledge or security assignment is created over the land lease right held by the project company, it is necessary to obtain the consent from the lessor (i.e. landowner) for the creation of such security interest. Generally, other than the above, no regulatory or similar consents are required with respect to the creation of security interests over real property, plant, machinery and equipment unless there are any contractual agreements with the relevant parties that require the consent of the counterparty when creating security interest over the subject asset.

3 Security Trustee

3.1 Regardless of whether your jurisdiction recognises the concept of a “trust”, will it recognise the role of a security trustee or agent and allow the security trustee or agent (rather than each lender acting separately) to enforce the security and to apply the proceeds from the security to the claims of all the lenders?

A security agent is commonly appointed for secured syndicated lending transactions in Japan, but its role is usually limited to clerical or administrative work. Under Japanese law, the holder of the security interest must be the same as the creditor of the claims that are secured by the security interest, except where a security trust is in place. In this connection, although the concept of a security trust is recognised in Japan, security trusts are not commonly used in project financing or other secured syndicated lending transactions in Japan, primarily for practical reasons such as costs. Accordingly, the practice for secured lending transactions is for each lender to be a secured party because a security agent is not permitted to hold and enforce a security interest securing claims owed to these lenders on their behalf.

On a related note, as mentioned in question 2.1 above, under the New Act, a security trust structure must be used when the lenders create an EVC over the debtor’s assets.

3.2 If a security trust is not recognised in your jurisdiction, is an alternative mechanism available (such as a parallel debt or joint and several creditor status) to achieve the effect referred to above which would allow one party (either the security trustee or the facility agent) to enforce claims on behalf of all the lenders so that individual lenders do not need to enforce their security separately?

The parallel debt structure has been debated among market players in Japan as an alternative to a security trust arrangement, but we do not see this structure used in the project finance market in Japan.

4 Enforcement of Security

4.1 Are there any significant restrictions which may impact the timing and value of enforcement, such as (a) a requirement for a public auction or the availability of court blocking procedures to other creditors/the company (or its trustee in bankruptcy/liquidator), or (b) (in respect of regulated assets) regulatory consents?

See question 5.1 below for the impact of legal insolvency proceedings. In this connection, project finance lenders seek to make the project company as remote as possible from legal insolvency proceedings by requesting a “non-petition letter” or including provisions in the relevant agreements that prohibit the counterparty of the agreement to file in any insolvency proceedings with regard to the project company.

In relation to renewable energy projects, effective from April 1, 2024, the amended Renewable Energy Act has introduced a new regulation providing that, for renewable energy power generation projects above a certain size, the project company must hold an explanatory meeting to local residents prior to the application to the relevant government agency for any transfer of the projects or a change of ownership of the equity interests in the project company, even if it occurs as a result of enforcement of security interests (including option rights) by the lenders.

As to private finance initiative (“PFI”) projects, a project company enters into project agreements with local authorities or governments and it is commonly required in those project agreements that the consent of such local authorities or governments would need to be obtained in relation to any transfer of the contractual status of the project company under the project agreements or shares in the project company, even if it occurs as a result of enforcement of security interests (including option rights) by the lenders. In addition, with respect to a mortgage over concession interests (*kokyoshisetsu uneiken*), created pursuant to the Act on Promotion of Private Finance Initiative (Act No. 117 of July 30, 1999), the consent of the grantor of the concession interests is required for any transfer of the concession interests upon enforcement of such concession interest mortgage, which is different from the requirements for other types of mortgages.

Furthermore, for PFI and FIT/FIP projects, such as offshore wind and other projects, that require contracts or licences with local authorities or governments, relevant authority or governmental approval is typically required to transfer the project or contractual status when the lenders enforce the security interests (including option rights).

4.2 Do restrictions apply to foreign investors or creditors in the event of foreclosure on the project and related companies?

In general, there are no restrictions for creating security interests to foreign lenders. Foreign lenders may take security interest in the same manner as Japanese lenders do and they are treated equally in judicial proceedings in Japan and there are no substantive legal restrictions that prevent foreign lenders from enforcing their rights.

With respect to foreclosure on the shares in the project company, see question 6.1 below.

