



## JAPAN LEGAL UPDATE

### Finance

#### Cabinet Office Ordinance on Corporate Disclosure Requirements Amended

On January 31, 2019, the Financial Services Agency of Japan published amendments to the Cabinet Office Ordinance on the Disclosure of Corporate Affairs, Etc. ("Amendments").

The current disclosure regime for corporate annual reports (*yuka shoken hokokusho*) and other similar securities reports ("Annual Reports") has been criticized as a formulaic presentation of general financial data that lacks specific descriptions about mid- to long-term corporate objectives and strategy, and the Amendments are meant to address this.

Notable changes under the Amendments include enhanced disclosure requirements with respect to a company's position in the marketplace, remuneration programs, and auditors:

- **Marketplace Conditions.** Beginning with Annual Reports for the fiscal year ending on or after March 31, 2020 (filed in June 2020 for a company with a fiscal year ending on March 31), the discussion of management policies and strategies must include the management's view on market circumstances, competitive advantages, key products or services, and customer bases, with the objective of enhancing both the financial and narrative (non-financial) disclosures.
- **Officer Remuneration.** Beginning with Annual Reports for the fiscal year ending on or after March 31, 2019 (filed in June of 2019 for companies with a fiscal year ending on March 31), companies will be required to detail their remuneration programs for officers (such as performance-linked remuneration incentives and position-based remuneration policies) and disclose the actual amounts paid under such programs, in order to promote a constructive dialogue on executive compensation.
- **Auditors.** Applicable as of the fiscal year ending on or after March 31, 2020, Annual Reports will be required to disclose the detailed activities of the board of statutory auditors (*kansayakukai*), tenure of the financial auditing firm, and any network-based fees to the auditing firm, in order to promote the reliability and timeliness of disclosure.

By enhancing the information provided in Annual Reports, the Amendments impact not only the listed companies subject to the disclosure requirements but also their investors.

### Tax

#### MLI Will Apply to Japan's Tax Treaty with Singapore

The "Multilateral Convention to Implement Tax Treaty-Related Measures to Prevent Base Erosion and Profit Shifting" ("MLI"), a multijurisdictional framework created to counter tax avoidance by artificial profit

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shifting (discussed in the [July 2017 issue](#) of this newsletter) will become applicable to the Japan-Singapore Double Tax Agreement ("DTA"). Specifically, the MLI will apply to withholding taxes where the underlying event occurs on or after January 1, 2020, and all other taxes from taxable years beginning on or after October 1, 2019. Among other things, the MLI denies tax benefits under the DTA where it is reasonable to conclude that obtaining such benefits was one of the principal purposes of a certain transaction, unless it is established that granting such benefits would be in accordance with the object and purpose of the DTA. Japanese corporations should be familiar with the MLI requirements and are advised to take appropriate measures for any contemplated transaction implicated by the DTA, such as documenting that its principal purpose is not to obtain a treaty benefit and establishing that such benefit is in accordance with the object and purpose of the relevant provisions of the DTA.

## Intellectual Property

### **METI Publishes Guidelines on Protected Data**

On January 23, 2019, the Ministry of Economy, Trade and Industry ("METI") published the "Guidelines on Protected Data." The Guidelines provide practical guidance, including specific examples of targeted behaviors, on acts of unfair competition involving protected data introduced by the 2018 Amendment to the Unfair Competition Prevention Act (discussed in the [April 2018 issue](#) of this newsletter), which will come into force on July 1, 2019. For these purposes, "protected data" is defined as "technical or business information that is stored and managed in significant quantity by electromagnetic means as information to be provided to specific persons on a regular basis (excluding information that is kept secret)." The Guidelines have no legally binding effect but are still noteworthy for providing practical and useful guidance on protected data.

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