



JAPAN LEGAL UPDATE

Finance

Amendment to the Payment Services Act Tightens Regulation of Crypto Assets

The Payment Services Act ("PSA") and the Financial Instruments and Exchange Act ("FIEA") were amended on May 31, 2019 ("Amendment"). The Amendment was promulgated on June 7, 2019.

Pursuant to a May 2016 amendment to the PSA, Japan had introduced one of the first regulations on virtual currencies in the world (please see the [June 2016 issue](#) of this newsletter). However, a series of incidents where customers' virtual currencies held at exchange service providers were misappropriated triggered criticism that the regulations should afford additional protections to customers and be further clarified. The main objective of the Amendment is to tighten regulations on virtual currencies.

The Amendment will come into force on or before June 7, 2020, the exact date to be specified by a Cabinet Order. The Amendment provides for the following:

First, corresponding to international convention, the Amendment replaces the term "virtual currencies" with "crypto assets."

Second, due to the misappropriations of customers' crypto assets held at exchange service providers in "hot wallets" (which are connected to the internet), the Amendment requires the registered service providers keep the customer's crypto assets, in principle, in "cold wallets" (which are not connected to the internet) or by other trustworthy methods.

Third, the Amendment specifically provides that initial coin offerings ("ICOs") with tokens having rights to receive dividends are subject to the FIEA. The Financial Services Agency of Japan had already announced its position that the ICOs may be subject to the FIEA (please see the [December 2017/January 2018 issue](#) of this newsletter), but the Amendment clarifies this point. In addition, the Amendment introduces new regulations on disclosures to investors and the sale and marketing of ICOs, which are similar to those on stocks.

As interest in blockchain technology, including crypto assets, continues to grow, the impact of the Amendment should be considered not only by registered exchange service providers of crypto assets but also by other companies whose future business is potentially impacted.

Disputes

Amendment to the Civil Execution Act Enacted

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The Act to Partially Amend the Civil Execution Act ("Act") was enacted on May 10, 2019, and promulgated on May 17, 2019. The Act amends the Civil Execution Act and related legislation in order to improve the system for investigating a debtor's assets, and it is in line with the Outline for the Amendments to the Civil Execution Act that was adopted in October 2018 (please see the [October 2018 issue](#) of this newsletter). The Amendment will come into force on or before May 17, 2020, the exact date to be specified by a Cabinet Order.

Intellectual Property

Amendment to the Patent Act Enacted

The Act to Partially Amend the Patent Act, Etc. was enacted on May 10, 2019, and promulgated on May 17, 2019. For details, please see the [April 2019 issue](#) of this newsletter.

General

Amendment to the Road Transport Vehicle Act Enacted

The Act to Partially Amend the Road Transport Vehicle Act was enacted on May 17, 2019, and promulgated on May 24, 2019. For details, please see the [April 2019 issue](#) of this newsletter.

Tax

Explanatory Statement on Permanent Establishments Provisions Notice

In recent years, domestic tax provisions concerning permanent establishments ("PEs") have been amended to address international tax avoidance (please see the [December 2017/January 2018 issue](#) of this newsletter). Following a December 12, 2018, circular notice regarding the amended PE provisions, on April 11, 2019, the National Tax Agency ("NTA") publicized an explanatory statement ("Statement") on the notice. The Statement references the so-called BEPS project initiated by the OECD/G20 to combat tax avoidance and the resulting changes in the November 2017 OECD Model Tax Convention as the basis for the amended PE provisions. It is notable that in interpreting domestic tax provisions in the Statement, the NTA cites the same examples set forth in the Commentaries on the OECD Model Tax Convention.

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