International Comparative Legal Guides

Foreign Direct Investment Regimes 2027

A practical cross-border resource to inform legal minds

Eighth Edition

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Expert Analysis Chapters

1 National Security Deference Given in the US and EU Foreign Direct Investment Regimes
Stephenie Gosnell Handler, Robert Spano, Sonja Ruttmann & Bill Huesken, Gibson, Dunn & Crutcher LLP

10 The UAE's FDI Story in 2027: From Incentive Design to Implementation Discipline
Charbel (Charles) Dersahakian & Kwan Lung Wong (Andrew), CVML Limited

Q&A Chapters

15 Andorra
Albert Hinojosa Besolí, Marc Ambrós Pujol & Marc Font-Areny, Cases Lacambra

20 Austria
Volker Weiss & Marko Jakšić, Schoenherr Attorneys at Law

27 Bahrain
Fatima Al Ali, Saifuddin Mahmood & Yasmeen Jawahery, Hassan Radhi & Associates

33 Belgium
Vincent Mussche & Benedetta Prina Mello, Liedekerke

41 China
Vivian Desmonts & Aida Li, Gowling WLG

49 Czech Republic
Ondřej Čížek & Richard Maliniak, Nedelka Kubáč advokáti

56 Denmark
Rikke Sonne, Jakob Skov Bundgaard & Tilde Nielsen Weidinger, Accura Law Firm

64 Ethiopia
Haymanot Belay, Haymanot & Advocates

72 Finland
Lotta Pohjanpalo & Sami Hartikainen, Waselius

77 France
Arthur Helfer & Guillaume André, Bredin Prat

87 Germany
Dr. Martin Buntscheck, Dr. Tatjana Mühlbach, Dr. Andreas Boos & Dr. Martin Malkus, BUNTSCHECK Rechtsanwaltsgesellschaft mbH

100 Greece
Christina Georgaki & Paula Koteli, Georgaki and Partners Law Firm

105 Hungary
Julia Szarvas & Zsófia Törő, Szarvas and Partner Law Firm

111 Indonesia
Alry Azhari Mauludin, James Lan, Muhammad Rizki Ghifari & Agit Desy Noor, JASL Law Firm (in association with River Hope Consulting)

121 Japan
Hiroaki Takahashi & Koji Kawamura, Anderson Mori & Tomotsune

132 Mauritius
Assadullah Durbarry, Durbarry Chambers

140 Mexico
Pedro Gloria Ponce de León & María Galaviz, Gloria Ponce de León & Hernández (GP&H)

149 Netherlands
Gerrit Oosterhuis, Yvo de Vries & Felix Geerebaert, Houthoff

157 Nigeria
Josephine Tite-Onnoghen, Esther Omo Dania & Praise Ntem, Ikeyi Shittu & Co.

163 Norway
Simen Klevstrand & Karoline Maurtvedt, Haavind

167 Romania
Georgiana Bădescu, Cristiana Manea, Sabina Aionesei & Teodora Burduja, Schoenherr Attorneys at Law

173 Singapore
Dr. Corinne Chew, Jon Nair, Tan Teng Sen & Vincent Wong, Drew & Napier LLC

179 Slovakia
Richard Maliniak & Ondřej Čížek, Nedelka Kubáč advokáti

185 Slovenia
Eva Škufca, SkufcaLaw

192 Spain
Nadja Vietz & Alberto Gómez de Guzmán, Monereo Meyer Abogados

Q&A Chapters Continued

201 Sweden
Martin Johansson, Alva Chambert, Fredrik Löwenclou & Isak Lefvert, Advokatfirman Vinge KB

208 Switzerland
David Mamane, Tobias Magyar & Josef Caleff, Schellenberg Wittmer Ltd

215 Taiwan
Li-Pu Lee, Teresa Y.C. Pan, Terry T.H. Tu & Jackie Yang, Formosan Brothers Attorneys-at-Law

223 Uganda
John Magezi, Magezi, Ibale & Co. Advocates

227 United Kingdom
Samuel Beighton, Rhiannon Pugh & Isobel Thomas, Gowling WLG

236 USA
Peter C. Alfano III, Tyler J. Wood, George N. Grammas & Chris Griner, Squire Patton Boggs

Japan



Hiroaki Takahashi



Koji Kawamura

Anderson Mori & Tomotsune

1 Foreign Investment Policy

1.1 What is the national policy regarding the review of foreign investments (including transactions) on national security and public order grounds?

The Foreign Exchange and Foreign Trade Act (the "FX Act") was enacted in 1949 with the principal aim of regulating foreign investments in Japan. Since its enactment, however, and as the Japanese business and legal environment has developed, the FX Act has been amended several times, particularly for the purpose of deregulating cross-border transactions, including inward direct investments into Japan. For example, amendments to the FX Act in 1980 rendered cross-border transactions "free in principle" as opposed to "restricted in principle". This was followed by further amendments to the FX Act in 1998 that abolished the principle of "cross-border transactions via foreign-exchange banks", under which cross-border transactions are required in principle to be conducted via foreign-exchange banks.

The 1998 amendment of the FX Act, which enabled the free conduct of cross-border transactions without interference from the authorities or banks, served to emphasise the treatment of inward direct investment as "free in principle". This resulted in the liberalisation of the vast majority of industries in Japan. As a result of these developments, the submission of an *ex post* report to the Minister of Finance and the ministers with authority over a particular industry is now sufficient in principle for the purposes of foreign investments in Japan.

However, given the recent global trend towards more stringent screening of foreign direct investments ("FDI") for reasons of national security, such as the adoption of the Foreign Investment Risk Review Modernisation Act by the U.S. in August 2018, and the adoption of new EU regulations in March 2019 to strengthen national security, amendments to the FX Act were enacted in Japan in November 2019 (the "2019 Amendments") with the aim of further promoting FDI that is conducive to sound economic growth as well as to ensure sufficient review of FDI that could potentially undermine national security. The 2019 Amendments subsequently came into effect in June 2020.

Further, amendments to the FX Act (the "2026 Amendments") were promulgated in June 2026 in order to: (1) ensure the efficiency and effectiveness of reviews of inward direct investments; (2) strengthen regulation in response to evolving security considerations; and (3) reinforce the enforcement framework and dissemination of information.

