

Legal Updates & News

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Law to Amend Japanese Anti-Monopoly Act Enacted

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On June 3, 2009, Japan's Upper House passed a bill to amend the Japanese Anti-Monopoly Act (the "AMA"), and the law was promulgated on June 10, 2009. The bill was proposed on February 27, 2009, and passed as originally proposed without revision. The new law amended the AMA to:

- Permit the Japan Fair Trade Commission ("JFTC") to levy potentially significant administrative fines for certain types of single-firm vertical practices
- Impose significantly heavier penalties on cartels, including increased fines and longer terms of imprisonment
- Revise substantially the form and process of Japan's pre-merger notification requirements
- Reform rules concerning the JFTC's handling of sensitive business information, including the rules regarding exchange of information with foreign competition enforcement agencies

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The effective date of the amendments has not been set. However, the amendments are likely to become effective either January 1 or April 1, 2010 (except that certain limited amendments to the procedural rules regarding notification of establishment of trade associations and the rules creating penalties for breach of confidentiality by JFTC staff, will become effective as of July 10, 2009). Draft guidelines relating to the amended AMA would be published for comment prior to the effective date.

For additional details regarding the bill and the AMA amendments, please see [Japanese Diet Considers Bill to Amend Japan's Anti-Monopoly Act](#).

Notably, additional resolutions reflecting the intent of the Diet were made in the Houses at the time the Houses passed the bill.

First, a supplemental provision of the law requires the current administrative hearing system (called "shimpan") to be reviewed by the end of 2010, but the Upper and Lower Houses adopted resolutions

expressing their intent that the *shimpan* hearing system be completely revised without any effort to maintain the current system or to change it back to the previous system that was in place prior to the 2005 amendments to the AMA.

Second, the Upper House passed additional resolutions suggesting the JFTC develop and issue guidelines and other materials to clarify the interpretation and enforcement of the new AMA with respect to unfair trade practices (which, under the newly amended AMA, are now subject to administrative fines), and further suggesting the JFTC work to increase enforcement of the AMA with respect to M&A transactions involving overseas firms as well as international cartels in cooperation with foreign competition enforcement agencies.