5 Bankruptcy and Restructuring Proceedings

5.1 How does a bankruptcy proceeding in respect of the project company affect the ability of a project lender to enforce its rights as a secured party over the security?

Under Japanese law, there are four types of formal insolvency proceedings:

- bankruptcy proceedings (*hasan tetsuzuki*);
- civil rehabilitation proceedings (*minji saisei tetsuzuki*);
- corporate reorganisation proceedings (*kaisha kosei tetsuzuki*); and
- special liquidation proceedings (*tokubetsu seisan tetsuzuki*).

Among these four insolvency proceedings, corporate reorganisation proceedings and special liquidation proceedings are only available to a stock company.

In the event where insolvency proceedings commence with a project company, in general, creditors may not enforce their rights outside of those proceedings. However, the commencement of any insolvency proceedings, other than corporate reorganisation proceedings, does not affect the ability of the secured creditors to enforce their security interests outside of those proceedings. Accordingly, the secured creditors may collect their claims through the enforcement of security interests, even after the commencement of the relevant insolvency proceedings (however, under the civil rehabilitation proceedings and special liquidation proceedings, such enforcement may be subject to a suspension order by the courts). Conversely, under the corporate reorganisation proceedings, security interest becomes a security interest subject to the corporate reorganisation proceedings and secured creditors are prohibited to enforce their security interests and generally may only receive payments of their claims subject to a reorganisation plan. Since this adverse impact on the treatment of security interests under the corporate reorganisation proceedings can be significant, when lenders seek bankruptcy remoteness for a project company, they often require the project company to be a limited liability company as corporate reorganisation proceedings are only available to a stock company.

5.2 Are there any preference periods, clawback rights or other preferential creditors' rights (e.g. tax debts, employees' claims) with respect to the security?

Tax and labour claims are protected preferentially under insolvency laws in Japan and can be paid in preference under the relevant insolvency proceedings. However, as discussed in question 5.1 above, generally, a security interest established prior to the commencement of bankruptcy proceedings and rehabilitation proceedings can be enforced outside of those proceedings. Accordingly, such security interest has priority over tax and labour claims.

Under the bankruptcy proceedings or corporate reorganisation proceedings, the trustee (*kanzainin*) may exercise rights of avoidance (*hinin*) and, under the civil rehabilitation proceedings, the supervisor (*kantokuin*) (or where applicable, the trustee) may exercise rights of avoidance. If secured creditors obtain security for an existing debt knowing that the debtor has become "unable to pay debts", the security interests can be avoided. If the provision of security interests for

an existing debt was carried out within 30 days prior to the debtor becoming "unable to pay debts", in the event where the debtor did not owe any duty to provide such security interests, it can also be avoided. Furthermore, if secured creditors perfect security interests knowing, at such time, that the debtor has suspended its payments or a petition of insolvency proceedings has been filed, such perfection can be avoided in the event where the perfection is not made within 15 days after the security interests is created. In such a case, it should be noted that the secured creditors may not enforce their security interests out of the insolvency proceedings.

5.3 Are there any entities that are excluded from bankruptcy proceedings and, if so, what is the applicable legislation?

No private entities are excluded from insolvency proceedings in Japan, while governments and local municipalities are not subject to insolvency proceedings. In addition, as mentioned in question 5.1 above, special liquidation proceedings and corporate reorganisation proceedings are only available to a stock company.

5.4 Are there any processes other than court proceedings that are available to a creditor to seize the assets of the project company in an enforcement?

In principle, in order to enforce a security interest, the secured creditors must obtain a court judgment and then present it to the court for execution in accordance with the procedures provided in the Civil Execution Act (Act No. 4 of March 30, 1979) and other relevant regulations.

In general, enforcement of a security interest through the above court proceedings requires more time and cost than voluntary enforcement. Accordingly, in most cases, project lenders and project borrowers agree in the security agreements for project financing that, regardless of the type of security interests, in addition to the statutory procedures, the project lenders have the right to enforce the security interests out of court by selling or disposing of the secured property or acquiring it at its appraised value. It is generally considered that secured interests can be more quickly enforced and greater value can be realised from the enforcement if it is conducted out of court rather than through a court proceeding.

