

Securities Regulatory Framework: Overview (Japan)

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Practice note: overview | [Law stated as of 01-Nov-2024](#) | Japan

A Practice Note providing an overview of the regulatory framework for securities transactions in Japan. In particular, this Note examines the Financial Instruments and Exchange Act (Act No. 25 of 13 April 1948), and its regulations. This Note also discusses the principal regulatory agencies in Japan and how securities laws apply to foreign issuers.

Lawyers in jurisdictions outside Japan may need to advise clients in their home jurisdiction in connection with securities transactions involving Japan. For example, a non-Japanese company may want to raise capital by selling securities in Japan or to invest in securities issued by companies based or listed in Japan. A basic understanding of the securities regulatory framework in Japan would be helpful in these situations.

In Japan, securities transactions are regulated at the national level by:

- The Financial Instruments and Exchange Act (Act No. 25 of 13 April 1948) (FIEA).
- The Order for Enforcement of the Financial Instruments and Exchange Act (Cabinet Order No. 321 of 30 September 1965) (Enforcement Order).
- Cabinet Office Ordinances under the FIEA and the Enforcement Order. The Cabinet Office Ordinances regarding disclosures (which each apply for different types of securities) are:
 - Cabinet Office Ordinance on Disclosure of Corporate Affairs (Ministry of Finance Ordinance No. 5 of 30 January 1973) (Disclosure Ordinance);
 - Cabinet Office Ordinance on Disclosure of Information on Specified Securities (Ministry of Finance Ordinance No. 22 of 3 March 1993) (Specified Securities Ordinance); and
 - Cabinet Office Order on Disclosure of Information on Issuers of Foreign Government Bonds (Ministry of Finance Ordinance No. 26 of 27 April 1972) (Foreign Bonds Ordinance).

The Financial Services Agency (FSA) is the principal regulatory agency for securities (see [Principal Regulatory Agencies in Japan](#)).

Principal Securities Laws in Japan

Registration and Prospectus Requirements

The FIEA requires registration for a public offering of newly issued securities or a secondary distribution of securities. No solicitation for a public offering or secondary distribution of securities can take place before the issuer files a securities

registration statement with a Director General of a Local Finance Bureau (LFB) or Local Finance Branch Bureau (LFBB), unless an exemption applies (Article 4(1), FIEA).

Once a securities registration statement is filed, solicitation for subscriptions or purchases of securities can begin. However, investors can only acquire the securities after the securities registration statement becomes effective (Article 15(1), FIEA). A securities registration statement automatically becomes effective 15 days from the day of filing, but the LFB or LFBB can shorten or extend this period (Article 8, FIEA).

If an issuer is obliged to file a securities registration statement in connection with a public offering or secondary distribution, the issuer must, in principle, prepare a prospectus (Article 13(1), FIEA). Prospectuses must contain the information required to be included in the securities registration statement, and certain additional matters (Article 13(2), FIEA).

A prospectus must be delivered before, or at the time when, subscribers or purchasers acquire the securities (Article 15(2), FIEA). For securities to be issued by domestic and foreign investment trusts and investment corporations, part of the prospectus can be delivered only to those subscribers who request it, while the other part must be delivered to all subscribers (Article 13(3), FIEA; Article 3-2, Enforcement Order).

Registration Requirement Exemptions

The registration and prospectus requirements under the FIEA apply to public offerings or secondary distributions of securities. Certain private transactions are excluded from these types of transactions, and therefore are exempt from the registration and prospectus requirements. Specifically:

- Private placements are excluded from public offerings of newly issued securities (Article 2(3), FIEA; Articles 1-4 to 1-7-2, Enforcement Order; Articles 11 to 13, Definition Ordinance).
- Private secondary distributions are excluded from secondary distributions of already issued securities (Article 2(4), FIEA; Articles 1-7-4 to 1-8-5, Enforcement Order; Articles 13-4 to 13-7, Definition Ordinance).

Whether a transaction qualifies as an excluded private placement or private secondary distribution depends in part on the type of securities involved. The FIEA defines two types of securities, Paragraph 1 Securities and Paragraph 2 Securities. Paragraph 1 Securities include share certificates, share option certificates, bonds, and other high-liquidity securities. Paragraph 2 Securities include beneficial rights of trust, membership rights of limited liability companies, and other low-liquidity securities.

Three types of transactions involving Paragraph 1 Securities qualify as private placements or private secondary distributions. These are transactions, subject to certain conditions, where solicitations for acquisition are made only to:

- Qualified institutional investors.
- Specified investors (including qualified institution investors and certain governmental and corporate entities).
- No more than 49 investors.

