



**Asia-Pacific
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Reforms in Japanese Business Rules

Submitted by: Japan



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Reforms in Japanese Business Rules

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Overview: Reforms relating to Japanese Business Entities

●Business related rule reform history:

- Lifted ban on holding companies – 1997
- Stock swap/transfer system introduced – 1999
- Company spin-off system introduced – 2001
- Tax deferral for reorganization – 2001
- Tax treatment for consolidated entities – 2002
- Corporation with committees introduced – 2003
- New corporate law, “Companies Act”, enacted – 2005
- Guidelines for takeover defense measures – 2005 and 2008

●Requests in general:

- Flexibility of corporate activity: mergers & acquisitions, reorganization
- More effective trade rules
- Relaxation of requirement for establishing new companies

Overview: Reforms relating to Japanese Business Entities

- Ongoing reform project:

- Companies Act – since Nov. 2009
- Civil Law: part II. Claims, including contracts – since Feb. 2010

- The role of the Japanese government, and particularly the Ministry of Economy, Trade & Industry, is to:

- Communicate with the business community to understand their wishes;
- Find the right balance when there are diverse interests, opinions, and assertions;
- Propose amendments to current rules in order to enhance business activities;
- Garner support from the business community, law makers, and the public; and
- Implement the reform

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Companies Act Reform

- Purpose of the reform

- To gain more confidence in companies from stakeholders of companies, e.g., shareholders, creditors, and employees

- Business Community

- Facilitate Corporate Reorganization by removing bottlenecks
- Increase the variety of management structures

- Issues:

- How to reform corporate governance structures
- How to regulate relationships between parent company and subsidiaries

- Schedule

- Deliberations began in Feb. 2010.
- From 2010 to 2011, all related issues are to be discussed
- In 2011 (or later), a draft of the amendment is to be published

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Civil Code Reform: (> Claims > Contracts)

Civil law (Act No. 89 of April 27, 1896 . Effectuated in 1898)

Civil Code

Part I General Provisions

- Person, Things
- **Manifestation of intention**
- **Contract by agent**

Part II Real Rights

Part III Claims

- **Damages**
- **Guarantee**
- **Particular Contracts**
- Tort

Part VI Relatives

Part V Inheritance

● Purpose

- Make more understandable for laymen
- Modernize and update rules to reflect economic growth and modernization

● Progress and Schedule

- Enacted in 1898. Several minor revisions since.
- Deliberation on overall amendment began in November 2009.
- 2010: all related issues are to be discussed
- 2011 (or later): draft amendment to be published

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Civil Code Reform: (> Claims > Contracts)

● Issues/currently discussed amendment proposals:

- Rules relating to “Damages due to default”, Scope of Damages
- Time of Formation of Contract between Persons at a Distance
- Requirement for Assertion of Assignment of Claim against Third Parties
- Creation of New Types of Contracts, e.g., finance lease, service contract,
- Regulation on Stipulations, Business to Consumer contracts, to prevent disputes

● Business community input:

- Clear wording to avoid disputes in making a contract
- Coherent to contract practice, business practice
- Less requirements for validating contracts

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Corporate Taxation

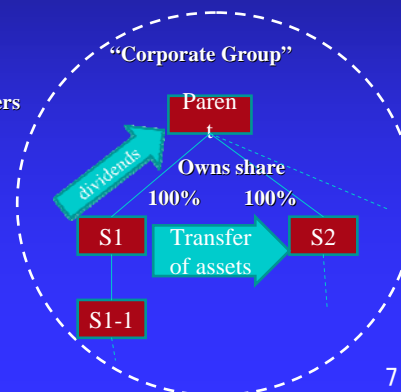
- Corporate groups, M&A, Reorganization
 - FY2010 (beginning April 1st, 2010), Corporate tax law was reformed to introduce a new “group entities tax system”, which relates group reorganization, M&A, etc. Background
 - Prevailing “Group management”, utilizing newly introduced corporate rules
 - Adjust corporate taxation to account for “group management”

- Key Points:

- No taxation in the event asset transfers or dividend distributions within corporate groups
- Improved consolidated taxation system

- Business community input:

- Remove tax barriers to corporate reorganization.



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Conclusion

- Business infrastructure
 - Business rules are widely and repeatedly used by all business entities and are essential business infrastructure.
 - Reforming rules has a very significant impact on business performance in the long run.
- METI's goals:
 - Tackle these business rule reforms, with a view to realizing effective, fair trade rules;
 - Strengthen business competitiveness; and
 - Promote economic growth

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