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Japan

White Collar Crime

Contributor

**Momo-o, Matsuo &
Namba**



Ryota Asakura

Partner | ryota.asakura@mmn-law.gr.jp

Riki Sanou

Associate | riki.sanou@mmn-law.gr.jp

This country-specific Q&A provides an overview of white collar crime laws and regulations applicable in Japan.

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Japan: White Collar Crime

1. What are the key financial crime offences applicable to companies and their directors and officers? (E.g. Fraud, money laundering, false accounting, tax evasion, market abuse, corruption, sanctions.) Please explain the governing laws or regulations.

Key financial crime offences in Japan are spread across the Penal Code and a range of special statutes. For individuals, the Penal Code covers fraud (Article 246), computer fraud (Article 246-2), breach of trust (Article 247; although in corporate misconduct cases involving directors or officers, special breach of trust under Article 960 of the Companies Act generally applies instead), and embezzlement and professional embezzlement (Articles 252 and 253). The Companies Act covers offences by directors and other officers, including special breach of trust (Article 960), unlawful distributions and other acts endangering company assets (Article 963), use of false documents (Article 964), and bribery in relation to shareholder rights (Article 968); and the Financial Instruments and Exchange Act covers market manipulation (Article 159), insider trading (Articles 166 to 167-2), and false disclosure (Article 197(1)(i)). Other important regimes include the Unfair Competition Prevention Act for trade secret offences and bribery of foreign public officials, the Antimonopoly Act for cartel and bid-rigging conduct, the Act on Prevention of Transfer of Criminal Proceeds and the Act on Punishment of Organized Crimes for anti-money laundering and proceeds of crime offences, the tax statutes for tax evasion, and the Foreign Exchange and Foreign Trade Act for sanctions and exchange-control offences. A company may be prosecuted only where the relevant statute contains a corporate punishment provision; the Penal Code itself does not contain a general corporate criminal liability regime.

2. Can corporates be held criminally liable? If yes, how is this determined/attribution?

Yes, but only where the relevant statute expressly provides for corporate punishment. Japanese criminal law traditionally proceeds on the basis that only natural persons commit crimes, and Japan does not have a general corporate criminal liability doctrine equivalent to identification or respondeat superior liability. Corporate

liability is usually imposed through a dual-punishment provision, known as a *ryobatsu kitei*. Such provisions typically punish both the individual offender and the company where a representative, agent, employee or other person engaged in the company's work commits the offence in connection with the company's business. Because a company is a legal entity, its criminal liability is limited to a fine. The company cannot avoid liability unless it establishes that it exercised due care to prevent the violation, including in the selection and supervision of the offender.

3. What are the commonly prosecuted offences personally applicable to company directors and officers?

Directors and officers are most commonly exposed where they personally participate in, direct, approve or fail to prevent misconduct within their area of responsibility. Typical offences include special breach of trust under the Companies Act, false securities reports and other disclosure offences, insider trading, market manipulation, tax evasion, cartel or bid-rigging offences, foreign public official bribery, trade secret offences, and Penal Code offences such as fraud, breach of trust and professional embezzlement. Liability may arise as a principal offender, co-conspirator or accomplice, and statutory penalties for individuals may include imprisonment and fines.

4. Who are the lead prosecuting authorities which investigate and prosecute financial crime and what are their responsibilities?

The lead criminal authorities are the police and the public prosecutors. The police usually conduct the initial investigation and refer the case to prosecutors. Public prosecutors may also investigate directly and have exclusive authority to decide whether to indict (Articles 247 and 248 of the Code of Criminal Procedure). In significant corporate, securities, tax, bribery and political corruption cases, the Special Investigation Departments of the Tokyo, Osaka and Nagoya District Public Prosecutors Offices often play a prominent role. Regulators, by contrast, do not have prosecution powers. They have inspection powers which must be used for their statutory administrative purposes and must not be exercised for criminal purposes. However, certain

authorities in the tax, securities and competition fields have special criminal investigation powers which may be exercised to determine whether to file a criminal accusation. The Securities and Exchange Surveillance Commission (SESC) conducts market surveillance, inspections, market misconduct investigations, disclosure inspections and criminal investigations, and may file criminal accusations with prosecutors. The Japan Fair Trade Commission (JFTC) and the tax authorities likewise have inspection or criminal accusation powers in defined areas.