Only one type of transactions involving Paragraph 2 Securities qualifies as private placements or private secondary distributions. These are transactions that will not result in the securities being owned by 500 or more persons who respond to the solicitation.

In addition, certain transactions that are not private secondary distributions are also excluded from secondary distributions, based on the parties involved, trading venue, overseas origin of the securities, and other factors.

Even if a transaction constitutes a public offering or secondary distribution, there are exemptions from the obligation to file a securities registration statement. For example, public offerings or secondary distributions are exempted from the obligation to file a securities registration statement if their total issue value or total distribution value is less than JPY100 million (Article 4(1)(v), FIEA). However, the issuer must file a securities notice with a Director General of LFB or LFBB before solicitation of investors, unless the total issue value or total distribution value is less than JPY10 million (Article 4(6), FIEA). Far less information is included in a securities notice than in a securities registration statement, and securities notices are not subject to public inspection.

For further information on exemptions from the registration and prospectus requirements, see [Practice Note, Private Placements and Other Exempt Offerings: Overview \(Japan\)](#).

Form of Securities Registration Statement

The form, contents and attachments of a securities registration statement are stipulated by a Cabinet Office Ordinance. A securities registration statement by a corporate issuer must include the following (Article 5(1), FIEA):

- Information concerning the public offering or secondary distribution of the securities (securities information).
- An outline of the issuing company, its business, accounting and other material matters concerning the company's business (company information).
- Other matters specified by a Cabinet Office Ordinance.

If a company that is not subject to continuous disclosure requirements conducts public offerings or secondary distributions with a total issue value or total distribution value of less than JPY500 million, the company can omit certain company information (Article 5(2), FIEA).

A securities registration statement can be prepared by inserting the issuer's latest securities report and other prescribed disclosure documents (the incorporation method), if the issuer has filed securities reports as required for at least one year (Article 5(3), FIEA).

A securities registration statement can also be prepared by referring to the information contained in the issuer's latest securities report and other prescribed disclosure documents (the reference method), if the issuer has filed securities reports as required for at least one year, and the issuer meets certain numerical conditions (for example, a three-year average market capitalization of at least JPY25 billion) prescribed in a Cabinet Office Ordinance (Article 5(4), FIEA).

Shelf Registration

If an issuer satisfies the requirements for registration by the reference method, and the intended total amount of the offering is JPY100 million or more, the issuer can register the proposed offering by filing a "shelf registration statement," instead of filing a securities registration statement.

The form, contents and attachments of a shelf registration statement are stipulated by a Cabinet Office Ordinance (Article 23-3(1), FIEA), and include:

- The period in which the relevant public offering or secondary distribution is planned (for either one year or two years).
- The type of securities.
- The maximum issue or distribution value.

- The anticipated principal underwriters.

In general, a shelf registration statement becomes effective 15 days from the day of filing (Article 23-5, FIEA).

After a shelf registration statement becomes effective, investors can acquire the securities once the issuer has filed a shelf registration supplement, unless an exemption applies (Article 23-8(1), FIEA). The form, contents and attachments of a shelf registration supplement are stipulated by a Cabinet Office Ordinance (Article 23-8(1), FIEA), but must include the total issue value or total distribution value, and the other terms of the offering.

A supplementary shelf registration prospectus must be delivered before, or at the same time that, the subscribers or purchasers acquire the securities (Articles 23-12(3) and 15(2), FIEA).

Amendments

An issuer must file an amendment to the securities registration statement in certain circumstances (Article 7, FIEA). For example:

- Where there are changes to material facts stated on the securities registration statement or its attached documents.
- Where material facts that should have been stated on the relevant securities registration statement or its attached documents, but that were not included, become available.
- Where the registrar identifies matters described in the securities registration statement that must be revised.

Article 23-4 of the FIEA provides a similar amendment requirement for shelf registration statements.

Solicitation Using Materials Other Than a Statutory Prospectus

Documents, drawings, sounds and other materials that would not comprise a statutory prospectus can be used for the public offering or secondary distribution in addition to a statutory prospectus. However, false and misleading indications are not permitted (Articles 13(4) and 23-12(2), FIEA).

Sanctions

There are criminal penalties for violation of the registration or prospectus requirements. For example:

- A person who conducts public offerings or secondary distributions of securities without filing a securities registration statement is liable to a sentence of imprisonment with work for not more than five years, or a fine of not more than JPY5 million, or both (Article 197-2(i), FIEA).
- A person who submits a securities registration statement that includes false statements regarding material matters is liable to a sentence of imprisonment with work for not more than ten years, or a fine of not more than JPY10 million, or both (Article 197(1)(i), FIEA).
- A person who sells, or induces another person to acquire, securities through a public offering or secondary distribution without delivering a prospectus in advance or concurrently, is liable to a sentence of imprisonment with work for not more than one year, or a fine of not more than JPY1 million, or both (Article 200(iii), FIEA).