1.2 What considerations will the State apply during foreign investment reviews?

The relevant ministries will review a proposed investment based on the information contained in a prior notification to determine whether such investment is likely to impair national security, impede public order, undermine public safety or result in significant adverse effects on the Japanese economy. The government will request transactions that are deemed problematic from these standpoints to be amended in terms of their structure or, in some cases, to be suspended.

1.3 Are there any proposals to change the current policy or relevant laws?

Since the coming into force of the 2019 Amendments in June 2020, minor amendments were made to the list of "designated business sectors subject to prior notification" (the "Designated Business Sectors") or "core business sectors" (the "Core Business Sectors"), as discussed below.

Among other things, in response to the COVID-19 pandemic, (i) manufacturing of pharmaceuticals for infectious diseases (including pharmaceutical intermediates), and (ii) manufacturing of sophisticatedly controlled medical devices (including accessories and parts) have been included in the Core Business Sectors.

In addition, businesses regarding 35 certain kinds of minerals such as rare earths, cobalt, titanium, etc., have been added to the Core Business Sectors, subject to the prior-notification requirement stated in section 2.

Further, pursuant to the recent designation of the "Specified Important Materials" under the Economic Security Promotion Law, from the viewpoint of sustainability of supply chain and dealing with technology outflow and military conversion risk, the following businesses have been added to the Core Business Sectors, subject to the prior-notification requirement stated in section 2: fertiliser (import business); permanent magnets (manufacturing); machine tools (manufacturing); industrial robots (manufacturing); semiconductors (manufacturing); storage batteries (manufacturing); natural gases (wholesale trade); metal minerals (smelting); ship parts (manufacturing of engines); and metal 3D printers (manufacturing).

Another development to note is the addition of the following industry categories to the Core Business Sectors since August 16, 2024 (with effect from September 15, 2024), to secure supply chains, mitigate risks of technology leakage and enhance defence diversification, among other things: manufacturing of semiconductor production-related equipment; manufacturing of advanced electronic components; manufacturing of machine

tool parts; manufacturing of marine engines; manufacturing of fibre-optic cables; and manufacturing of multifunction devices. This development is a result of the additional designation of "specified important goods" (being goods the stable supply of which are crucial to economic security) in the Act on Promotion of Economy, Trade and Industry Security.

More recently, in view of the risk of leakage by foreign investors of technology and sensitive information they obtain from Japanese companies in which they invest (which risk may sometimes be exacerbated by shareholder rights), particularly in industries related to national security, the scope of "exemption from prior notification" has been limited (as discussed in question 2.2(4)) under the amendments to the FX Act that came into effect on May 19, 2025 (the "2025 Amendments").

Further, the 2026 Amendments were promulgated to (i) make indirect acquisitions subject to regulation (as discussed in question 2.2(2)), (ii) enable *ex post facto* intervention on investment in non-Designated Business Sectors (as discussed in question 2.3), (iii) legislate risk mitigation measures (as discussed in question 4.3), and (iv) establish a Japanese equivalent to the Committee on Foreign Investment in the United States (the "CFIUS") system (as discussed in question 4.1).

2 Law and Scope of Application

2.1 What laws apply to the control of foreign investments (including transactions) on the grounds of national security and public order? Do these laws extend to domestic-to-domestic transactions?

The main law is the FX Act, supplemented by procedural regulations such as the Cabinet Order on Inward Direct Investment (the "Cabinet Order") and related Ordinances.

Furthermore, the following laws regulate (i) investments by foreign nationals, or (ii) the ratio of voting rights that foreign nationals may hold in Japanese companies:

- the Broadcasting Act;
- the Radio Act;
- the Civil Aeronautics Act;
- the Consigned Freight Forwarding Business Act;
- the Mining Act;
- the Ships Act; and
- the Act on Nippon Telegraph and Telephone Corporation, etc.

The FX Act does not apply to domestic-to-domestic transactions in principle. Other laws generally regulate domestic-to-domestic transactions.

2.2 What kinds of investments, investors, and transactions are caught? Are acquisitions of minority interests or assets caught? Would an internal re-organisation within a corporate group be caught?

Except in certain exempt cases, "Foreign Investors" who make "Inward Direct Investments" into Japan (hereinafter, "Foreign Investments") are required to file (i) an *ex post* report, or (ii) a prior notification with the relevant government authorities via the Bank of Japan.

(1) Foreign Investors

Foreign Investors are defined under the FX Act as:

(i) individuals who are not resident in Japan;

(ii) corporations or other organisations established under foreign laws (including Japanese branches of foreign companies) and having their principal office outside Japan, excluding those listed in item (iv) below;

(iii) corporations in which the ratio of aggregate voting rights directly held by those under items (i) and (ii) and the ratio of voting rights indirectly held by those under items (i) and (ii) (through at least 50% ownership of intermediate entities) is 50% or more;

(iv) partnerships conducting investment business or limited partnerships for investment (including foreign partnerships) in which the ratio of contribution from non-residents to the total amount of contribution of all partners is 50% or more, or in which the majority of managing partners are non-residents ("Specified Partnerships"); or

(v) a juridical entity or other organisation in Japan, the majority of whose officers or officers with representative authority are non-resident individuals.

Moreover, individuals or companies that are themselves not Foreign Investors within the scope of items (i) through (v), but that intend to make FDI on behalf of Foreign Investors (whether or not under the names of such Foreign Investors) will be deemed Foreign Investors.

Further, the 2026 Amendments expand these anti-avoidance provisions to encompass any inward direct investment or specified acquisition made by a person other than a foreign investor that is: (1) made for the account of a foreign investor (as regulated under the current FX Act regime); (2) made pursuant to a contract or a similar instrument under foreign law or regulation (limited to those specified by cabinet order); or (3) made by a person who has a permanent economic relationship, family relationship, employment relationship, or other special relationship with the foreign investor arising from stock ownership or a similar connection (limited to those specified by cabinet order).