5. Which courts hear cases of financial crime? Are they determined by tribunals, judges or juries?

Japan has no special courts for financial crimes. Criminal cases are heard in the ordinary criminal courts. The court of first instance is generally the district court or the summary court, depending on the seriousness of the offence and the statutory penalty. Most white-collar cases are tried by professional judges, either as a single judge or a three-judge panel. Appeals from first-instance judgments are heard in the high courts, with final appeals to the Supreme Court available on limited grounds. Japan has a lay judge system, known as *saiban-in*, under which citizens sit with professional judges to decide certain serious criminal cases. Because the system is generally reserved for serious offences, most financial crime cases are not heard by *saiban-in* panels.

6. How do the authorities initiate an investigation? (E.g. Are raids common, are there compulsory document production or evidence taking powers?)

Investigations may begin from victim complaints, whistleblower reports, suspicious transaction reports, regulator referrals, market surveillance, tax audits, leniency or cooperation applications, self-reporting, media reports or information obtained in another investigation. Under the Code of Criminal Procedure, voluntary investigation (*nin'i sosa*) is the general rule, while compulsory measures (*kyosei sosa* or *kyosei shobun*) are exceptional. Investigators therefore take voluntary measures as the starting point for collecting evidence, such as requesting a voluntary interview, seeking voluntary document production, and making inquiries of public or private bodies. Investigators use the power of making inquiries under Article 197(2) of the Code of Criminal Procedure very broadly to collect evidence, such as mobile telephone records, banking

records, communications on messaging applications, and other materials necessary for the investigation of economic crime. Where voluntary measures are insufficient, the authorities may use compulsory measures. Searches and seizures generally require a warrant issued by a judge, and raids are used in serious cases where there is a risk of evidence being destroyed or of non-cooperation. Arrest and detention are also available where statutory requirements are met. Certain regulators, including the SESC, the JFTC and the tax authorities, have their own inspection and criminal investigation or accusation powers. In practice, a serious regulatory investigation may lead to a criminal accusation and a subsequent prosecutor-led investigation.

7. What powers do the authorities have to conduct interviews?

Prosecutors and police may request a suspect to appear and may question the suspect where necessary for an investigation (Article 198(1) of the Code of Criminal Procedure). A suspect who is not under physical restraint may refuse to appear and, after appearing, may leave at any time. The same practical position applies to voluntary interviews of witnesses and other reference persons. For detained suspects, Japanese practice proceeds on the basis that investigators may conduct custodial questioning and that such suspects have an obligation to be interviewed, although the doctrinal basis and limits of any duty to submit to questioning have been debated. Interviews are not depositions under oath; they are investigative interviews, with written statements or records prepared where appropriate. Regulatory agencies with statutory criminal investigation powers may also question relevant persons for defined offences within their remit, but they may only conduct voluntary questioning and do not have the power to arrest or detain suspects for questioning.

8. What rights do interviewees have regarding the interview process? (E.g. Is there a right to be represented by a lawyer at an interview? Is there an absolute or qualified right to silence? Is there a right to pre-interview disclosure? Are interviews recorded or transcribed?)

Interviewees have important constitutional and procedural protections, including the privilege against self-incrimination (Article 38(1) of the Constitution) and a right to remain silent. In addition, a detained suspect has the right to appoint counsel (Article 34 of the

Constitution) and to meet counsel confidentially and without limitation (Article 39(1) of the Code of Criminal Procedure). Before questioning, investigators must inform the suspect that the suspect is not required to make a statement and that the suspect has a right to appoint counsel. Non-detained suspects and voluntary witnesses may refuse to attend or may leave an interview. Although the right to appoint and meet counsel is secured, Japanese practice does not generally permit defence counsel to be present during a suspect interview. There is also no general right to pre-interview disclosure of the evidence gathered by investigators before indictment. Interviews are commonly recorded in written statements or interview records. Audio and video recording is mandatory for certain suspect interviews, including *saiban-in* cases and cases investigated directly by prosecutors rather than referred by judicial police officers (Article 301-2(4) of the Code of Criminal Procedure). This can be relevant to white-collar cases that begin with a regulator's criminal accusation to prosecutors. Companies do not themselves enjoy custodial rights, but their directors, officers and employees do when interviewed as suspects or witnesses.