If the representative of a natural or legal person (or an agent, employee or other worker of a legal person) commits certain violations against these registration and prospectus requirements (or other requirements under the FIEA, such as the continuous

disclosure requirements) in connection with the business or property of the natural or legal person, the relevant natural or legal person is also liable to a fine (Article 207, FIEA).

Persons who violate the registration or prospectus requirements are subject to administrative monetary penalties (Articles 172 and 173, FIEA). The penalty is determined regardless of the amount of profit actually made by the offender, and is calculated in accordance with the [Cabinet Office Ordinance on Administrative Monetary Penalty under the Provisions of Chapter VI-2 of the Financial Instruments and Exchange Act \(Cabinet Office Ordinance No. 17 of 4 March 2005\)](#) (Administrative Monetary Penalty Ordinance).

There are several provisions for civil liability of persons who violate the registration or prospectus requirements (Articles 16 to 22, FIEA). These provisions modify the rights to claim damages for tortious behavior, and include changes in the burden of proof.

Continuous Disclosure Requirements

Issuers of certain categories of securities are subject to continuous disclosure obligations, and must submit annual securities reports, semi-annual securities reports, and extraordinary reports, unless an exemption applies (Article 24(1), FIEA). These categories are:

- Securities listed on a securities exchange (Article 24(1)(i), FIEA), such as the Tokyo Stock Exchange.
- Securities traded on an over-the-counter (OTC) market for specified investors only (Article 24(1)(ii), FIEA; Article 3-6(4), Enforcement Order).
- Securities for which a securities registration statement or shelf-registration supplement has been filed (Article 24(1)(iii), FIEA).
- Shares of stock and other securities specified by the Enforcement Order, of which 1,000 or more were held at the end of any of the previous five business years (Article 24(1)(iv), FIEA; Articles 3-6(5) and (6), Enforcement Order).

Securities Report

An issuer subject to the continuous disclosure requirements must prepare a securities report and file it with a Director General of LFB or LFBB within three months of the end of each accounting period.

The form, contents and attachments of a securities report are stipulated by a Cabinet Office Ordinance. A securities report by a corporate issuer must state, among other information, the accounting status of the corporate group to which it belongs, and of itself, and other material matters concerning its business.

Semi-Annual Report

An issuer subject to the continuous disclosure requirements must prepare a semi-annual securities report and file it with a Director General of LFB or LFBB within three months of the end of first six months of each accounting period, if the issuer's accounting period is longer than six months.

The form, contents and attachments of a semi-annual securities report are stipulated by a Cabinet Office Ordinance, and there are many items that must be stated only when there are material changes.

The obligation for corporate issuers to file quarterly securities reports was repealed with effect from 1 April 2024.

Extraordinary Report

An issuer subject to the continuous disclosure requirements must prepare and file extraordinary reports without delay with a Director General of LFB or LFBB, if certain important events occur (Article 24-5(4), FIEA). These events are stipulated by a Cabinet Office Ordinance. For example, corporate issuers must file an extraordinary report if the following events occur:

- Pertaining to the reporting company:
 - a public offering or secondary distribution of securities overseas;
 - issuance of securities by private placement;
 - changes in its parent company or specified subsidiary companies;
 - changes in its major shareholders;
 - occurrence of a serious disaster;
 - filing or settlement of a suit for damages against the issuer;
 - a decision to carry out certain mergers or reorganizations;
 - a decision on transfer or acquisition of material businesses;
 - a change of representative director;
 - resolutions of general shareholders' meetings;
 - a change of certified public accountants for audits;
 - filing of a petition for commencement of bankruptcy proceedings; and
 - the occurrence of events that significantly affect the financial position, operating results, and cash flows of the issuer.

- Pertaining to consolidated subsidiaries:
 - occurrence of a serious disaster;
 - filing or settling of a suit for damages against a consolidated subsidiary;
 - a decision to carry out certain mergers or reorganizations;
 - a decision on transfer or acquisition of material businesses;
 - a decision on the acquisition of a subsidiary;
 - filing of a petition for the commencement of bankruptcy proceedings; and
 - occurrence of events that significantly affect the financial position, operating results, and cash flows of the issuer.

(Article 19(2), Disclosure Ordinance.)

The form, contents and attachments of an extraordinary report are stipulated by a Cabinet Office Ordinance.