Project lenders in Japan typically are afforded "step-in" rights under the security agreement, enabling them to directly intervene in the project asset management and cash flow control. Generally, under this approach, project lenders try to "save" or revive the project so that they can improve project cash flow, which can be applied to the project debt.

5.5 Are there any processes other than formal insolvency proceedings that are available to a project company to achieve a restructuring of its debts and/or cramdown of dissenting creditors?

Separate from formal insolvency proceedings, a private liquidation procedure (*shiteki seiri tetsuzuki*) is available to a project company. The procedure starts when all interested creditors have agreed to it. As the procedure is voluntary and non-statutory, it is not mandatory for a creditor to consent to or accept it and it requires consent from all interested creditors.

5.6 Please briefly describe the liabilities of directors (if any) for continuing to trade whilst a company is in financial difficulties in your jurisdiction.

A director (*torishimariyaku*) of a stock company owes a duty of a good manager and a duty of loyalty to the company, subject to the business judgment rule. In addition, if there is wilful misconduct or gross negligence on the part of a director in performing its duty, under the Companies Act, the director may be liable to third parties, including creditors, for damages attributable to such actions. Accordingly, if a company continues to trade notwithstanding that the directors know that the company is in financial difficulties and is not reasonably likely to recover, then the directors might be held liable under the subsequent insolvency proceeding.

6 Foreign Investment and Ownership Restrictions

6.1 Are there any restrictions, controls, fees and/or taxes on foreign ownership of a project company?

Restrictions on foreign ownership of a Japanese company

According to the Foreign Exchange and Foreign Trade Act (Act No. 228 of December 1, 1949) (“**FEFTA**”), if a foreign investor has acquired shares or equity in a Japanese corporation (in case of a listed company, 1% or more of shares or equity in a Japanese listed company), the foreign investor shall report such holdings to the Ministry of Finance (“**MOF**”) and the relevant ministry via the Bank of Japan (“**BOJ**”). Also, if such Japanese corporation engages in certain designated business (such as electricity, oil, gas and mining), the foreign investor shall make advanced notice to the MOF and the relevant ministry via the BOJ, and the foreign investor may acquire the shares or equity only after the completion of the examination by the MOF and the relevant ministry.

Additionally, in certain industry sectors (such as airlines, telecommunications and broadcasting), the holding of shares by a foreign investor is restricted up to a certain threshold. For example, under the Civil Aeronautics Act (Act No. 231 of July 15, 1952), the holding of voting rights of Japanese airlines by foreign investors is limited to less than one-third of the total voting rights.

Taxations on foreign ownership of a Japanese company

In principle, if a foreign investor that has no permanent establishment in Japan (such as branches or offices) sold shares or equity of a Japanese corporation, no tax is imposed on the capital gain of the foreign investor. If a foreign investor receives dividend on shares or equity from a Japanese corporation, withholding income tax and special income tax are imposed currently at the rate of 15.315% for listed shares and at the rate of 20.42% for others.

6.2 Are there any bilateral investment treaties (or other international treaties) that would provide protection from such restrictions?

In relation to the restrictions, though Japan executes bilateral investment treaties with various countries, in principle these treaties do not provide protection from the above restrictions.

In relation to the taxations, according to the website of MOF, as of March 1, 2025, Japan has executed 74 tax treaties, which are applicable to 81 countries and regions, and if the foreign

investor belongs to a country that executes a double taxation treaty with Japan, the withholding income tax can be reduced or exempted depending on the terms of the double taxation treaty.

6.3 What laws exist regarding the nationalisation or expropriation of project companies and assets? Are any forms of investment specially protected?

Under the Expropriation of Land Act (Act No. 219 of June 9, 1951), the expropriation of lands is permitted for the businesses that contribute public interests with appropriate compensation. Such businesses include the businesses relating to public roads, railways, airports, oil pipelines, electricity transmission lines and electricity power plants. Also, the Act on the Review and Regulation of the Use of Real Estate Surrounding Important Facilities and on Remote Territorial Islands (Act No. 84 of June 23, 2021) (“**Important Real Estate Regulation Law**”) states that, in certain situations, the Japanese government shall endeavour to purchase lands surrounding important facilities (facilities such as defence-related facilities, nuclear-related facilities or airports). There is no protection for a specific form of foreign investment from the expropriation under the Expropriation of Land Act.