9. Do some or all the laws or regulations governing financial crime have extraterritorial effect so as to catch conduct of nationals or companies operating overseas?

Yes. Japan applies the territorial principle as the starting point (Article 1(1) of the Penal Code), but several financial crime laws have extraterritorial reach. The Penal Code applies to offences committed in Japan and also to specified offences committed overseas, including certain offences committed by Japanese nationals (Articles 2 to 4-2). For example, fraud, computer fraud, breach of trust and professional embezzlement committed by Japanese nationals may fall within the Penal Code's nationality-based extraterritorial provisions (Article 3). Special statutes may also extend overseas, depending on their wording and connecting factors, such as the offender's nationality, the location of the victim or protected interest, the use of Japanese markets, or effects in Japan. Important examples include foreign public official bribery and trade secret offences under the Unfair Competition Prevention Act, certain securities offences under the Financial Instruments and Exchange Act, competition offences under the Antimonopoly Act, money laundering and proceeds offences, sanctions and exchange-control offences under the Foreign Exchange and Foreign Trade Act, and tax offences where Japanese tax obligations are engaged. As noted in Q2, corporate liability may follow

only where the relevant statute includes a dual-punishment clause, that is, only where the relevant individual is found guilty.

10. Do the authorities commonly cooperate with foreign authorities? If so, under what arrangements?

Yes. Japanese authorities commonly cooperate with foreign authorities in financial crime matters, particularly in securities, competition, bribery, money laundering, tax and sanctions cases. Cooperation may take place through formal criminal mutual assistance, extradition channels, regulator-to-regulator cooperation and intelligence-sharing frameworks. Formal mutual legal assistance is governed by the Act on International Assistance in Investigations, bilateral mutual legal assistance treaties, and reciprocity-based requests. Japan has concluded mutual legal assistance treaties with, among others, the United States, the Republic of Korea, the People's Republic of China, Hong Kong, the European Union, Russia and Vietnam, and has more recently signed such treaties with Brazil and Canada. Assistance can include obtaining evidence, interviewing witnesses, witness examination before a judge, and searches and seizures, subject to treaty terms and Japanese procedural requirements. Regulators also cooperate through specialist channels. The SESC exchanges information with foreign securities regulators and participates in cross-border enforcement among IOSCO member jurisdictions, the JFTC cooperates with overseas competition authorities under antitrust cooperation agreements, Japan's financial intelligence unit exchanges information with overseas financial intelligence units, and the tax authorities exchange information under tax treaties and related arrangements. Information received through regulatory channels is not always immediately usable as criminal evidence; consent from the requested authority or a formal mutual assistance process may be required. In practice, parallel regulatory and criminal cooperation is often coordinated where the same cross-border conduct raises both enforcement and prosecution issues.

11. What are the rules regarding legal professional privilege? What, if any, material is protected from production or seizure by financial crime authorities?

Given the absence in Japan of a broad disclosure system comparable to discovery in common law jurisdictions, Japan does not recognise a comprehensive attorney-

client privilege of the kind found in the United States. In the context of criminal investigations and proceedings, communications between lawyer and client are protected only partially, through the following mechanisms.

First, the right to refuse seizure under Articles 222(1) and 105 of the Code of Criminal Procedure allows a lawyer to refuse the seizure by investigators of items held or possessed in the course of professional duties that relate to another person's secrets. This right is limited: a lawyer may not refuse seizure where the person whose secret is at stake is a third party rather than the suspect or defendant, and where refusal is made solely for the benefit of the suspect or defendant; however, where the secret belongs to the suspect or defendant, seizure may be refused (proviso to Article 105). A lawyer may also enjoy the right to refuse seizure by tax authorities having criminal investigation powers.