(2) Foreign Investments

Foreign Investments are defined under the FX Act as:

(i) acquisition of 1% or more shares of companies listed in Japan;

(ii) acquisition of shares of unlisted companies in Japan from persons who are not Foreign Investors;

(iii) transfer of shares from an individual who is not resident in Japan to a Foreign Investor, if such non-resident had acquired those shares after December 1, 1980, at a time when he was resident in Japan;

(iv) the giving of consent to (a) a substantial change in the business purpose of a company (provided, in the case of a listed company, that such consent is limited to cases where ⅓ or more of the voting rights are held by Foreign Investors), (b) the appointment of a director or a statutory auditor, or (c) the transfer of the whole of the businesses, or certain fundamental reorganisation, of a company (provided, in the case of items (b) or (c), that such consent is limited to cases where 1% or more of the voting rights of the company are held by Foreign Investors);

(v) establishment of a branch, factory or other business office (other than a representative office) in Japan, or substantially changing the business type or objectives of such branch, factory or business office, excluding banks, foreign insurance companies, securities companies, investment managers, foreign trust companies, gas and electricity utilities companies, etc. specified in the Cabinet Order;

(vi) lending of amounts exceeding JPY100 million to domestic corporations for loan terms exceeding one year, where the total loan principal and the amount of bonds issued by the borrower to the lending Foreign Investor(s) exceed 50% of the total debt of such borrower;

(vii) acquisition of businesses from resident corporations or succession to businesses by way of an absorption-type company split or merger (other than in the case of items (i) through (iii) above);

(viii) acquisition of privately placed bonds issued by a Japanese corporation exceeding certain thresholds;
(ix) acquisition of certain equity certificates issued by the Bank of Japan or certain other entities;
(x) discretionary investments in the shares of a listed company, where the equity ratio on a real-equity basis or the ratio of voting rights based on actual voting rights held, following the investment, is 1% or more;
(xi) acceptance of an appointment to represent a person in exercising the voting rights directly held by such person in a domestic company ("acceptance of appointment to exercise voting rights by proxy"), where such acceptance of appointment falls under the following items (a) or (b) below, provided that such acceptance is limited to the cases under items (x), (y) or (z) below:
  (a) acceptance of appointment to exercise voting rights by proxy pertaining to the voting rights in a listed company, where the ratio of the relevant voting rights (including voting rights held by Foreign Investors closely related to the person accepting such appointment), based on actual holding voting held, is 10% or more; or
  (b) acceptance of appointment to exercise voting rights by proxy pertaining to the voting rights of a non-listed company, which is entrusted by persons other than Foreign Investors who directly hold the voting rights:
    (x) where the appointee is a person other than said company or an officer thereof;
    (y) where the proposal on which the appointee intends to exercise voting rights through acceptance of appointment to exercise voting rights by proxy, relates to the "election or removal of directors", "shortening the term of office of directors", "amendment of articles of association/by-laws", "assignment of businesses", "dissolution of the company" or "company's entry into a merger agreement"; and/or
    (z) where solicitation by the appointee for having itself exercise voting rights by proxy is accompanied;
(xii) acquisition of the right to exercise voting rights where the acquirer's ratio of voting rights based on actual voting rights held (including voting rights held by Foreign Investors who are closely related to that acquirer) after such acquisition is 1% or more;
(xiii) delegation of the authority to exercise voting rights in a non-listed company in Japan acquired by an individual when such individual was a Japan resident, to a foreign investor when the aforementioned individual has become a non-resident in Japan ("Proxy Voting"), provided that application of this item (xiii) is only applicable where items (xi)(x) and (y) above apply; and/or
(xiv) obtaining the consent of another non-resident individual or corporation that holds actual voting rights in a listed company to jointly exercise the actual voting rights held in the listed company ("Acquisition of Consent to Exercise of Joint Voting Rights"), where the aggregate ratio of voting rights based on the actual voting rights held by the acquirer of the consent and those held by the other party is 10% or more. The voting rights ratio includes the actual voting rights held by a foreign investor who is a closely related party to the acquirer of the agreement and a foreign investor who is a closely related party to the other party.

It is important to note, as stated in item (i) above, that the acquisition of a minority interest in a listed company in Japan is generally deemed a Foreign Investment, unless such minority interests constitute less than 1% of the shares in the company. In addition, as stated in item (ii) above, the acquisition of any number of shares in an unlisted company in Japan is generally deemed a Foreign Investment.

Categories of Foreign Investments listed in items (iv), (v), (xi), (xii), (xiii) and (xiv) may include internal reorganisation within the company or the group. Categories of Foreign Investments listed in items (i), (ii), (iii), (vii), (viii) and (ix) may involve asset purchases.

Further, the 2026 Amendments have broadened the scope of the FX Act's coverage to include the following two types of inward direct investment:

(a) acquisitions of voting rights in a foreign entity (the "Direct Holding Entity") that holds a certain proportion of shares or voting rights in a Japanese company, where such an acquisition results in the acquirer holding, directly or indirectly, 50% or more of the total voting rights in the Direct Holding Entity; and
(b) exercise of voting rights in connection with the election of officers of the Direct Holding Entity or its parent company, where such election would result in the person exercising the voting rights or its related parties constituting a majority of the officers of the Direct Holding Entity or its parent company.

(3) *Ex post* report or prior notification

A Foreign Investor that makes a Foreign Investment will, unless certain exceptions (as set forth below in paragraph (4)) apply, be required to file either (i) a prior notification before that Foreign Investment has been commenced, or (ii) an *ex post* report after that Foreign Investment has been made.

Prior notification of a Foreign Investment by a Foreign Investor is required if any of the following applies:

(i) The nationality or the country where the Foreign Investor is located is not in Japan or certain other listed countries/geographical areas. It should be noted in this regard that the "listed countries" are found in the annex of the Ordinance on Inward Direct Investment (the "Ordinance"). The current number of listed countries is 163.
(ii) The businesses conducted by those entities in which Foreign Investments have been made include businesses categorised as Designated Business Sectors, as set forth in the Ordinance and the relevant governmental notice.
(iii) The entities in which Foreign Investments have been made are involved in certain activities by the Iranian government, Iranian individuals and Iranian corporations and groups.

In addition to the foregoing, the FX Act, following amendments in 2017, subjects transfers of shares in unlisted Japanese companies between Foreign Investors to the prior-notification requirement if the investee company falls within the scope of Designated Business Sectors.