7 Government Approvals / Restrictions

7.1 What are the relevant government agencies or departments with authority over projects in the typical project sectors?

In respect of renewable energy projects, the Ministry of Economy, Trade and Industry (“**METI**”) is the most relevant government department. The METI (especially the Agency for Natural Resources and Energy, which is an internal agency of the METI) administrates regulations under the Renewable Energy Act and the Electricity Business Act. The Renewable Energy Act regulates the development and operation of renewable energy projects, which is subject to the FIT/FIP scheme. The Electricity Business Act regulates electricity-related business, such as the retail electric business, the electricity transmission and distribution business, and the electricity generation business, including renewable energy power projects and BESS projects.

Other governmental departments are also relevant to renewable energy projects. For example, under the Marine Area Renewable Energy Act, the METI and the Ministry of Land, Infrastructure, Transport and Tourism (“**MLIT**”) conduct public tenders for offshore wind power projects, and the Ministry of the Environment has certain authority on the environmental impact assessment, as explained in question 7.9 below.

Also, local governments (prefectures, cities, towns, and villages) have authority for provision of certain permits relevant to the development and operation of renewable energy projects.

7.2 Must any of the financing or project documents be registered or filed with any government authority or otherwise comply with legal formalities to be valid or enforceable?

Basically, financing and project documents do not need to be registered or filed or comply with any legal formalities in order to be valid or enforceable. However, certain types of real estate

lease agreements and personal guarantee agreements must be executed in notarised document form (*kousei shosho*). Also, as explained above, registration is required for the perfection of certain types of security interests.

7.3 Does ownership of land, natural resources or a pipeline, or undertaking the business of ownership or operation of such assets, require a licence (and if so, can such a licence be held by a foreign entity)?

In general, no licence is required for owning lands under Japanese laws, and foreign investors may own lands. However, there are certain restrictions on holding ownership of or creating usage rights over certain type of lands. For example, under Cropland Act (Act No. 249 of July 15, 1952), in order to acquire ownership of or create usage right over croplands, an approval from the local board of agriculture is required.

Licences or permits are required to extract or use natural resources. For example, under the Mining Act (Act No. 289 of December 20, 1950), a licence is required to extract natural resources, such as natural gas or crude oil. Also, under the Hot Springs Act (Act No. 125 of July 10, 1948), a permission is required to extract or use hot springs (which may be used for geothermal power generation). Under the Petroleum Pipeline Business Act (Act No. 105 of June 26, 1972), a permission is required to transport petroleum through pipelines.

7.4 Are there any royalties, restrictions, fees and/or taxes payable on the extraction or export of natural resources?

In respect of extraction of natural resources, taxes and fees are imposed on the extraction of natural resources. For example, certain taxes and fees are imposed on a person who is authorised to extract natural resources under the Mining Act, the rate of which may vary depending on the location and the natural resources.

In relation to exportation of natural resources, there is no general export restriction for natural resources, provided that they do not fall into the exceptional categories as set forth in the Export Trade Control Ordinance (Ordinance of the Ministry of International Trade and Industry No. 64 of December 1, 1949). No tax is imposed on the export of natural resources.

7.5 Are there any restrictions, controls, fees and/or taxes on foreign currency exchange?

In addition to the reporting and notification requirement as set forth in question 6.1 above, under FEFTA, a subsequent reporting to the MOF and the relevant ministry via the BOJ is required: (i) if a foreign investor makes a loan to, or purchases bonds from, a Japanese corporation of more than JPY 100 million whose term exceeds one year and, after the loan or the purchase of bonds, the aggregate amount of the debts of the Japanese corporation from foreign investors exceeds 50% of the total amount of the debts, or if a foreign investor owning shares or equity of a Japanese corporation (in case of a listed company, more than certain thresholds) approves or consents certain matters (such as appointment of directors or auditors, or change of corporate purposes in the articles of incorporation); and (ii) if the Japanese corporation conducts certain designated business as explained in question 6.1 above (or in case of the change of the corporate purposes, the articles of

incorporation is changed to include such designated businesses), an advanced notice to the MOF and the relevant ministry via the BOJ is required.