Second, a lawyer has the right to refuse to give testimony as to facts learned in the course of professional duties that relate to another's secrets (Article 149 of the Code of Criminal Procedure). Third, a detained suspect or criminal defendant has the right to confidential communication with counsel under Article 39(1) of the Code of Criminal Procedure, which is both a right of the client and an inherent right of the lawyer.

Separately, and relatively recently, a privilege-like system has been introduced in the administrative (not criminal) competition context. Under the Antimonopoly Act, conduct such as cartels and bid-rigging that constitutes an unreasonable restraint of trade may attract an administrative surcharge (*kacho kin*), and the Act contains a surcharge reduction and exemption (leniency) system. Under the 'determination procedure' (*hanbetsu tetsuzuki*), confidential communications between a business operator and an external lawyer that record legal advice concerning suspected conduct subject to leniency may, if certain requirements as to marking and storage are met, be returned to the business operator in the JFTC's administrative investigation without the investigating officer accessing their content. It should be noted that this system is available only in the JFTC's administrative investigations and does not apply in criminal investigations.

12. What rights do companies and individuals have in relation to privacy or data protection in the context of a financial crime investigation?

Under Article 35 of the Constitution, the right against entry, search and seizure of one's homes, papers and effects without a warrant lawfully issued by a court is

guaranteed. Accordingly, investigators cannot obtain private information or data belonging to companies or individuals without a lawful warrant. The provisions of the Act on the Protection of Personal Information concerning disclosure, correction and suspension of use (Chapter 5, Section 4), however, do not apply to retained personal information relating to criminal trials, or to dispositions and enforcement carried out by investigative authorities. As a result, the usual data-subject rights under that Act cannot be relied upon to obtain or restrict the use of such information in the criminal context.

13. Is there a doctrine of successor criminal liability? For instance in mergers and acquisitions?

In an absorption-type merger, the criminal liability of the extinguished company generally cannot be pursued against the surviving company. However, fines, petty fines, confiscation and collection of equivalent value that were finalised before the company was extinguished may be enforced against the surviving or newly incorporated company after the merger. There are also penalties for officers who cause a company to merge and be extinguished for the purpose of evading criminal prosecution or the execution of a sentence. As regards a company split, criminal liability such as a fine cannot pass to the successor company, because the performance of such a penalty is meaningful only in respect of the specific obligor and, by its nature, cannot be transferred by a company split.

14. What factors must prosecuting authorities consider when deciding whether to charge?

Japan adopts the principle of prosecutorial discretion, under which the decision whether to prosecute is left to the discretion of the public prosecutor (Article 248 of the Code of Criminal Procedure). In exercising that discretion, the prosecutor considers, among other things: (i) the burden and impact of prosecution on the subject; (ii) the reflection of the intentions of crime victims and the wider public; and (iii) considerations of litigation economy. It is a prerequisite of a decision to prosecute that there is a high probability of obtaining a conviction, that is, a firm suspicion of the crime. In the competition field, however, prosecution for an offence under the Antimonopoly Act may be initiated only upon a criminal accusation by the JFTC (Article 96 of the Antimonopoly Act), which means that the JFTC has exclusive criminal accusation authority for offences under that Act. Under the JFTC Policy on Criminal Accusations and Investigations in Cases Involving Violations of the Antimonopoly Act, published

on 7 October 2005, the JFTC's policy is not to file a criminal accusation against the first leniency applicant.

15. What is the evidential standard required to secure conviction?

A conviction requires proof beyond a reasonable doubt. According to Supreme Court case law, this means that, although room for possible doubt as to the existence of contrary facts may remain, it is impossible within a legal system such as litigation to eliminate entirely the abstract possibility of contrary facts; conviction is therefore permissible where, in light of sound social common sense, the doubt is generally judged to be unreasonable.