Internal Control Report

A company must submit an internal control report if it issues share certificates that are listed or OTC registered, or other securities stipulated by a Cabinet Office Ordinance. The company submits this with the annual securities report, and to the same authority (see [Securities Report](#)) (Article 24-4-4(1), FIEA; Article 4-2-7(1), Enforcement Order).

The matters to be stated in an internal control report are stipulated in the Cabinet Office Ordinance on the System for Ensuring the Appropriateness of Documents on Financial Calculation and Other Information (Cabinet Office Ordinance No. 62 of 10 August 2007, Cabinet Office Ordinance on Internal Controls). These include:

- The basic framework of internal controls concerning financial reporting.
- The scope of evaluation.
- Matters regarding the reference date and the evaluation procedure.
- Matters regarding the evaluation results.
- Supplementary notes and special notes.

Internal control reports must be audited by a certified public accountant or auditing firm that has no special interests in the reporting company (Article 193-2(2), FIEA). The audit certification must be provided as part of an internal control audit report (Article 1(2), Cabinet Office Ordinance on Internal Controls).

Confirmation Letter

A company must submit a confirmation letter if it issues share certificates that are listed or OTC registered, or other securities stipulated by a Cabinet Office Ordinance. A confirmation letter is a document by the management of the company, confirming that the contents of the annual or semi-annual securities report comply with the FIEA (Articles 24-4-2 and 24-5-2, FIEA). The company submits this with the annual securities report and the semi-annual securities report, to the same authority (see [Securities Report](#)) (Articles 24-4-2(1), 24-4-8(1), and 24-5-2(1), FIEA; Article 4-2-5(1), Enforcement Order).

Share Buyback Report

If an issuer of share certificates that are listed or OTC registered, or other securities stipulated by a Cabinet Office Ordinance, conducts a share buyback under the Companies Act (Act No. 86 of 26 July 2005), it must prepare and file a share buyback report (Article 24-6, FIEA). This report describes the status of the share buyback, and other matters specified by a Cabinet Office Ordinance.

A share buyback report must be submitted by the 15th day of the month following the month to which it relates. The submission is made to the same authority to which annual securities reports are submitted (see [Securities Report](#)). (Article 20, Disclosure Ordinance.)

Parent Company Status Report

If a company holds majority voting rights of an issuer of securities listed on a securities exchange, or OTC registered, it must prepare and file a report on its shareholders and other information specified by a Cabinet Office Ordinance for each business year, unless it is required to produce a securities report (see [Continuous Disclosure Requirements](#)) (Article 24-7(1), FIEA). Unless the regulatory authority approves an extension, the parent company status report should be submitted within three months from the end of the business year of the relevant parent company.

The parent company status report is submitted to the same authority to which the reporting subsidiary files its annual securities report (Article 20(3), Disclosure Ordinance).

Amendments

If there are changes to material matters that should be stated in the continuous disclosure documents (see [Continuous Disclosure Requirements](#) for details of these documents), or there are conditions stipulated by a Cabinet Office Ordinance, the issuer who filed the relevant document must submit an amendment report (or amendment confirmation letter when concerning a confirmation letter) (Articles 24-2, 24-4-3, 24-4-5, 24-5(5), 24-6(2), and 24-7(3), FIEA).

If the issuer submits an amendment report regarding an annual securities report or semi-annual securities report, they must submit a confirmation letter for the amendment report together with the relevant amendment report (Articles 24-4-2(4) and 24-5-2(1), FIEA).

Sanctions

There are criminal penalties for those who violate the continuous disclosure requirements. For example:

- A person who files a securities report or an amendment to a securities report that includes false statements regarding material matters is liable to imprisonment with work for not more than ten years, or a fine of not more than JPY10 million, or both (Article 197(1)(i), FIEA).
- A person who fails to file a continuous disclosure document other than a confirmation letter is liable to imprisonment with work for not more than five years, or a fine of not more than JPY5 million, or both (Article 197-2(v), FIEA).
- A person who files a continuous disclosure document other than a securities report, amendment to a securities report, confirmation letter or amendment to a confirmation letter that includes false statements regarding material matters is liable to imprisonment with work for not more than ten years, or a fine of not more than JPY10 million, or both (Article 197-2(vi), FIEA).

There are also administrative fines, for example:

- A person who does not submit a confirmation letter or an amended confirmation letter pertaining to the contents of securities reports is liable to an administrative fine of not more than JPY300,000 (Article 208(ii), FIEA).
- A person who does not submit a confirmation letter or an amendment confirmation letter pertaining to the contents of semi-annual securities reports is liable to an administrative fine of not more than JPY100,000 (Article 209(iv), FIEA).