In addition, if there was any remittance or receipt of a remittance for more than JPY 30 million between a Japan resident and a foreign resident for a purpose other than a trade payment, the Japanese resident is required to make a subsequent report to the BOJ.

7.6 Are there any restrictions, controls, fees and/or taxes on the remittance and repatriation of investment returns or loan payments to parties in other jurisdictions?

Under the Income Tax Act (Act No. 33 of March 31, 1965) and the Corporate Tax Act (Act No. 34 of March 31, 1965), the scope of taxable income of a foreign investor is limited to domestic sourced income and, in general, unless a foreign investor has no permanent establishment in Japan (such as branches or offices), income tax or corporate tax is not imposed on the foreign investor's income, such as capital gain from the sale of shares or equity of a Japanese corporation.

Withholding income tax is imposed on the dividends on shares or equity or on the interests on a loan received from a Japanese corporation currently at the rate of 20.42%.

7.7 Can project companies establish and maintain onshore foreign currency accounts and/or offshore accounts in other jurisdictions?

In principle, there is no restriction on establishing and maintaining onshore foreign currency accounts or offshore accounts in other jurisdictions under Japanese law.

However, there are certain reporting requirements. For example, under FEFTA, if a Japanese resident owns offshore deposits with the balance of more than JPY 100 million at the end of a month, such Japanese resident is required to make a report to the BOJ. Also, under the Act on Submission of Statement of Overseas Wire Transfers for Purpose of Securing Proper Domestic Taxation (Act No. 110 of 1997), if a Japanese resident owns assets located outside Japan (including offshore deposits) with the cumulative value of more than JPY 50 million at year-end, such Japanese resident is required to make a filing with the relevant local tax office.

7.8 Is there any restriction (under corporate law, exchange control, other law or binding governmental practice or binding contract) on the payment of dividends from a project company to its parent company where the parent is incorporated in your jurisdiction or abroad?

Under the Companies Act, a stock company, which is a stock corporation-type entity, may not distribute the distributable amount if its net asset does not exceed JPY 3 million. On the other hand, a limited liability company, which is a limited liability company-type entity, has no such restriction and may distribute the distributable amount irrespective of its net asset amount. There is no difference on this point whether the parent is incorporated in Japan or abroad.

Also, as stated above, subsequent reporting to the BOJ is required for the remittance, or receipt of a remittance, of more than JPY 30 million between a Japanese resident and a foreign resident for purposes other than trade payments.

7.9 Are there any material environmental, health and safety laws or regulations that would impact upon a project financing and which governmental authorities administer those laws or regulations?

There are various regulations including local regulations relevant to environment, health and safety issues. Notably, under the Environmental Impact Assessment Act (Act No. 81 of June 13, 1997) and the Electricity Business Act, if a project company conducts the development of certain types of projects or projects exceeding a certain size, an environmental impact assessment is required. In this process, the project company is required, among others, to: prepare a primary environmental impact consideration document and a planning document; conduct a public hearing; conduct research and evaluation; and prepare an environmental impact assessment statement. This process is a requirement to obtain certain governmental approvals, such as a forest development permit under the Forest Act (Act No. 249 of June 26, 1951).

This environmental impact assessment is required depending on the type of project and the size of the project. For example, for a solar power project with the output capacity exceeding 40,000kW and for a windfarm project with the output capacity exceeding 50,000kW, this environmental impact assessment is mandatorily required.

7.10 Is there any specific legal/statutory framework for procurement by project companies?

Under the Act on Specified Joint Real Estate Ventures (Act No. 77 of June 29, 1994), if a person (i) receives contribution under a certain partnership agreement, (ii) conducts real estate transactions such as purchase and sale of certain type of lands, and (iii) distributes profit from such transactions to the partner of the partnership, such activity is applicable to the Specified Joint Real Estate Ventures Business and the person is required to obtain the permission for conducting the Specified Joint Real Estate Ventures Business. In renewable energy projects, there are cases where a project company receives contribution under the partnership agreement (typically a *tokumei kumiai* agreement) and acquires ownership of the project sites, and whether such transaction is applicable to the Specified Joint Real Estate Ventures Business is often an issue. In such projects, lenders often require a memorandum from the legal counsel of the project company explaining whether such transactions in the relevant project is not applicable to the Specified Joint Real Estate Ventures Business as a condition precedent for the disbursement of a loan.