16. Is there a statute of limitations for criminal matters? If so, are there any exceptions?

Yes. A limitation period for public prosecution exists in Japanese criminal matters, and where it is completed the court must render a judgment dismissing the prosecution. Although a limitation period was formerly prescribed for all crimes, it has now been abolished for certain crimes that cause the death of a person and for which the maximum statutory penalty is the death penalty, such as murder and robbery resulting in death. The length of the period otherwise depends on the severity of the statutory penalty. As regards offences by companies, some statutes contain a special provision aligning the limitation period for imposing a fine on the company with the limitation period for the underlying offence of the individual perpetrator so that the two periods correspond.

17. Are there any mechanisms commonly used to resolve financial crime issues falling short of a prosecution? (E.g. Deferred prosecution agreements, non-prosecution agreements, civil recovery orders, etc.) If yes, what factors are relevant and what approvals are required by the court?

Japan does not have a system of deferred prosecution or non-prosecution agreements under which a suspect enters into an agreement with the authorities in respect of its own case and, in exchange for performing certain conditions, avoids prosecution. There is a cooperation-based plea-agreement system, which may also result in a decision not to prosecute the cooperating suspect, described in Q18, but it concerns cooperation in the

investigation of another person's case.

However, because Japanese criminal procedure adopts the principle of prosecutorial discretion (Article 248 of the Code of Criminal Procedure), a prosecutor may decide not to prosecute even where a suspicion of crime is established, taking into account the character, age and circumstances of the offender, the gravity of the offence, the circumstances of its commission, and the situation after the offence. For this reason, and as noted in Q19, where a company or individual conducts a voluntary investigation, takes measures for victim recovery and to prevent recurrence, and cooperates with the investigation, this may be treated as a favourable factor in the charging decision.

In the competition field, the Antimonopoly Act additionally provides a leniency (surcharge reduction and exemption) system for business operators that report cartel or bid-rigging conduct. This system is critical in practice because the first leniency applicant is generally exempt from criminal accusation by the JFTC under the JFTC's Criminal Enforcement Policy, which, given the JFTC's exclusive criminal accusation authority (Article 96 of the Antimonopoly Act; see Q14), results in exemption from criminal prosecution.

18. Is there a mechanism for plea bargaining?

Since 1 June 2018, Japan has had a system of 'agreement concerning cooperation in the collection of evidence and in prosecution' (Articles 350-2 to 350-15 of the Code of Criminal Procedure). Under this system, in relation to certain financial and economic crimes and to drug and firearms offences, and with the consent of defence counsel, the prosecutor and the suspect or defendant may agree that, in exchange for the suspect or defendant cooperating in the investigation of another person's criminal case, the prosecutor will grant more lenient treatment in respect of the suspect's or defendant's own case, including a decision not to prosecute (known in Japan as suspension of prosecution). Unlike plea bargaining in the United States, it is not a system under which a suspect or defendant admits their own guilt in exchange for non-prosecution, a charge for a lesser offence, or a lighter sentencing recommendation. The crimes covered by the system (the 'specified crimes') include certain Penal Code offences such as bribery, fraud and extortion, and other financial and economic offences under the tax statutes, the Antimonopoly Act, the Financial Instruments and Exchange Act and the Unfair Competition Prevention Act, as well as certain drug offences (Article 350-2(2) of the Code of Criminal Procedure).

19. Is there any obligation to disclose discovered misconduct to prosecuting authorities, or any benefit to making a voluntary disclosure? Is there an established route or official guidance for making such disclosures?

As a rule, there is no statutory obligation to disclose discovered misconduct to the prosecuting authorities. However, depending on the nature of the misconduct, a company may be required under various sector-specific regulatory statutes to report the matter to the competent administrative authority, or may be asked by the investigating authorities to provide an explanation. A company that files securities reports may, depending on the misconduct, be required to file amendments to its securities reports or other corporate disclosure documents. In addition, a listed company is subject to a timely disclosure obligation under the self-regulatory rules of the financial instruments exchange in respect of information that materially affects investment decisions, including certain misconduct. As to the benefits of voluntary disclosure, a company that discloses voluntarily may, even if it becomes the subject of an administrative or criminal investigation, be subject only to a voluntary rather than a compulsory investigation, which may reduce reputational risk compared with a compulsory investigation. Voluntary disclosure and cooperation may also be taken into account as a favourable factor in the authorities' decisions on whether to bring a case and whether to prosecute.