Persons who violate the continuous disclosure requirements are subject to administrative monetary penalties (Articles 172-3 and 172-4, FIEA). The amount of the administrative monetary penalty is determined regardless of the amount of profit actually earned by the offender. It is calculated in accordance with the Administrative Monetary Penalty Ordinance.

There are several provisions regarding civil liability of persons who violate the continuous disclosure requirements (Articles 21-2, 21-3, 24-4, 24-4-6, 24-5(5), and 24-6, FIEA). These provisions modify the right to claim damages for tortious behavior, and change the burden of proof.

Securities Exchange Disclosure Requirements

In addition to the requirements under the FIEA, an issuer of listed securities is subject to various disclosure requirements, such as timely disclosure of material information and quarterly and annual financial reporting, set out in the rules of the relevant securities exchange.

Large Shareholdings

"Share-related securities," issued by a corporation that is listed on a securities exchange, or OTC registered, are subject to the large shareholding regulations (Article 27-23(1), FIEA).

Share-related securities are defined as:

- Share certificates.
- Share option certificates.
- Corporate bond certificates with share options issued by corporations.
- Investment securities and investment securities acquisition rights certificates issued by investment corporations.

(Article 14-4(1), Enforcement Order.)

A "large volume holder" is a person who holds more than 5% of the share-related securities (individually or with any other holder of the relevant share-related securities that has agreed to jointly acquire or transfer the securities or to jointly exercise voting rights and other rights as the issuer's shareholder) of an issuer corporation that is listed on a securities exchange market, or OTC registered. A large volume holder must file a large shareholding report, unless an exemption applies. (Article 27-23(1), FIEA.)

Institutional investors and other stipulated persons can use a special reporting system to reduce the burden of filing large shareholding reports (see [Special Reporting System](#)).

Large Shareholding Report and Change Report

A large shareholding report must be filed with a Director General of LFB or LFBB within five business days from the day on which the holder becomes a large volume holder (Article 27-23(1), FIEA). A large shareholding report states:

- The large volume holder or holders.
- The purpose of the holding.
- The source of funding for the acquisition.
- A statement as to acquisition or disposition in the previous 60 days.

(Article 2, Cabinet Office Order on Disclosure of the Status of Large-Volume Holdings in Share Certificates (Ordinance of the Ministry of Finance No. 36 of 20 November 1990) (Large Shareholding Ordinance).)

A person who files a large shareholding report must also file a change report if their ownership ratio of the share-related securities increases or decreases by 1% or more (Article 27-25(1), FIEA).

If a change to any matter stated in a large shareholding report triggers the change report requirement, a change report must be filed within five business days (Article 27-25(1), FIEA). If there have been any large-volume transfers within a short period that satisfy all of the following requirements, a change report must also disclose the counterparty to, and consideration for, these transfers:

- The shareholding ratio of the holder is reduced by more than 5% of the total issued shares during the previous 60-day period.
- The shareholding ratio of the holder becomes less than half of the highest shareholding ratio that existed during the previous 60-day period.

(Article 27-25(2), FIEA; Article 14-8(1), Enforcement Order.)

An amendment to a large shareholding report or a change report must be filed to amend the information described in these documents (Article 27-25(3), FIEA).

Special Reporting System

There is a special reporting system for financial institutions and institutional investors, with provisions on the frequency and deadlines of disclosure (Article 27-26(1), FIEA). Persons who can use the special reporting system include banks, insurance companies, certain financial instruments business operators, and certain other similar businesses.

There are three conditions for the special reporting system:

- The person is not making a "material proposal" (such as changes of directors or officers, transfers of material assets, and the disposal or discontinuance of all or part of the business) (Article 27-26(1), FIEA; Article 14-8-2(1), Enforcement Order; Article 16, Large Shareholding Ordinance).
- The ownership ratio of the person in the issuer must not exceed 10% (Article 27-26(1), FIEA; Article 12, Large Shareholding Ordinance).
- If there is a joint holder who does not qualify for the special reporting system, the ownership ratio of the joint holder (for this calculation, disregarding the holdings of the joint holders that can use the special reporting system) does not exceed 1% (Article 27-26(1), FIEA; Article 13(i), Large Shareholding Ordinance).

A holder who meets the conditions for the special reporting system can benefit from a more predictable filing schedule. The filing deadlines for its large shareholding reports and change reports are anchored to two or more recurring reference days each month chosen by the holder and notified to a Director General of the LFB or LFBB (Article 27-26(1) and (3), FIEA, and Article 14-8-2(2), Enforcement Order).

The matters to be described in a large shareholding report under the special reporting system are slightly reduced compared to those required for ordinary reporting (Article 27-26(1), FIEA; Article 15, Large Shareholding Ordinance).

