



## JAPAN LEGAL UPDATE

### Finance

#### Amendment to the Financial Instruments and Exchange Act: Introduction of the Fair Disclosure Rule

The amendment to the Financial Instruments and Exchange Act ("Amended FIEA") was enacted on May 17, 2017, and promulgated on May 24, 2017. The Amended FIEA will come into force no later than one year from the date of promulgation on a date to be specified by a Cabinet Order.

Under the Amended FIEA, if a listed company discloses any material nonpublic information to any person (such as an investor or a broker-dealer), the listed company must make such information public simultaneously with the disclosure, if the disclosure was intentional, or promptly following the disclosure, in the case of a non-intentional disclosure. This is known as the "Fair Disclosure Rule."

The Fair Disclosure Rule will inevitably affect the information management of listed companies. The rule will also affect investors, since it will lead to the fair disclosure of information possessed by listed companies.

In addition to the Fair Disclosure Rule, the Amended FIEA introduces a registration requirement for high-frequency trading companies and relaxes regulations on the permitted scope of business for the corporate groups of stock exchanges and other financial instrument exchanges.

### Finance

#### Amendment to the Banking Act: Introduction of FinTech Regulations

The amendment to the Banking Act ("Amended Banking Act") was enacted on May 26, 2017, and promulgated on June 2, 2017.

The Amended Banking Act, following the accelerating global FinTech movement, aims to protect consumers while establishing an institutional framework for promoting open innovation between financial institutions and FinTech businesses (innovation through collaboration and cooperation). Specifically, it requires the registration of electronic payment agencies (FinTech businesses) and requires financial institutions to make an effort to open access to their systems (through open APIs).

The Amended Banking Act will come into force no later than one year from the date of promulgation on a date to be specified by a Cabinet Order, although for some obligations (those regarding the execution of agreements between electronic payment agencies and financial institutions and the establishment of a system for open APIs), there will be transitional measures for up to two years.

### Finance

#### Amendment to the Act on Specified Joint Real Estate Ventures: Establishment of Business Limited to Specially Qualified Investors

The amendment to the Act on Specified Joint Real Estate Ventures ("Amended Joint Ventures Act") was enacted on May 26, 2017, and promulgated on June 2, 2017. The Amended Joint Ventures Act will come into force no later than six months from the date of promulgation on a date to be specified by a Cabinet Order.

Although the precise definition will be set out in the Enforcement Ordinance, the Amended Joint Ventures Act newly defines a "Specially Qualified Investor" as a Special Investor (as defined in the Act on Specified Joint Real Estate Ventures) deemed to have particularly professional knowledge of and experience with real estate investments. According to public comments, foreign corporations that satisfy certain conditions may be covered by the definition of "Special Investor" and therefore may be deemed Specially Qualified Investors under the Amended Joint Ventures Act as well. The Amended Joint Ventures Act allows for Specified Joint Real Estate Ventures to be commenced solely by notification, without the need for obtaining approval, as long as Specially Qualified Investors are the only business entities involved in the ventures.

With the introduction of a simplified procedure for the commencement of Specified Joint Real Estate Ventures, it is now possible to create flexible investment structures tailored to such ventures, where before it was necessary to consider using a trust structure or take into account the possibility of extraterritorial application of the Act on Specified Joint Real Estate Ventures. However, in any particular case, it is essential to make a careful determination as to whether a specific joint venture may in fact be commenced solely by notification.

### Civil Code

#### Amendment to the Civil Code

The amendment to the Civil Code was enacted on May 26, 2017, and promulgated on June 2, 2017. For details, please see the May 2017 issue of this newsletter.

### International Trade

#### Amendment to the Foreign Exchange and Foreign Trade Act

The amendment to the Foreign Exchange and Foreign Trade Act was enacted on May 17, 2017, and promulgated on May 24, 2017. For details, please see the April 2017 issue of this newsletter.

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