In the competition field, the Antimonopoly Act provides a leniency system reducing or exempting administrative surcharges where cartel or bid-rigging conduct is self-reported. As noted in Q17, the first leniency applicant is also generally exempt from criminal accusation, resulting in exemption from criminal prosecution.

Generally speaking, however, there is no unified or official route for voluntary disclosure in criminal matters.

20. What rules or guidelines determine sentencing? Are there any leniency or discount policies? If so, how are these applied?

As a preliminary matter, although Japanese courts are not legally bound by the sentence sought by the public prosecutor, sentencing is generally determined with reference to the prosecutor's recommendation, and the sentence rarely exceeds the term sought by the prosecutor. Sentencing in Japan is generally approached in three stages. First, the court identifies the social category of the case and, by reference to the distribution

of sentences available through sentencing databases, ascertains the sentencing tendency for that category. Second, the court evaluates the culpability of the particular offence to determine its relative position within that category (for example, among the most serious, serious, standard, light or lightest cases), and, using the sentencing tendency as a guide, determines the range of the responsibility-based sentence for the case. Finally, within that range, the court takes into account general circumstances to fix the precise sentence.

Where certain statutory grounds are present, such as diminished mental capacity or an attempted offence, the sentence is, or may be, mitigated as a matter of law. In addition, the sentence may be reduced where there are extenuating circumstances in the commission of the offence. Japan does not have a formal sentencing discount or guideline system; sentencing is at the court's discretion within the statutory range, guided by precedent and the sentencing database.

21. How are compliance procedures evaluated by the prosecuting authorities and how can businesses best protect themselves?

The prosecution system in Japan does not recognise the existence of compliance procedures itself as a determinative factor in deciding whether to prosecute, unlike the FCPA Corporate Enforcement Policy in the United States. However, the effectiveness of a company's compliance framework may influence the authorities' assessment of the company's overall conduct. In particular, a well-designed compliance programme may demonstrate that the misconduct was not tolerated or encouraged by the company, support arguments that the conduct was carried out by a limited number of individuals, and provide evidence of the company's commitment to preventing future violations. It may also facilitate the early detection and remediation of misconduct and enable the company to respond promptly and appropriately to an investigation. As noted in Q17, these factors may be taken into account favourably in the prosecutor's charging decision.

22. What penalties do the courts typically impose on individuals and corporates in relation to the key offences listed at Q1?

Individuals may be sentenced to imprisonment or a fine. Depending on the manner of the offence, the extent of victim recovery, any settlement, the presence or absence of a prior record and other circumstances, a suspended sentence may be imposed.

By way of illustration of the maximum statutory penalties for individuals, Penal Code fraud and computer fraud each carry imprisonment of up to 10 years; breach of trust carries imprisonment of up to 5 years or a fine of up to JPY 500,000; professional embezzlement carries imprisonment of up to 10 years; market manipulation under the Financial Instruments and Exchange Act carries imprisonment of up to 10 years and/or a fine of up to JPY 10 million; insider trading carries imprisonment of up to 5 years and/or a fine of up to JPY 5 million; and the filing of false securities reports carries imprisonment of up to 10 years and/or a fine of up to JPY 10 million.