Sanctions

There are criminal penalties for those who violate the large shareholding requirements. For example:

- A person who fails to file a large shareholding report or a change report is liable to a sentence of imprisonment with work for not more than five years, or a fine of not more than JPY5 million, or both (Article 197-2(v), FIEA).
- A person who files a large shareholding report or a change report that includes false statements regarding material matters is liable to a sentence of imprisonment with work for not more than five years, or a fine of not more than JPY5 million, or both (Article 197-2(vi), FIEA).

Persons who violate the large shareholding regulations are subject to administrative monetary penalties (Articles 172-7 and 172-8, FIEA). The amount of the administrative monetary penalty does not take into account the amount of profit actually earned by the offender. It is calculated in accordance with the Administrative Monetary Penalty Ordinance.

Market Abuse

Prohibition of Wrongful Acts

Article 157 of the FIEA prohibits:

- Using wrongful means, schemes or techniques in a securities transaction, or in a derivatives transaction.
- Acquiring money or other property through the use of a document, or by giving any other indication, that contains a false representation, or that omits a representation as to a material fact regarding a securities transaction or a derivatives transaction.
- Using false quotations to induce a securities transaction or a derivatives transaction.

Prohibition on Spreading Rumors, Using Fraudulent Means, and Assault or Intimidation

Article 158 of the FIEA prohibits spreading rumors, using fraudulent means, and assault or intimidation, for the purpose of either:

- Carrying out a public offering, secondary distribution, securities transaction, or derivatives transaction.
- Causing a fluctuation in the market price of:
 - a security;
 - an option; or
 - a financial instrument (other than a security), or financial indicator connected with a derivatives transaction.

Prohibition of Market Manipulations

Article 159 of the FIEA prohibits the following acts as market manipulations:

- False transactions or collusion with the aim of misleading others about the state of these transactions (Article 159(1), FIEA).
- Transactions to mislead the market, or market manipulation through representation, for the purpose of inducing transactions (Article 159(2), FIEA).
- Transactions for the purpose of pegging, fixing, or stabilizing market prices of listed financial instruments and certain other securities (Article 159(3), FIEA).

Prohibition of Insider Trading

Article 166 of the FIEA is a general provision dealing with insider trading in Japan. Certain specified company insiders who have learned a material fact regarding the business or other matters of a listed company in the manner specified in Article 166, and recipients of inside information, cannot trade specified securities of the company, until the material fact has been publicized, except in certain limited situations.

Certain specified insiders related to a tender offeror and inside information recipients who know that a tender offeror has decided to launch a tender offer, are prohibited from purchasing the shares and equivalent securities subject to the tender offer until after this fact has been publicized, except in certain limited situations. In addition, insiders related to a tender offer and inside information recipients who know that a tender offeror has decided to suspend the tender offer are prohibited from selling the shares until after this fact has been publicized, except in certain limited situations. (Article 167, FIEA.)

Article 167-2 of the FIEA prohibits insiders from disclosing inside information or recommending trades to third persons in certain prescribed circumstances.

See [Practice Note, Insider Trading \(Japan\)](#).

Reporting

If a director, statutory auditor, or major shareholder (meaning a shareholder who owns at least 10% of the voting rights of a listed company) purchases or sells specified securities of that listed company, or carries out a transaction that has substantially the same effect, they must file a report on the transaction with a Director General of the LFB or LFBB by the 15th day of the following month, unless an exemption applies (Article 163(1), FIEA; Article 30, Transaction Ordinance).

If a director, statutory auditor, or major shareholder of a listed company gains a profit from an initial sale and a subsequent purchase (or an initial purchase and a subsequent sale) of specified securities of the listed company, when the two transactions are done within six months of each other (short-term trading profit), the regulator makes the information regarding these transactions publicly available unless the director, statutory auditor, or major shareholder has provided the profit to the listed company (see [Return of Short-Term Trading Profit](#)) (Article 164(7), FIEA).

Similarly, if a partner of a partnership that owns 10% or more of the voting rights of all shareholders of a listed company purchases or sells specified securities of the listed company (or carries out another transaction on behalf of the partnership that has substantially the same effect), the partner must report the transaction to a Director General of the LFB or LFBB by the 15th day of the following month (Article 165-2(1), FIEA).

Return of Short-Term Trading Profit

If a director, statutory auditor, or major shareholder makes a short-term trading profit, the company can demand that this profit be provided to it (Article 164, FIEA).

Similarly, a company can require a partner of a partnership that owns 10% or more of the voting rights of all shareholders of a listed company to provide the company with any short-term trading profit made on behalf of the partnership (Article 165-2(3), FIEA).