8 Foreign Insurance

8.1 Are there any restrictions, controls, fees and/or taxes on insurance policies over project assets provided or guaranteed by foreign insurance companies?

Under the Insurance Business Act (Act No. 105 of June 7, 1995), in principle, foreign insurance companies may not provide insurance to projects in Japan without obtaining an appropriate licence. Thus, in general, insurance over project assets located in Japan are provided by Japanese insurance companies or licensed foreign insurance companies having an office or branch in Japan.

A typical insurance package for renewable energy projects in Japan includes (i) construction insurance during the construction period, (ii) comprehensive property insurance, (iii) liability insurance, and (iv) profit insurance after the completion of the construction.

8.2 Are insurance policies over project assets payable to foreign (secured) creditors?

In general, insurance policies over project assets are payable to foreign (secured) creditors.

9 Foreign Employee Restrictions

9.1 Are there any restrictions on foreign workers, technicians, engineers or executives being employed by a project company?

Subject to the regulations under general Japanese labour laws and the requirements of an appropriate visa pursuant to the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of October 4, 1951), there are no specific restrictions on employing foreign workers, technicians, engineers, or executives for a project in Japan. However, in renewable energy projects, a project company is generally an SPC and does not hire any employee. Such project company outsources the management and operations of the renewable energy plant to outside service providers.

10 Equipment Import Restrictions

10.1 Are there any restrictions, controls, fees and/or taxes on importing project equipment or equipment used by construction contractors?

The Customs Act (Act No. 61 of April 2, 1954) restricts importing certain categories of items, such as arms and weapons and, unless project equipment or equipment used by construction contractors do not apply to such category, importing such equipment is not restricted. However, customs duties can be imposed on importing such equipment.

10.2 If so, what import duties are payable and are exceptions available?

Tariff rates differ depending on various factors, such as the type of goods and the country where such goods are imported.

11 Force Majeure

11.1 Are force majeure exclusions available and enforceable?

Although there is no legislation that specifically defines *force majeure*, Japanese law generally recognises *force majeure* in certain circumstances and the exclusion of *force majeure* is included in many project agreements, such as an engineering, procurement and construction (“EPC”) contract or other construction agreements. However, in case of monetary payment obligation, the Civil Code (Act No. 89 of April 27, 1896) prohibits *force majeure* as a defence for the failure of performance.

12 Corrupt Practices

12.1 Are there any rules prohibiting corrupt business practices and bribery (particularly any rules targeting the projects sector)? What are the applicable civil or criminal penalties?

Under the Penal Code (Act No. 45 of April 24, 1907), if a public officer accepts, solicits or promises to accept a bribe in connection with his/her duties, the public officer is subject to imprisonment for five to seven years. If such public officer conducts improper action or refrains from exercising his/her duties after the acceptance of such bribe, such public officer is subject to imprisonment for between one and 20 years. A person who gives, offers or promises to give a bribe to such public officer is also subject to imprisonment for up to three years or a fine up to JPY 2.5 million.

Under the Unfair Competition Prevention Act (Act No. 47 of May 19, 1993), if a person gives, offers or promises to give a bribe to a foreign public officer, such person is subject to imprisonment for up to five years, a fine of up to JPY 5 million, or both. This applies for any person (including foreign nationals) who commits such act within Japan, and in case of Japanese nationals, who commit such act even outside Japan.

Under the Companies Act, if, upon improper request, directors or certain other senior officers accept, solicit or promise to accept a bribe in connection with their duties, they are subject to imprisonment for up to five years or a fine of up to JPY 5 million. A person who gives, offers or promises to give a bribe to such directors or certain other senior officers is also subject to imprisonment of up to three years or a fine of up to JPY 3 million. Also, under the Companies Act, if, upon improper request, a person accepts, solicits or promises to accept a bribe in connection with the exercise of certain rights as a shareholder, creditor or bondholder, such person is subject to imprisonment of up to five years or a fine of up to JPY 5 million, and the person who gives, offers or promises to give a bribe is subject to the same imprisonment and fine. Further, if senior corporate officers or employees give property benefits on behalf of a stock company in return for the exercise of shareholder rights in a certain way, such officers or employees are subject to imprisonment for up to three years or a fine of up to JPY 3 million.