For companies, as explained in Q2, penalties are imposed through dual-punishment provisions, and because a company is a legal entity its criminal liability is limited to a fine. By way of illustration, the maximum corporate fines for the key offences listed in Q1 are as follows: under the Financial Instruments and Exchange Act, a fine of up to JPY 700 million for false securities reports and market manipulation (Article 207(1)(i)), and a fine of up to JPY 500 million for insider trading (Article 207(1)(ii)); under the Antimonopoly Act, a fine of up to JPY 500 million for cartel and bid-rigging offences (Article 95(1)(i)); under the Unfair Competition Prevention Act, a fine of up to JPY 1 billion for trade secret misappropriation for overseas use or bribery of foreign public officials (Article 22(1)(i)) and a fine of up to JPY 500 million for trade secret offences (Article 22(1)(ii)); and under the Foreign Exchange and Foreign Trade Act, depending on the prohibited item or transaction, a fine ranging from JPY 30 million to JPY 1 billion, or up to five times the value of the item involved in the violation, for sanctions and export-control offences (Article 72(1); the maximum amount varies based on the prohibited items or transactions in violation). The Penal Code does not contain a dual-punishment provision and therefore does not impose fines on companies for Penal Code offences such as fraud, breach of trust or embezzlement.

23. What rights of appeal are there?

Japan adopts a three-tier court system, and in criminal matters both the defendant and the prosecutor have rights of appeal. An appeal against a first-instance judgment to the high court may be brought on grounds including a violation of the law in the first-instance proceedings, an error of fact, an error in the interpretation or application of the law, or an inappropriate sentence. By contrast, a final appeal against a high court judgment to the Supreme Court as of right may be brought only on the grounds of a violation of the Constitution or an error in its interpretation, or a conflict with precedent of the highest court; an appeal on other grounds is subject only to

discretionary review by the Supreme Court. The higher court may uphold the original judgment, quash it and render its own decision, or remand the case to the lower court; where the sentence alone is found to be inappropriate, the higher court may vary the sentence only. In addition, a retrial procedure exists to provide relief against an erroneous finding of fact, for the benefit of a person subject to a final and binding judgment; a retrial is, however, granted only in limited circumstances, such as where new evidence is discovered.

24. How active are the authorities in tackling financial crime? How long do proceedings typically take?

Japanese authorities continue to address financial crime on an ongoing basis. In 2024, the number of persons newly received by the public prosecutors for violations of the tax statutes was 85, an increase of 23.2% year-on-year and part of a continuing upward trend since 2022. In the same year, the number of persons newly received for violations of the Companies Act and the Commercial Code was 80; for violations of the Financial Instruments and Exchange Act, 145 (of which criminal accusations by the SESC accounted for 7 cases involving 8 persons); and for violations of the Antimonopoly Act, none (with no criminal accusations by the JFTC). These figures indicate that the authorities remain continuously engaged in tackling financial crime.

As regards the duration of proceedings, the time from initial investigation to indictment varies considerably depending on the complexity of the case, but a white-collar investigation may typically last from several months to several years. First-instance trials may take from several months to more than two years in complex cases.

25. In the last 5 years, have you seen any trends or focus on particular types of offences, sectors and/or industries?

Over the past five years, Japanese law enforcement and regulatory authorities have increasingly focused on corporate misconduct, data governance, and compliance in the fields of export control and economic security, while also devoting greater attention to fair trading practices and the protection of smaller market participants, including SMEs and freelancers.

Corporate fraud and misconduct have remained a key enforcement priority in Japan. Prompted by internal whistleblowing, internal and third-party audits and

investigations by the authorities, companies have continued to face inspections, corrective reporting requirements and demands for governance improvements. Cases concerning the integrity of corporate activities, such as the falsification of test and certification data and irregularities in inspection and shipment approval procedures, have arisen across several industries.

At the same time, regulatory scrutiny of personal information handling under the Act on the Protection of Personal Information has intensified. Recent cases have drawn attention to data governance in the insurance industry, with heightened expectations as to information management systems, access controls (particularly in relation to seconded personnel and group companies), remedial measures and management accountability.