An *ex post* report of a Foreign Investment is required to be filed by a Foreign Investor if any of the following applies:

(i) the nationality or the country where the Foreign Investor is located is Japan or certain other countries/geographical areas listed in the Ordinance;
(ii) the businesses conducted by those entities in which Foreign Investments (the "Businesses") have been made do not fall within the scope of the Designated Business Sectors or, where the Businesses fall within the scope of the Designated Business Sectors, the Foreign Investor is exempt from the prior-notification requirement, as discussed below; or
(iii) the entity in which the Foreign Investments have been made is not involved in certain activities conducted by the Iranian government, and certain Iranian individuals, corporations or groups.

It would be advisable for a Foreign Investor to check in advance whether the *ex post* report requirement or prior-notification requirement applies to a contemplated Foreign Investment. This is because the prior-notice requirement involves substantive investigations by the relevant governmental agency during the relevant waiting period (as further discussed under question 3.7).

For clarification purposes, the Ministry of Finance has announced a list of listed companies in the Designated Business Sectors and Core Business Sectors (with respect to Core Business Sectors, please see sub-paragraph (4) below). This list will be updated from time-to-time.

Further, the 2026 Amendments adopt a new scheme of *ex post facto* intervention on investment in non-Designated Business Sectors (as further discussed under question 2.3).

(4) Exemptions from the prior-notification requirement

As stated under question 1.1, since the purpose of the 2019 Amendments is to promote FDI conducive to sound economic growth, as well as to ensure sufficient review of FDI that could pose risks to national security, the 2019 Amendments have expanded the scope of Foreign Investments subject to prior notification while introducing a new "exemption from prior notification" system.

(i) Exemption in respect of Foreign Investments in Listed Companies

There are three types of exemptions: "Blanket Exemptions"; "Regular Exemptions"; and "Exemptions of Persons Equivalent to Specified Foreign Investors" (referred to in paragraph (iii) below). The features of each type are described in the following table.

	Blanket Exemptions	Regular Exemptions	Exemptions of Persons Equivalent to Specified Foreign Investors
Applicable investor type	Foreign financial institutions only (except that foreign financial institutions that constitute (i) Foreign Investors and do not qualify for regular exemptions applicable to Foreign Investors, or (ii) Persons Equivalent to Specified Foreign Investors do not qualify for Blanket Exemptions or exemptions from prior notification, depending on the category of person it falls into).	Foreign Investors other than foreign financial institutions or Persons Equivalent to Specified Foreign Investors (including authorised sovereign wealth funds, etc.).	Persons equivalent to Specified Foreign Investors.
Subject of exemptions	Foreign Investors in any business sector.	Foreign Investors in any business sector (provided, with respect to Core Business Sectors, that the equity ratio and ratio of voting rights of the Foreign Investor is less than 10%).	Foreign Investors in any business sector other than Specified Core Business Sector Operators* (provided, with respect to Core Business Sectors, that the equity ratio and ratio of voting rights of the Foreign Investor is less than 10%). (*No exemption is available for Specified Core Business Sector Operators.) "Specified Core Business Sector Operators" means certain business operators that operate in Core Business Sectors (such as telecommunications, gas, utilities, railroad, finance, etc.) as designated by the relevant governmental agencies as "Specified Infrastructure Business Operators" under the Act on Promoting and Ensuring National Security.
Ex post report	Required when the contemplated transaction is completed after the equity ratio and ratio of voting rights of the Foreign Investor becomes 10% or more.	Required each time: (i) the equity ratio and ratio of voting rights of a Foreign Investor becomes 1% or more after the contemplated transaction; (ii) the equity ratio and ratio of voting rights of a Foreign Investor becomes 3% or more after the contemplated transaction; and (iii) (after the equity ratio and ratio of voting rights of a Foreign Investor becomes 10% or more) any further investment by the Foreign Investor in the relevant company is completed.	Required since the equity ratio and ratio of voting rights of the Foreign Investor becomes 1% or more after the contemplated transaction.

	Blanket Exemptions	Regular Exemptions	Exemptions of Persons Equivalent to Specified Foreign Investors
Conditions (see below)	Conditions (a) through (c) below must be met	Conditions (a) through (c) below must be met in respect of business sectors other than Core Business Sectors. Conditions (a) through (e) below must be met in respect of Core Business Sectors.	Conditions (a) through (c) below must be met in respect of business sectors other than Core Business Sectors (excluding Specified Core Business Sector Operators). Conditions (a) through (g) below must be met in respect of Core Business Sectors (other than Specified Core Business Sector Operators).

Conditions to be met for exemptions:

(a) the Foreign Investor or its related parties must not be appointed directors or auditors of the subject company;

(b) the Foreign Investor must not, by itself or through other shareholders, make at a shareholders' meeting of the subject company proposals for the transfer or abolishment of any business that falls within the scope of Designated Business Sectors; and

(c) the Foreign Investor must not access any non-public technical information regarding businesses that fall within the scope of Designated Business Sectors.

Additionally, the following conditions apply in respect of Core Business Sectors:

(d) the Foreign Investor must not attend or cause its designated person to attend any meeting of the investee's board of directors or any committee with the authority to make decisions in respect of businesses falling within the scope of Core Business Sectors; and

(e) the Foreign Investor must not, by itself or through a designated person, make any written proposal requiring any response or action by a certain deadline to the board of directors or any committee with the authority to make decisions in respect of businesses falling within the scope of Core Business Sectors.

Pursuant to the 2025 Amendments, Persons Equivalent to Specified Foreign Investors (referred to in paragraph (iii) below) must also meet the following conditions when they invest in Core Business Sectors:

(f) the Foreign Investor must not access any non-public information in respect of businesses that operate within the scope of Core Business Sectors; and

(g) with respect to businesses in the Core Business Sectors, the Foreign Investor (if such investor is an individual) or its related persons must not work for the investee company or other entities within the investee group as an employee and must not solicit an officer or employee of that investee company or other entities to work for any other company.

Significantly, it was reported by Nikkei that in March 2021, a subsidiary of Tencent, a Chinese company, had invested in Rakuten Group Inc., a Japanese listed e-commerce giant with business interests in the telecommunications sector (which is a Core Business Sector), without filing a prior notice, taking advantage of this exemption.

