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## Legislative Update

# Japan Passes FEFTA Amendments Expanding FDI Screening: Indirect Acquisitions, Risk Mitigation and a ‘Japan CFIUS’-Style Consultation Framework

By [Sungjin Kang](#) and [Olga Belosludova](#)

On May 29, Japan’s Diet passed amendments to the Foreign Exchange and Foreign Trade Act (FEFTA).<sup>1</sup> Initially submitted to the Diet in March, the amendments will significantly broaden the scope of covered transactions and introduce an enhanced interagency consultation framework often likened to a “Japan CFIUS.”

Crucially, the amendments do not create a standalone, centralized body identical to the U.S. CFIUS. Rather, they expand Japan’s existing FEFTA framework by adding indirect acquisition rules, codifying risk mitigation procedures, introducing post-closing intervention powers for certain non-notifiable investments, expanding anticircumvention rules and requiring broader interagency consultation in national security reviews.

A notable shift is that the forthcoming subordinate legislation is expected to implement a more risk-sensitive, tiered approach, distinguishing between general foreign investors and certain higher-risk actors. Although the statute itself does not use the label “High-Risk Foreign Investors,” advisory materials indicate that investors such as foreign governments, government-controlled entities, investors subject to recent FEFTA dispositions and certain entities subject to foreign-government information-gathering obligations may face lower thresholds and closer scrutiny.

This alert focuses on the FDI-screening aspects of the amendments.

## I. Executive Summary and Implementation Timeline

For FDI-screening purposes, the amendments can be understood as resting on five key pillars. Provisions establishing the cross-ministerial “Japan CFIUS” consultation framework take effect immediately upon promulgation. The remaining substantive changes will take effect on a date to be specified by Cabinet Order within one year of promulgation, with precise thresholds to be defined by forthcoming Cabinet Orders.

## II. The 5 Key Pillars of the Amendments

### 1. ‘Japan CFIUS’-Style Consultation Framework (Effective Upon Promulgation)

Rather than creating a standalone CFIUS-equivalent body, the amendment introduces a formalized interagency consultation mechanism. When assessing national security issues, the Ministry of Finance (MOF) and relevant line ministries will be required, where they consider it necessary, to seek opinions from the prime minister, the minister for foreign affairs (MOFA) and other relevant administrative authorities.

## **2. Prescreening for Indirect Acquisitions (Closing the Loophole)**

Under the current regime, FEFTA generally captures direct acquisitions of shares or voting rights in Japanese companies but does not generally capture the acquisition of foreign holding companies that directly hold such interests. The amendment may require prior notification, where the applicable filing criteria are met, for indirect acquisitions where a foreign investor acquires, directly or indirectly, 50% or more of the voting rights of a foreign entity (the Direct Holding Entity) that holds shares or voting rights in a Japanese company. The amendment also captures certain exercises of voting rights to appoint a majority of directors of a Direct Holding Entity or certain related entities, where the relevant statutory conditions are met.

- Differing Thresholds (Anticipated): Under forthcoming regulations, the regulatory burden is expected to depend significantly on the investor profile. For listed Japanese companies, the specified percentage will be set by Cabinet Order and must be at least 1%. Based on advisory materials, it is anticipated that a 1% threshold may apply to higher-risk investors, while a 50% threshold may apply to general foreign investors.
- *Note: For unlisted Japanese companies, the statute does not specify a minimum shareholding threshold at the level of the Japanese company. Absent further limitations in subordinate regulations, an indirect acquisition could potentially be captured even if the Direct Holding Entity holds only a minor equity interest in an unlisted Japanese company engaged in a designated business.*

## **3. Statutory Codification of Mitigation Measures (Crucial for Deal Timelines)**

Under current practice, if authorities require mitigation measures (e.g., agreeing not to propose the divestment of sensitive businesses) to clear a transaction, the investor has generally been expected to withdraw its initial filing and resubmit a new one, resetting the statutory clock. The amendment explicitly codifies the mitigation process. During the statutory prohibition period, investors will be able to submit amendments reflecting proposed risk mitigation measures without withdrawing the entire notification. If fewer than 14 days remain in the prohibition period when the amendment is accepted, the prohibition period will be extended until 14 days after the amendment's acceptance. Changes required after the prohibition period will still necessitate a separate prior notification.