Prohibition of Short Selling by Officers of Listed Companies

A director, statutory auditor, or major shareholder is prohibited from short selling shares of the listed company that exceed the scope of hedging of the securities issued by the company (Articles 165, FIEA).

There is an equivalent prohibition on a partner of a partnership that owns 10% or more of the voting rights of all shareholders of a listed company (Article 165-2(15), FIEA).

Sanctions

Criminal penalties for violation of the market abuse restrictions or obligations include:

- A person who violates Articles 157, 158 and 159 of the FIEA is liable to a sentence of imprisonment with work for not more than ten years, or a fine of not more than JPY10 million, or both (Article 197(1)(v), FIEA).
- A person who violates Articles 166, 167 and 167-2 is liable to a sentence of imprisonment with work for not more than five years, or a fine of not more than JPY5 million, or both. In the case of Article 167-2, this only applies if the person who received the inside information, or was recommended the transaction, actually conducted the transaction before the public disclosure of inside information. (Article 197-2(xiii) to (xv), FIEA.)
- A person is liable to a sentence of imprisonment with work for not more than six months, or a fine of not more than JPY500,000, or both, if:
 - they fail to file a report under Articles 163 or 165-2; or
 - they file a report under Articles 163 or 165-2 that includes false statements or violates Article 165 or Article 165-2(15) of the FIEA.

(Articles 205(xix) and (xx), FIEA.)

A person who violates Article 162 of the FIEA is liable to an administrative fine of not more than JPY300,000 (Article 208(ii), FIEA).

The following are also subject to administrative monetary penalties:

- A company insider, tender offer insider, or inside information recipient who violates the insider trading or inside information-related prohibitions (Articles 175(1), 175(2), and 175-2, FIEA).
- The issuing company, if a company insider conducts insider trading on behalf of the issuing company or its related company (Article 175(7), FIEA).
- A person who violates Article 158 of the FIEA (Article 173, FIEA).
- A person who conducts a transaction violating Articles 159(1) to (3) of the FIEA (Articles 174 to 174-3, FIEA).

The administrative monetary penalty is calculated in accordance with the Administrative Monetary Penalty Ordinance. For more information, see Practice Note, Insider Trading (Japan): Administrative Monetary Penalties for Insider Trading.

Principal Regulatory Agencies in Japan

Financial Services Agency

The FSA is the government agency responsible for overseeing and regulating the financial industry in Japan. Some key functions and responsibilities of the FSA include:

- Planning the financial system, and establishing guidelines and policies.

- Investigating criminal cases involving financial instruments transactions.
- Supervising various financial institutions, including banks, insurance companies, and financial instruments business operators.
- Enforcing regulations and imposing sanctions on persons who violate laws or regulatory requirements.

Local Finance Bureaus and Local Finance Branch Bureau

The FSA delegates some of its functions to nine LFBs and one LFBB. Each LFB and LFBB is a governmental organization, and an arm of the Ministry of Finance. Their roles include:

- Monitoring securities transactions.
- Reviewing securities registration statements, securities reports, tender offer registration statements, large shareholding reports, and other documents.

Securities and Exchange Surveillance Commission

The Securities and Exchange Surveillance Commission (SESC) is an independent regulatory body responsible for supervising and overseeing securities transactions and enforcing securities laws and regulations. Some key functions of the SESC include:

- Monitoring securities transactions to detect insider trading and market abuse.
- Conducting investigations into suspected violations of securities laws and regulations.
- Taking enforcement actions against persons responsible for violations of securities laws and regulations.

Japan Securities Dealers Association

The Japan Securities Dealers Association (JSDA) is a self-regulatory organization. It comprises member firms engaged in Type 1 Financial Instruments Business.

The JSDA establishes rules, standards, and guidelines for its member firms to promote integrity and professionalism in the securities industry. It provides a platform for dispute resolution between member firms and their clients or counterparties.

Securities Exchanges

Securities exchanges in Japan play several important roles in regulating the securities market as self-regulatory organizations. Key functions of the securities exchanges in Japan include:

- Setting and enforcing listing requirements.
- Establishing and enforcing rules governing listed companies and trading participants.

Foreign Issuers and Japan Securities Law

Exclusion from Secondary Offering

Sales of securities that are to be sold but have already been issued in a foreign country and have not been sold privately are excluded from the definition of secondary distribution of securities and therefore are exempt from the registration and prospectus requirements (Articles 1-7-3(v) and (vi), Enforcement Order).

See [Practice Note, Private Placements and Other Exempt Offerings: Overview \(Japan\): Exclusion of Overseas-Issued Securities Without Transfer Restriction](#).