13 Applicable Law

13.1 What law typically governs project agreements?

Under Japanese law, parties usually choose Japanese law as the governing law of project agreements (though, in general, parties are free to choose the governing law of project agreements). However, certain agreements (such as EPC contracts, turbine supply agreements or other project agreements) are governed by non-Japanese law if the counterparty of such agreement is a foreign entity.

13.2 What law typically governs financing agreements?

Financing agreements in Japan are typically governed by Japanese law. In relation to certain security agreements, please see question 13.3 below.

13.3 What matters are typically governed by domestic law?

As explained above, agreements are usually governed by Japanese law and, therefore, in general all matters are governed by Japanese law. However, under the Act on General Rules for Application of Laws (Act No. 78 of June 21, 2006), which states Japanese conflict of law rules, certain matters, such as employment, consumer protection and property rights (including security interests) relating to movable assets and real estate located in Japan and other registerable rights shall be governed by Japanese law. For example, if a project company creates a superficies right over the project site and lenders create a mortgage over the superficies right, the matters relating to such superficies right and such security interests shall be governed by Japanese law.

14 Jurisdiction and Waiver of Immunity

14.1 Is a party's submission to a foreign jurisdiction and waiver of immunity legally binding and enforceable?

Under Japanese law, a parties' agreement for a submission to a foreign jurisdiction or for a waiver of immunity is legally binding and enforceable.

With respect to a submission to a foreign jurisdiction, under the Code of Civil Procedure (Act No. 109 of June 26, 1996), parties may agree to submit to a foreign jurisdiction if such agreement is made in writing and in relation to certain specific matters.

With respect to a waiver of immunity, under the Civil Jurisdiction of Japan with Respect to Foreign Countries (Act No. 24 of April 24, 2009), a foreign country and its governmental institutions have immunity from the jurisdiction of Japanese civil procedure, except for certain cases such as waving its immunity in writing or existence of a treaty or other international agreements. Also, there are certain cases where a foreign country and its governmental institutions are deemed to waive its immunity, such as filing an action or any other petition for commencement of a judicial proceeding or making a statement on the merits of a judicial proceeding without objection or qualification.

15 International Arbitration

15.1 Are contractual provisions requiring submission of disputes to international arbitration and arbitral awards recognised by local courts?

Japanese courts recognise a party's agreement for submission of disputes to international arbitration.

Under the Arbitration Act (Act No. 138 of August 1, 2003), an arbitral award has the same effect as a final binding court judgment, irrespective of whether such arbitral award is made within or outside of Japan.

15.2 Is your jurisdiction a contracting state to the New York Convention or other prominent dispute resolution conventions?

Japan is a party to the New York Convention. Also, Japan is a party to the Washington Convention and became a party to the Singapore Convention on Mediation in 2023.

15.3 Are any types of disputes not arbitrable under local law?

Under the Arbitration Act, types of a dispute subject to arbitration are limited to civil dispute matters that can be settled by a settlement between the parties (excluding disputes of divorce or dissolution of an adoptive relationship). Also, under the Arbitration Act, an agreement between an employee and employer to arbitrate a future labour dispute is unenforceable, and an agreement between a business operator and an individual consumer to arbitrate a future dispute is cancellable by such individual consumer.

15.4 Are any types of disputes subject to mandatory domestic arbitration proceedings?

Under the Civil Mediation Act (Act No. 222 of June 9, 1951), in relation to certain types of disputes such as a dispute for increasing/decreasing rent under certain types of ground or building lease agreements or a dispute for divorce, a plaintiff shall first file a petition for mediation prior to filing a lawsuit to a relevant court.

16 Change of Law / Political Risk

16.1 Has there been any call for political risk protections such as direct agreements with central government or political risk guarantees?

There has been no call for political risk protections in the Japanese project finance market. In certain PFI/Public-Private Partnership projects, lenders enter into direct agreements with a local government sponsoring the project and agree on, among others, the lenders' security arrangements and cooperation and support by such local government in certain situations.