## **4. Post-Investment Intervention in Non-Designated Sectors**

Under the current regime, investments in companies operating outside designated sectors are generally not subject to prior notification, although post-facto reporting may be required for certain acquisitions, such as acquisitions of 10% or more of voting rights. The authorities generally have not had recommendation or order powers for such non-designated-sector investments. The amendment introduces a post-closing reporting and intervention mechanism for certain investments that were not subject to prior notification. If authorities determine that the investment presents a national security concern, they may recommend or order the disposal of shares or other necessary measures. The authorities' ability to request such a report is expected to be subject to a five-year lookback period. While final parameters will be defined by Cabinet Order, advisory materials suggest this mechanism may primarily target acquisitions of 10% or more by higher-risk foreign investors.

## **5. Enhanced Anti-Circumvention Rules**

The amendments will expand FEFTA's reach to capture investments made by nonforeign investors for the account of, pursuant to arrangements with or under certain special relationships with foreign investors, with the detailed scope expected to be further specified by Cabinet Order.

## **III. Recent Enforcement Trends: Heightened Case-Specific Scrutiny**

These legislative changes occur against a backdrop of increasingly active and nuanced enforcement by Japanese authorities.

Recent reports illustrate the highly case-specific nature of Japanese FEFTA reviews. In April 2026, the Japanese government reportedly issued a rare recommendation asking MBK Partners to halt its

proposed acquisition of Makino Milling Machine on national security grounds. By contrast, MBK's proposed acquisition of Altemira Holdings was reportedly cleared following its FEFTA prior review in May 2026. This contrast underscores that outcomes may depend heavily on the target's technology, customer base, information assets, and perceived defense or economic-security sensitivity, highlighting the necessity of early strategic planning.

#### IV. Practical Implications for M&A and Private Equity

For global investors, particularly private equity sponsors and multinational corporations, these amendments require immediate integration into deal structuring and diligence processes:

- **M&A Structuring and Diligence:** Buyers acquiring non-Japanese targets should now build Japanese FDI diligence into their deal processes. Once the new rules take effect, if a global target has a Japanese subsidiary, the transaction may trigger a mandatory FEFTA filing, even if both the buyer and target are foreign entities.
- **Internal Reorganizations and Intra-Fund Transfers:** The new indirect acquisition rules will apply not only to external M&A but potentially to internal restructurings. Private equity (PE) funds moving equity interests or holding companies between different fund vehicles or group entities post-acquisition may trigger mandatory prior notification requirements once the relevant provisions take effect.
- **Strategic Profiling:** PE sponsors must diligence not only the acquiring vehicle and its controller but also co-investors, governance rights, side-letter rights and any foreign government-linked capital that could affect exemption availability, attribution or the authorities' risk assessment.
- **Condition Precedents (CPs):** Transaction agreements for global deals should increasingly incorporate FEFTA clearance as a condition precedent if the target group holds relevant Japanese subsidiaries, equity interests, businesses or other Japanese nexuses that may satisfy FEFTA filing thresholds, particularly in designated or sensitive sectors.

Our Tokyo team is closely monitoring the drafting of the subordinate Cabinet Orders, which will define the precise thresholds and exemptions. Please contact Paul Hastings to discuss how these new rules and the shifting enforcement landscape will affect your global M&A pipelines and fund structuring.



*If you have any questions concerning these developing issues, please do not hesitate to contact either of the following Paul Hastings Tokyo lawyers:*

Sungjin Kang  
+62-2-6321-3820 / +81-3-6229-  
62020  
[sungjinkang@paulhastings.com](mailto:sungjinkang@paulhastings.com)

Olga Belosludova  
+81-3-6229-6137  
[olgabelosludova@paulhastings.com](mailto:olgabelosludova@paulhastings.com)

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<sup>1</sup> As of this alert, promulgation and the law number have not yet been reflected on the Diet's bill status page.