Foreign Securities Secondary Distribution

Secondary distribution of already issued foreign securities by financial instruments business operators or registered financial institutions is exempted from the obligation to file a securities registration statement, if:

- Information on trading prices is easily obtainable in Japan through the internet or other methods.
- The securities are listed on a designated foreign securities exchange, or continuously traded in a foreign country.
- Information on the issuer is publicly available and easily obtained in Japan via the internet or other methods.

(Article 4(1)(iv), FIEA; Articles 2-12-2 and 2-12-3, Enforcement Order.)

See [Practice Note, Private Placements and Other Exempt Offerings: Overview \(Japan\): Secondary Distribution of Foreign Securities](#).

Appointment of Domestic Agent

A foreign issuer must appoint a person having an address in Japan who is authorized to represent the foreign issuer in all acts relating to the filing of any disclosure documents (Article 7, Disclosure Ordinance; Article 9, Specified Securities Ordinance; Article 4, Foreign Bonds Ordinance).

Form of Disclosure Documents

The form of disclosure documents is different for foreign issuers than for domestic issuers. Matters to be stated in disclosure documents to be filed by foreign issuers are similar to those by domestic issuers, but some additional information must be included. For example, a securities registration statement by a foreign corporate issuer must include the following additional information:

- The company system in the country where the submitting company is incorporated.
- The foreign exchange control system.
- A summary of legal opinions as to the legality of the offering or secondary distribution, and the accuracy of the matters relating to foreign laws and regulations contained in the registration statement.
- Past foreign exchange rates between JPY and the currency used for the issuer's financial statements.

Attachments to Disclosure Documents

Foreign issuers must attach certain additional documents to their disclosure documents. For example, a securities registration statement by a foreign corporate issuer must include:

- A document attesting that the representative of the foreign issuer is a person with legitimate authority concerning the filing of the securities registration statement.
- A document attesting that the foreign company has authorized a person who is resident in Japan to represent it in all acts concerning the filing relating to the public offering or secondary distribution.
- An expert legal opinion that the public offering or secondary distribution is legal, and that the matters stated in the relevant securities registration statement regarding the law are accurate.

Foreign Company or Person Registration Statement

Foreign issuers who must submit a securities registration statement can submit a foreign company or person registration statement instead of the securities registration statement, if the Commissioner of the FSA approves (Article 5(6), FIEA; Article 9-6, Disclosure Ordinance; Article 11-4, Specified Securities Ordinance; Article 6-4, Foreign Bonds Ordinance).

The foreign company or person registration statement consists of:

- Securities information equivalent to a securities registration statement.
- Reference documents or documents similar to the securities registration statements disclosed in the country or region of the foreign issuer, in English.

Supplemental documents must be attached to a foreign company or person registration statement. For example, attachments to a foreign company registration statement by a foreign company issuer must include:

- A document stating the matters to be included in a securities registration statement but not included in the foreign company registration statement (a part of this can be in English as stipulated by a Cabinet Office Ordinance).
- A comparison table between the matters stated on the foreign company registration statement and the corresponding matters stated on a securities registration statement.

(Article 5(7), FIEA; Article 9-7, Disclosure Ordinance.)

Foreign issuers do not need to file Japanese translations of attachments to foreign company registration statements if they are written in English (Article 10(2)(ii), Disclosure Ordinance; Article 12(2), Specified Securities Ordinance; Article 7(2), Foreign Bonds Ordinance).

Foreign Company Report and Other Disclosure Documents

In place of the disclosure documents for domestic issuers, foreign issuers can also file:

- A foreign company or person report.

- A foreign company or person semi-annual report.
- A foreign company or person extraordinary report.
- A foreign company confirmation letter.
- A foreign company internal control report.

A foreign parent company can file a foreign company parent company status report instead of a parent company status report, if the Commissioner of the FSA approves (Articles 24(8) to (10), 24-5(7) to (9), (15), and (16), 24-4-2(6), 24-4-4(6), and 24-7(5), FIEA).

The foreign company or person securities report consists of documents similar to securities reports disclosed in the country or region of the foreign issuer, in English. Supplemental documents must be attached to a foreign company or person securities report. For example, supplemental documents to a foreign company securities report by a foreign corporate issuer must include:

- A document stating the matters to be included in a securities report, but not included in the foreign company securities report (a part of this can be in English as stipulated by a Cabinet Office Ordinance).
- A comparison table between the matters stated on the foreign company securities report and the corresponding matters stated on a securities report.

(Article 24(9), FIEA; Article 17-3, Disclosure Ordinance.)

END OF DOCUMENT