Export controls, economic security and sanctions compliance have become increasingly important areas of regulatory and corporate focus. The Japanese government has repeatedly reviewed the scope of controlled items, particularly advanced semiconductor-related items and other sensitive technologies, while strengthening end-user and end-use controls. Economic sanctions, especially those relating to Russia, have also become more complex, requiring companies to enhance transaction screening and supply-chain due diligence. In 2025, the Ministry of Economy, Trade and Industry (METI) revised the End User List to add foreign entities, and, through amendments to regulations under the Foreign Exchange and Foreign Trade Act, strengthened catch-all controls and reorganised the scope of controlled items. The authorities have also been active in enforcement through administrative dispositions: according to METI's annual review of export-control violations, in fiscal year 2024, many of the violations involved relatively small companies and stemmed from failures or errors in export-control classification assessments. Recent court cases concerning export-control violations have also raised issues as to investigative methods and legal interpretation, making the clarification of export-control systems and improved international consistency important themes.

The JFTC has increasingly focused on unfair trading practices and the protection of smaller market participants, particularly through stricter enforcement relating to price pass-through, the revision of the Subcontract Act and the introduction of legislation protecting freelance workers. It has also become more active in regulating digital markets, including major technology platforms, and in addressing competition issues arising from economic security and supply-chain resilience initiatives.

26. Have there been any landmark or notable cases, investigations or developments in the past year?

A notable recent case is the accounting fraud involving alt Inc., a company in the artificial intelligence field. In connection with the offering and sale of its shares on its listing on the Growth Market, the company is reported to have used circular transactions lacking economic substance to record fictitious sales, and filed securities registration statements containing false profit-and-loss statements and false interim profit-and-loss statements.

The matter came to light through an investigation by the SESC. On 28 October 2025, the SESC filed a criminal accusation with the Tokyo District Public Prosecutors Office against alt Inc. and four individuals, on suspicion of submitting false securities registration statements and related documents in violation of the Financial Instruments and Exchange Act. In October 2025, the four members of the former management, including the former president, were arrested on suspicion of violating the Financial Instruments and Exchange Act (false statements in securities reports), and they were subsequently indicted. The initial trial proceedings commenced in 2026, with guilty pleas being entered by certain defendants. The alleged total fictitious sales were approximately JPY 11.1 billion (approximately JPY 8.4 billion as stated in the indictment). The case is notable because enforcement proceeded in stages, from the SESC's compulsory investigation, through a criminal accusation, to investigation, arrest and indictment by the Special Investigation Department, illustrating the multi-stage cooperation between the SESC and prosecutors in serious disclosure fraud cases.

27. Are there any pending or proposed changes to the legal, regulatory and/or enforcement framework?

The amended Whistleblower Protection Act is scheduled to come into force on 1 December 2026. The key amendments include: (i) the introduction of criminal penalties (imprisonment of up to six months or a fine of up to JPY 300,000 for individuals, and a fine of up to JPY 30 million for companies) for dismissal or disciplinary action taken on the ground of whistleblowing; (ii) the expansion of protected reporters to include freelancers; (iii) the prohibition of acts to identify whistleblowers and of acts that obstruct whistleblowing; and (iv) strengthening the protection of whistleblowers by enhancing the deterrence of, and remedies for, retaliatory dismissals and other adverse treatment.

In addition, the Financial Services Agency continues to pursue enhanced anti-money laundering and combating the financing of terrorism (AML/CFT) measures, while encouraging financial institutions to enhance the effectiveness of their compliance frameworks in anticipation of Japan's forthcoming FATF Fifth Round Mutual Evaluation. These efforts build on the recommendations arising from the Fourth Round evaluation published in 2021.

28. Are there any gaps or areas for improvement in the financial crime legal framework?

As noted above, Japan does not recognise a comprehensive attorney-client privilege of the kind found in the United States, and there is continuing debate over the introduction or expansion of such a privilege, with a view to further encouraging internal investigations by companies and legal consultation with lawyers.

In addition, although Japan's anti-money laundering and related framework has developed in response to the demands of the international community, it has been pointed out that inconsistencies with international standards remain. Continuous improvement in this area is expected as Japan prepares for its Fifth Round evaluation.

Contributors

Ryota Asakura
Partner

ryota.asakura@mmn-law.gr.jp



Riki Sanou
Associate

riki.sanou@mmn-law.gr.jp