(ii) Exemptions on Foreign Investments in Non-listed Companies

Only Regular Exemptions with respect to Designated Business Sectors (other than Core Business Sectors) are applicable to Foreign Investments in non-listed companies. When a Foreign Investor invokes a Regular Exemption, it must file an *ex post* report when it actually makes the relevant investment, regardless of its equity ratio or ratio of voting rights in the investee company.

(iii) Pursuant to the 2025 Amendments, Specified Foreign Investors, defined as either (x) "Intelligence Collection Obligors" (being individuals, corporations or other organisations that are required under contract or the laws of a foreign country to provide cooperation with a foreign government, central bank or political party (collectively, "Foreign Government, etc.") in its information-gathering activities), or (y) "corporations or other organisations that have a certain relationship with an Intelligence Collection Obligor or a Foreign Government, etc. that imposes certain prescribed obligations on such Intelligence Collection Obligor", constitute Foreign Investors that do not qualify for Exemptions from Prior-Notifications.

Moreover, a person that is deemed highly likely to divulge information to a Foreign Government, etc. (even if such person does not technically fall within the definition of Specified Foreign Investor) constitutes a Person Equivalent to a Specified Foreign Investor. Exemption from the Prior-Notification Requirement is not available to Persons Equivalent to Specified Foreign Investors that invest in Specified Core Business Sector Operators, such as businesses operating in the telecommunications, gas, utilities, railroad, finance and other infrastructure-related sectors. Additionally, Foreign Investors that, as a result of their investments in business operators in other Core Business Sectors, would hold 10% or more of the voting rights in such business operators, do not qualify for the Exemption from Prior Notification Requirement. Therefore, even if such Foreign Investors would hold less than 10% voting rights, they would only qualify for an Exemption from Prior-Notification Requirement if they meet conditions (a) through (g) above.

(5) Foreign Investments for which no prior notification or *ex post* report is required

Notwithstanding paragraphs (1) through (4) above, certain types of investments, as summarised below, will be exempt from both the prior notification and *ex post* report requirements:

(i) acquisition of shares, equities, voting rights, bonds, agreements to obtain consent to the joint exercise of voting rights and the like, by way of inheritance of testamentary gift;

(ii) acquisition of unlisted shares, equities or voting rights held by another company pursuant to a merger with such company;

(iii) acquisition of shares, equities or voting rights in an unlisted company that does not conduct business within the scope of Designated Business Sectors ("Specified Unlisted Company") by another company through a business split, pursuant to a split of the company holding such shares, equities or voting rights, or succession to proxy rights pursuant to a split of the company accepting Proxy Voting;

(iv) acquisition of unlisted shares, equities or voting rights of or acquisition of Proxy Voting in a company for which only an *ex post* report is required, where both the ratio of voting rights and the ratio of equity ownership, together with the voting rights and equity ownership, respectively, of close-related persons, constitutes less than 10% of the company's total voting rights, such that satisfaction of the *ex post* report requirement would suffice;
(v) acquisition of new shares, equities, voting rights, Proxy Voting or Consent to Exercise of Joint Voting Rights by way of allotment of new shares due to the subdivision or consolidation of shares and the like;
(vi) acquisition of unlisted shares, equities, voting rights, consent to change of business purposes, appointment of director/auditors, or business transfer, business acquisition, moneylending, subscription for bonds, or Consent to Exercise of Joint Voting Rights resulting in an ownership ratio and ratio of voting rights, together with those of close-related persons, of less than 10%;
(vii) acquisition of shares or equity interests in a non-listed company by partners of the partnership, or acquisition of shares, equity interests, voting rights, consent to change of business purpose of a company, appointment of officers or consent to business transfer, money lending, acquisition of bonds or equity securities, discretionary investment in shares, Proxy Voting, acquisition of authorisation to exercise voting rights, Consent to Exercise of Joint Voting Rights in a listed company, conducted in association with an inward direct investment by the partnership; and
(viii) other cases specified in the Cabinet Order.

2.3 Do any sectors or activities attract particular scrutiny? Are there any sector-specific review mechanisms in place?

As noted under question 2.2(3), the prior-notification requirement, which involves substantive scrutiny by the relevant governmental agency to determine whether an investment should be approved, applies to investments in certain business sectors and to investors from certain geographical areas or countries.

For the purposes of enforcement of the 2019 Amendments, the Ministry of Finance and other related governmental agencies have announced the "Factors to be considered in authorities' screening of foreign direct investments" (https://www.mof.go.jp/english/international_policy/fdi/gaitamehou_20200508.htm) (the "Factors to be Considered") such as the following:

(1) The degree of the impact of the investment on maintaining the basis of production and technologies in business sectors that relate to the protection of national security, maintenance of public order and safeguarding of public safety.
(2) The possibility of:
- leakage of technologies or information that relate to the protection of national security, maintenance of public order and safeguarding of public safety; or
- use of these technologies or information against the objectives of ensuring national security, maintenance of public order or safeguarding of public safety.

(3) The degree of impact of the investment on the: (i) terms and conditions of supply; (ii) stable supply; or (iii) quality of goods or services that relate to the protection of national security, maintenance of public order or safeguarding of public safety, in ordinary and emergency situations.
(4) The degree of the impact of the investment on ensuring a stable supply or stockpiling of goods and services, conservation of national land, and maintenance of the continuity of domestic service providers' manufacturing activities in terms of business sectors on which Japan has registered reservation pursuant to Article 2-b of the Code of Liberalisation of Capital Movements of the Organisation for Economic Cooperation and Development.
(5) The degree of the impact of the investment on the investee company or the borrowing company in view of:
- the number and ratio of shares, equities, voting rights, subscription certificates or corporate bonds that have been acquired or are to be acquired by the foreign investor (including the number or share of stocks to be acquired and managed, or voting rights to be owned and exercised, by the foreign investor and its closely related persons who are subject to aggregation); or
- the amount and terms and conditions of the outstanding loan by the foreign investor.

(6) Attributes of the foreign investor, including its capital structure, beneficial ownership and business relationships, and the foreign investor's plan and behaviour track record in respect of the investment (including the degree of potential direct or indirect influence by foreign governments and other related parties on the foreign investor).
(7) The degree of the impact on the protection of national security, maintenance of public order, safeguarding of public safety and smooth functioning of the Japanese economy ("protection of national security and other domains"), in view of the international treaties and domestic laws and regulations with which the foreign investor is required to comply.
(8) The track record of the foreign investor's compliance with the FX Act or equivalent thereof, or similar legislation, in other jurisdictions.
(9) The other four factors listed in such announcement.