17 Tax

17.1 Are there any requirements to deduct or withhold tax from (a) interest payable on loans made to domestic or foreign lenders, or (b) the proceeds of a claim under a guarantee or the proceeds of enforcing security?

When a foreign investor (including individual and corporation) receives interest on loans from a Japanese company, withholding income tax can be applied, currently at the rate of 20.42%. Also, the proceeds of a claim under a guarantee or the proceeds of enforcing security payable to a foreign resident can also be subject to withholding income tax, currently at the rate of 20.42%, if the interest on the underlying loan is subject to withholding income tax.

However, as mentioned above, if the foreign investor belongs to a country that executes a double taxation treaty with Japan, the withholding income tax can be reduced or exempted depending on the terms of the double taxation treaty.

17.2 What tax incentives or other incentives are provided preferentially to foreign investors or creditors? What taxes apply to foreign investments, loans, mortgages or other security documents, either for the purposes of effectiveness or registration?

As stated above, withholding income tax applicable to

dividends and interest may be reduced or exempted if there is a double taxation treaty between Japan and the foreign investor's residence country, subject to the satisfaction of applicable treaty requirements.

Registration tax is imposed on the registration of certain rights, including security interests. Also, certain project finance agreements, such as a loan agreement, are subject to Japanese stamp duties if such agreement is executed in Japan.

18 Other Matters

18.1 Are there any other material considerations which should be taken into account by either equity investors or lenders when participating in project financings in your jurisdiction?

In relation to investment at the development stage, various regulations are applied for the development of projects. Necessary permits or licences can differ depending on the site or type of facilities, and they are handled by the relevant government or local government. Sometimes administrative officers of relevant authority have broad discretion on permits or licence application procedures.

In relation to equity investment, especially investment at the development stage, there are cases where an equity investor who is the sponsor of the project is required by lenders to execute a sponsor support agreement or a sponsor support letter for the allocation of risks associated with the project. In a sponsor support agreement or sponsor support letter, a sponsor is typically required to, among others, (i) provide support for the project, (ii) inject additional equity contributions upon occurrence of certain events, and (iii) undertake or not take certain actions.

In relation to lending, loans for project financings are generally subject to the Money Lending Business Act (Act No. 32 of May 13, 1983), which requires registration with the authority and compliance with certain obligations.

18.2 Are there any legal impositions to project companies issuing bonds or similar capital market instruments? Please briefly describe the local legal and regulatory requirements for the issuance of capital market instruments.

Under the Financial Instruments and Exchange Act (Act No. 25 of April 13, 1948) ("FIEA"), bonds and other similar capital market instruments are treated as securities (*yuka shoken*) and public offering of such instruments can be subject to the disclosure requirement under the FIEA, such as filing the security registration statement and preparing the security reports. There are certain exemptions for such disclosure requirements, such as private placement only for certain professional investors or only for the limited number of investors.

19 Islamic Finance

19.1 Explain how *Istina'a*, *Ijarah*, *Wakala* and *Murabaha* instruments might be used in the structuring of an Islamic project financing in your jurisdiction.

Istina'a, *Ijarah*, *Wakala* and *Murabaha* instruments are not used in typical project financing in Japan.

19.2 In what circumstances may *Shari'ah* law become the governing law of a contract or a dispute? Have there been any recent notable cases on jurisdictional issues, the applicability of *Shari'ah* or the conflict of *Shari'ah* and local law relevant to the finance sector?

Under Japanese conflict of law rules, *Shari'ah* law would not be treated as a governing law in Japanese courts. There is no notable court case in Japan addressing *Shari'ah* law issues.

19.3 Could the inclusion of an interest payment obligation in a loan agreement affect its validity and/or enforceability in your jurisdiction? If so, what steps could be taken to mitigate this risk?

An interest payment obligation is valid and enforceable, and such obligation is included in loan agreements for project financing in Japan. However, under the Interest Rate Restriction Act (Act No. 100 of May 15, 1954), interest payment obligation at the rate exceeding statutory cap (15% to 20% *per annum*, depending on the loan amount) is invalid and unenforceable.



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