

The Japanese Diet enacted the amendment bill of the Antimonopoly Act (“AMA”)

The AMA amendment bill was enacted on June 3, 2009. The amendment is expected to come into effect in January 2010 at the earliest.

Among other things, the important features of the amendment are as follows:

- Expansion of subjects of surcharge (which are currently limited to price fixing and other cartel, bid-rigging and control type of private monopolization) to exclusionary type of private monopolization and certain types of unfair trades practices.
- Increase of penalties for cartel and bid-rigging, such as increase of maximum individual imprisonment term from 3 years to 5 years.
- Review of leniency program under which at most 5 (currently 3) applicants may apply for leniency on a company group basis.
- Review of merger notification.

The review of merger notification includes:

- Introduction of prior (currently post) notification for share acquisition.
- Introduction of provisions on notification for joint share transfer.
- Adoption of “total sales amount in Japan” as the only threshold criteria, applicable to both domestic and foreign companies.
- Adoption of “company group” as the basis of the threshold.
- Exemption of notification obligation with respect to merger within company group such as uncle-nephew companies.

The Japanese Government must review the current hearing procedures entirely and carry out consideration of necessary measures within FY 2009.

The JFTC’s press release, which contains a summary of the amendment, is available at the English-language website: <http://www.jftc.go.jp/e-page/index.html>.

If you would like to know the practical implications of the amendment, please contact Miyake & Yamazaki.

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