Further, the 2026 Amendments adopt a new scheme of *ex post facto* intervention on investment in non-Designated Business Sectors; where an inward direct investment or specified acquisition (as specified by cabinet order) is deemed to pose a significant risk to national security (regardless of whether the Japanese company involved is in a Designated Business Sector), the competent authority may: (1) require the submission of a report; (2) on the basis of that report, recommend or order the disposal of shares or other securities, or issue other directives; and (3) having required the report, and subject to the opinion of the Foreign Exchange Commission, order the cessation of the inward direct investment or specified acquisition, or take such other measures as are necessary to safeguard national security.

2.4 Are there specific considerations for certain types of foreign investors (e.g. non-EU/non-WTO), including state-owned enterprises (SOEs)?

Yes. Under the 2019 Amendments, foreign governments, foreign governmental agencies, foreign political parties, and certain SOEs are categorised as Foreign Investors not entitled to exemptions from the prior notification referred to under question 2.2. However, they will be permitted to invoke Regular Exemptions if authorisation to do so is specifically obtained from the Ministry of Finance.

2.5 Is there a local nexus requirement for an acquisition or investment? If so, what is the nature of this requirement (e.g. sales, existence of subsidiaries, assets, etc.)? Does this apply to indirect acquisitions of entities or assets (e.g. if a parent company outside the jurisdiction is acquired which has a local subsidiary in the jurisdiction)?

Certain types of local nexus have been factored into the definition of Foreign Investments, such as acquisition of listed or unlisted shares in domestic companies and the establishment of, or the making of a substantial change (such as a substantial change in the organisation) in, a branch or factory in Japan. It should be noted, however, that this does not apply to indirect acquisitions of foreign entities with a branch or factory in Japan.

3 Jurisdiction and Procedure

3.1 What jurisdictional thresholds must be met for the laws to apply (e.g. financial or market share-based)?

Please refer to our response under question 2.2.

3.2 Can "below-threshold" transactions be reviewed (i.e. transactions that do not meet the prescribed thresholds)?

Yes. When a quantitative threshold (e.g., 1% and 10%) described in our response under question 2.2 is not satisfied, the "below-threshold" transactions would not be reviewed by the relevant governmental agency as described in our response under question 3.3. The qualitative thresholds described in our response under question 2.2 are generally understood as serving the purpose of enabling the authorities to determine whether any given transaction is subject to review by the relevant governmental agency. If the transaction is required to be reviewed, the relevant governmental agency has discretion to review the appropriateness of transactions during the waiting period, as further described under question 3.9.

3.3 Is there a mandatory notification requirement? Can a notification be made voluntarily? Are there specific notification forms? Are there any filing fees?

Filing is mandatory. As for a voluntary notification, if a notification not required under the FX Act is filed voluntarily, the relevant government authority or the Bank of Japan would not accept and return it. Forms of notification are available on the website of the Bank of Japan. No filing fees are payable.

3.4 Is there a 'standstill' provision, prohibiting implementation pending clearance? If so, what are the sanctions for breach and have these been imposed to date?

A Foreign Investor is prohibited from completing its Foreign Investment (where the prior-notification requirement applies) during the 30-day waiting period, as further described under question 3.9. For information regarding the consequences of a breach of such prohibition, and the enforcement actions to which a breaching party is subject, please see questions 3.8 and 4.5, respectively.

3.5 Who is responsible for obtaining the necessary approval?

Foreign Investors are responsible for filing *ex post* reports and prior notifications. The practical implication of this is that where prior notification is required, completion of the relevant investment should be conditional upon the completion of review by the relevant authorities during or after the lapse of the relevant waiting period that follows the filing of a prior notification (on which please refer to question 3.8 for more details).

3.6 Can parties engage in advance consultations with the relevant authorities and seek formal or informal guidance (e.g. whether a mandatory notification is required, or whether the authority would object to the transaction)?

Yes, such advance consultations are permissible and are in fact generally advisable. It should be noted, however, that only informal guidance will be provided during such consultations.

3.7 What type of information must parties provide as part of their notification?

The *ex post* report and prior notification come in prescribed forms that are required to be completed by a Foreign Investor. Such forms require provision of information such as the nationality/country of the Foreign Investor and certain information in relation to the Foreign Investment.

3.8 What are the risks of not notifying? Are there any sanctions for not notifying (fines, criminal liability, invalidity or unwinding of the transaction, etc.) and have these been imposed to date?

Failure to file an *ex post* report is punishable by imprisonment for up to six months and/or a fine of up to JPY500,000. Failure to file a prior notification will be punishable by imprisonment for up to three years and/or a fine of up to JPY1 million.

Furthermore, a Foreign Investor who is subject to the prior-notification requirement, and whose proposed investment potentially gives rise to national security concerns, may be ordered to dispose of all or part of the shares it has acquired through the relevant transaction or to take such other necessary measures, if such investor (i) fails to file a prior notification, (ii) completes the relevant transaction during the waiting period, (iii) files a prior notification containing false information, (iv) fails to comply with the recommendations of the relevant authorities for the amendment of the structure of the transaction or the suspension thereof, or (v) fails to follow any order of the relevant authorities to take measures for compliance with the conditions issued to the Foreign Investor that had completed the relevant transaction using the exemption from the prior notification.

Although there have been no publicly reported cases involving the imposition of criminal sanctions or administrative orders other than (i) a 2008 case in which The Children's Investment Fund ("TCI Fund") was ordered to cease its proposed acquisition of 20% shares in J-Power, and (ii) a 2026 case in which the Japanese government issued a recommendation directing the termination of the planned acquisition of Makino Milling Machine Co., Ltd. ("Makino") by MBK Partners, an Asian private equity fund (as stated in more detail under question 4.5), it is generally understood that the

Japanese government is in the process of strengthening the regulations and sanctions under the FX Act.

