

Comments from Practicing Attorney

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I. Amendment of Foreign Exchange Law Regarding Foreign Direct Investments

A. Discussion of the Prior Notification Method vs. Post-Intervention Method

1. Prior Notification Method How to respond to a situation change after the fact? (Difficulties in Enumeration as a result of changes in technique + catching up after the report has been filed)
2. Post-Intervention Method Is foresee ability low in advance?

Question: Ultimately, how are these two methods different?

II. M&A Regulations (of Public Companies) from the Perspective of the International Investment Environment

A. Contradiction of the “Stock Corporation/*Kabushiki Kaisha*” (i.e., A universal problem for all countries)

1. Separation of the management and the owner
2. Is it permissible to allow total freedom in acquiring /transferring controlling interests by simply moving public shares, greatly affecting the interests of each corporation’s stakeholders?

B. Role of the regulatory infrastructure

To ensure that the proposed buyers negotiate a commitment (+ transparency of negotiation + commitment to capital markets + sanctions if said promises are violated) with the target company’s board of directors (after having treated the conflict of interest problems)

III. Regulatory Problems that Japan is Facing

- A. How to acquire commitment from the raiders intending to acquire the control
- B. How to know the real investor exercising the voting powers (in order to facilitate the IR communications between the company and the investors)
- C. How to handle with “Wolf Pack” tactics, and other equity decoupling