3.9 Is there a filing deadline, and what is the timeframe of review?

Under the FX Act, no Foreign Investor is permitted to complete its Foreign Investment (where the prior-notification requirement applies) during the 30-day waiting period (during which the relevant ministries having jurisdiction over the proposed investment will review the appropriateness of the transaction) after pre-notification of the proposed investment has been accepted by the Bank of Japan. However, if the proposed transaction does not pose national security concerns, such waiting period may be shortened, in accordance with the FX Act, depending on the contents of the relevant notification. Furthermore, with a view to promoting inward direct investments in Japan, the Ministry of Finance in April 2009 proposed a new "fast-track" procedure for certain types of investments, including "green field investments" involving the establishment of new companies, injection of capital into existing companies, change of a company's business purposes, lending of funds to a wholly-owned subsidiary in Japan, "roll-over investments" involving re-acquisition of shares within six months or for the same purpose as a previous investment, and "passive investments". Under the "fast-track" system, the government will endeavour to shorten the waiting period of two weeks to four business days.

Although there is no two-stage investigation process, it should also be noted that the waiting periods of investments that potentially pose national security concerns, as prescribed by the FX Act, can be extended by up to five months.

3.10 Can expedition of a review be requested, and if so, on what basis? How frequently is expedition granted?

As noted under question 3.9, if the proposed transaction described in the notification is not of a type that is considered to give rise to national security concerns, and if no separate filing, application or request is required, the waiting period may be shortened. In our experience, the shortened waiting period for most transactions where only a prior notification is required is somewhere between four business days and two weeks.

3.11 Can third parties be involved in the review process?

No third party may be involved in the review process. Moreover, no competitor or customer of the relevant Foreign Investor is permitted to participate in (and the FX Act contains no provisions giving any such person standing to participate in) any review process in respect of a Foreign Investor to voice any complaints they may have against such investor. Therefore, complainants have no opportunity to express their opinion in the review process.

However, before the relevant ministries issue an order for the imposition of criminal or administrative sanctions on a Foreign Investor or for the negation of a transaction (as discussed under question 3.6), they are required to consider the opinion of the Council on "Customs, Tariff, Foreign Exchange and Other Transactions".

3.12 What publicity is given to the process, and how is commercial information, including business secrets, protected from disclosure?

There is no publicity of the review process or the final decision of the relevant authorities. A Foreign Investment application contains confidential information about the relevant Foreign Investor. To prevent leakage of such confidential information, the National Public Services Act prohibits government officials from disseminating information to which they have access in the course of performing their duties. A breach of this prohibition is punishable by imprisonment of up to a year or a fine of up to JPY500,000. Furthermore, a person who has incurred damage as a result of such breach may claim damages against the government as long as certain conditions under the State Redress Act are met.

3.13 Are there any other administrative approvals required (cross-sector or sector-specific) for foreign investments?

No administrative approvals are required other than those discussed above.

4 Substantive Assessment

4.1 Which authorities are responsible for conducting the review?

The Minister of Finance and the minister having jurisdiction over the targeted business industries are the competent authorities. For instance:

- the Prime Minister has jurisdiction over banks, trusts, insurance companies, lending institutions and other financial institutions;
- the Minister of Finance has jurisdiction over the importation and exportation of precious metals and alcohol;
- the Minister of Agriculture, Forestry and Fisheries together with the Ministry of Economy, Trade and Industry have jurisdiction over the sale and purchase, as well as the importation and exportation of, agricultural and marine products;
- the Minister of Agriculture, Forestry and Fisheries has jurisdiction over the manufacturing, sale and purchase, and (together with the Ministry of Economy, Trade and Industry) importation and exportation of foods;
- the Minister of Land, Infrastructure, Transport and Tourism has jurisdiction over transportation, construction, development of real estate and the like; and
- the Minister of Economy, Trade and Industry ("METI") has jurisdiction over the manufacturing, wholesale and importation and exportation of aircraft and cars.

The 2026 Amendments provide that the Minister of Finance and the minister having jurisdiction over the relevant business must seek the opinions of the Prime Minister, the Minister for Foreign Affairs and other relevant administrative agencies where they consider it necessary to determine whether an inward direct investment should be subject to a recommendation or order, or to *ex post facto* intervention measures. A broad range of government agencies – in a framework comparable to the CFIUS – is expected to participate in the deliberation process.

4.2 What are the main evaluation criteria and are there any guidelines available? Do the authorities publish decisions of approval or prohibition?

As noted under question 2.3, for purposes of enforcement of the 2019 Amendments, the Ministry of Finance and other relevant ministries have announced the Factors to be Considered (https://www.mof.go.jp/english/international_policy/fdi/gaitamehou_20200508.htm). In addition, those relevant ministries are generally available for pre-filing consultations. Such inquiries and consultations are highly recommended as a practical matter.

The authorities do not publish their decisions of approval or prohibition.

4.3 Can the authorities impose conditions on approval, or accept remedies offered by parties to address concerns?

The relevant ministries have sole discretion in determining whether a proposed investment is likely to impair national security, impede public order, undermine public safety or result in significant adverse effects on the Japanese economy, except that they have to consider the opinion of the Council before issuing their decision (as discussed under question 3.11).

Prior to the 2026 Amendments, neither the FX Act nor the Ordinance prescribed the conditions on approval that the relevant ministries may impose on Foreign Investors, or the remedies that are acceptable to the relevant ministries. Generally, however, the relevant ministries considered the remedies proposed by Foreign Investors if such remedies affected the Factors to be Considered (as discussed under question 4.2).

However, the 2026 Amendments place this practice on a statutory footing and clarify the applicable procedures. More specifically, the 2026 Amendments provide that where an applicant intends to implement risk mitigation measures, it must set out those measures in the prior notification. If the applicant subsequently wishes to amend the measures, it must submit a revised notification. Where the final day of the prohibition period falls within 14 days of receipt of the revised notification, the prohibition period will be extended to the 14th day following such receipt. Failure to implement the notified measures will subject the applicant to an administrative order.

4.4 Can a decision be challenged or appealed, including by third parties?

A negative decision can be challenged. According to the FX Act, a person who is dissatisfied with a government order for the amendment of the structure of a transaction or the suspension thereof can file a petition with the government objecting to such order or requesting for a re-examination of its application. Additionally, a person who is still dissatisfied with the decision by the government following its petition can bring an action in court.

4.5 What is the recent enforcement practice of the authorities?

The first case involving regulations against foreign investments under the FX Act arose in 2008, when the government ordered a foreign investor to cease its investment in a Japanese company on the ground of public-order concerns.

In that case, TCI Fund, a UK fund, tried to acquire up to 20% of the shares in J-Power, an electricity supplier in Japan. Upon review of TCI Fund's application for approval of the proposed investment, however, the Minister of Finance and the METI recommended that TCI Fund cease its acquisition of more than 10% of the shares in J-Power. The basis for this recommendation was that the acquisition threatened public order. Although TCI Fund objected to this recommendation, it was ultimately ordered to cease its acquisition of more than 10% of the shares in J-Power.

As part of the government's review process in this case, six hearings on the application were held. At these hearings, TCI Fund was asked to explain its past investments, its management plan for J-Power and its views on the nuclear power plant that J-Power was constructing. The government also held a special hearing at the Custom and Foreign Exchange Advisory Panel to seek the Panel's opinion on this case. In the recommendation that it ultimately issued, the government provided the following reasons for why TCI Fund's proposed investment would threaten public order:

- J-Power plays an important role in the electricity supply and nuclear policy in Japan;
- if TCI Fund acquired 20% of the shares in J-Power, TCI Fund would have a certain effect on the management of J-Power;
- TCI Fund, as a shareholder of J-Power, had already demanded for J-Power to achieve certain numerical targets such as Return on Equity or Return on Assets, and had also requested for J-Power to be accountable to TCI Fund; however, TCI Fund did not provide any detailed suggestion on how such targets could be achieved; and
- TCI Fund pledged that it would, after the proposed investment, abstain from voting on a shareholders' resolution that may influence J-Power's plans for the construction of a nuclear power plant or electricity facilities. However, the government was unconvinced of the practicality of this pledge, given that its holding of up to 20% of the shares in J-Power by TCI Fund would potentially threaten the provision of affordable electricity and, by extension, the implementation of Japan's nuclear policy by J-Power. In particular, the government was wary of the possibility that TCI Fund would cause a halt in the construction of the nuclear power plant that J-Power was building.

Ultimately, TCI Fund did not appeal the government's decision in court. However, this case is an important precedent for future applicants under the FX Act. This is because there is no other case in which the government had rejected an application for a foreign investment on the basis of the grounds set forth in the FX Act.

Another issue involving regulations against foreign investments under the FX Act has arisen more recently, in 2020.

It was stated in a report* prepared by investigators appointed at Toshiba's shareholders' meeting that, in 2020, certain foreign shareholders of Toshiba Corporation, a listed company with businesses in the Core Business Sectors (including businesses related to nuclear power generation and national defence), had threatened to exercise their rights to make proposals on the election of directors. In response, Toshiba sought assistance in countering these activist investors from the competent authority, the METI. As a result, the METI reached out to the relevant investors and pressured them to either refrain from exercising their voting rights or exercise their voting rights in accordance with the recommendations of Toshiba's management. The METI pressured the Foreign Investors by exercising its authority to collect reports from Foreign Investors and by threatening to apply the FX Act.

Although the METI's actions have not been judicially reviewed or investigated, it was stated in the report that the METI had unjustifiably restricted the relevant shareholders from exercising their rights for purposes that deviated from the legislative intent of the FX Act.

*The investigation report, dated June 10, 2021, was prepared by investigators appointed at a shareholders' meeting of Toshiba, pursuant to the Companies Act. The investigators were appointed to investigate whether the meeting had been fairly and properly conducted.

The second case involving regulations against foreign investments under the FX Act arose recently on April 22, 2026, where the government issued a recommendation directing the termination of the planned acquisition in Makino by MBK Partners.

MBK Partners is an independent private equity fund that conducts investment activities principally in Japan, China, and South Korea, which is considered a "Foreign Investor" under the FX Act.

Makino is a leading manufacturer of machine tools. The machine tools industry encompasses "dual-use technology" capable of application in the manufacture of military weapons, and is accordingly designated as a Core Business Sector under the FX Act by reason of its importance to national security.

It is understood that MBK Partners intended to enter into a tender offer agreement with Makino, acquire shares in the company, and ultimately make it a wholly-owned subsidiary. The contemplated acquisition of Makino by MBK Partners would constitute an inward direct investment for which a prior notification is required under the FX Act.

After a prior notification was filed by MBK Partners, on April 22, 2026, the Japanese government issued a recommendation to MBK Partners to suspend its acquisition of shares in Makino. According to the Minister of Finance's remarks at a press conference, the review was predicated on the fact that MBK Partners contemplated making Makino a wholly-owned subsidiary and that Makino manufactures world-class machine tools, which are also widely used by Japanese defence equipment manufacturers.

For further details of the 2026 case, please see "Japan Halts Planned Acquisition of Machine Tools Company", *ICLG Briefings* (https://iclg.com/briefing/japan-halts-planned-acquisition-of-machine-tools-company).

4.6 What do you consider to be the most notable aspects of the regime, and with regard to current enforcement trends, what are the key considerations for the parties if their transaction is caught by the regime?

The introduction of a "fast-track" procedure by the Ministry of Finance in 2009 reflected a leaning toward deregulation for purposes of promoting FDI in Japan. Subsequently, however, regulation of FDI in Japan, particularly since the 2019 Amendments, has seen a strengthening, in line with global trends. In addition, the 2026 Amendments continue this trend of strengthening regulations.

Accordingly, the scope of FDI subject to the pre-notification requirement, together with a review process by the relevant ministries under the FX Act, has expanded. In fact, according to the annual report issued by the Ministry of Finance, a total of 2,903 prior notifications were filed under the FX Act in the fiscal year 2024, and of these, more than 10% (363 cases) were withdrawn without progressing to the stage of a suspension recommendation or order, following discussions with the Japanese government.

The scope of FDI subject to the pre-notification requirement can be determined with some degree of certainty in accordance with the thresholds discussed in question 2.2.

With that said, it is still difficult to make quantitative determinations in respect of the Factors to be Considered. In particular, there has been no clarification on the scope of discretionary determination that may be exercised by the relevant ministries.

Accordingly, the permissibility of FDI that is subject to the pre-notification requirement could be susceptible to uncertainty for the foreseeable future.



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