

Japan

Cabinet Order on Inward Direct Investment (1980)

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The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

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Cabinet Order on Inward Direct Investment

Cabinet Order No. 261 of October 11, 1980 ; Last Version: Amendment of Cabinet Order No. 195 of 2017

The Cabinet hereby enacts this Cabinet Order pursuant to the provisions of Article 26; Article 27; Article 29, Article 30, Article 67, Article 69, Article 69-3, paragraph (2), and Article 69-4 of the Foreign Exchange and Foreign Trade Control Act (Act No. 228 of 1949), and Articles 2 through 4 of its Supplementary Provisions; and pursuant to the provisions of Article 6 of Supplementary Provisions of the Act Partially Amending the Foreign Exchange and Foreign Trade Control Act (Act No. 65 of 1979) for the purpose of implementing the provisions of the Foreign Exchange and Foreign Trade Control Act.

Chapter I General Provisions

Article 1 (Purpose)

This Cabinet Order establishes necessary matters regarding the management, adjustment or reporting of matters related to inward direct investment, etc., specified acquisition, and the conclusion of the technology introduction contract, etc. prescribed in Chapter V of the Foreign Exchange and Foreign Trade Act (hereinafter referred to as the "Act").

Chapter II Inward Direct Investment, etc.

Article 2 (Matters Related to the Definition of Inward Direct Investment)

(1) The number of voting rights in a company to be specified by Cabinet Order as being indirectly held through another company referred to in Article 26, paragraph (1), item (iii) of the Act, is the number of voting rights (meaning voting rights prescribed in Article 26, paragraph (1), item (iii) of the Act; the same applies hereinafter) in the relevant company directly held by another company which is a shareholder or a capital investor (limited to a company in which the investment ratio of the persons listed in item (i) and item (ii) of the same paragraph (referred to as "foreign corporation, etc." in the following paragraph and paragraph (1), item (vi) of the following Article) is 50% or more; the same applies in paragraph (1), item (vi) of the following Article).

(2) The "investment ratio" as used in the preceding paragraph means the ratio of the number of voting rights in a company directly held by foreign corporation, etc. to the number of voting rights held by all shareholders or members of the relevant company.

(3) The shares to be specified by Cabinet Order referred to in Article 26, paragraph (2), item (i) of the Act are shares registered or designated as those whose selling prices are announced for over-the-counter sale pursuant to the provisions of the rules of an Approved Financial Instruments Firms Association (meaning an Approved Financial Instruments Firms Association defined in Article 2, paragraph (13) of the Financial Instruments and Exchange Act (Act No. 25 of 1948)).

(4) Non-resident individuals, corporations, or other organizations (limited to those which fall under Article 26, paragraph (1), item (ii) through item (iv) of the Act, and hereinafter referred to as "corporation, etc.") referred to in paragraph (2), item (iii) of the same Article, who are to be specified by Cabinet Order as being in a permanent economic relationship such as one of share ownership, as being related by kinship, or as being party to another special relationship equivalent thereto with a person who has acquired shares in a listed company, etc. (meaning a listed company, etc. provided for in Article 26, paragraph (2), item (i) of the Act; the same applies hereinafter) (hereinafter referred to as the "acquirer of shares") are the following:

(i) a corporation, etc. in which the acquirer of shares directly holds a number of voting rights equivalent to 50% or more of the number of voting rights of all shareholders or members (hereinafter referred to as "total voting rights" in this paragraph and Article 5, paragraph (1), item (i), (d));

(ii) a corporation, etc. (excluding the one set forth in the preceding item) in which the acquirer of shares and the corporation etc. set forth in the preceding item directly holds a number of voting rights equivalent to 50% or more of the total voting rights;

(iii) in case where an acquirer of shares is a corporation, etc., a corporation, etc. (excluding those set forth in the preceding two items) that directly holds a number of voting rights equivalent to 50% or more of the total voting rights in the relevant acquirer of shares;

(iv) in case where an acquirer of shares is a corporation, etc., a corporation, etc. (excluding those set forth in item (i) and item (ii)) that directly holds a number of voting rights equivalent to less than 50% of the total voting rights in the relevant acquirer of shares, when, if the voting rights of the relevant corporation, etc. directly holding in the acquirer of shares are combined with the number of voting rights in the acquirer of shares that are directly held by a second corporation, etc. that directly holds a number of voting rights in the first corporation, etc. equivalent to 50% or more of the total voting rights of the first corporation, etc., the number of voting rights thus held accounts for 50% or more of the total voting rights of the acquirer of shares;

(v) a corporation, etc. (excluding those set forth in each of the preceding items) that directly holds a number of voting rights equivalent to 50% or more of the total voting rights of the corporations, etc. set forth in the preceding two items;

(vi) a corporation, etc. (excluding those set forth in each of the preceding items) in which the corporation, etc. listed in the preceding item directly holds a number of voting rights equivalent to 50% or more of the total voting rights;

- (vii) a corporation, etc. (excluding those set forth in each of the preceding items) in which the corporation, etc. listed in item (v) and the corporation, etc. listed in the preceding item directly hold a number of voting rights equivalent to 50% or more of the total voting rights;
- (viii) a corporation, etc. (excluding those set forth in each of the preceding items) in which the corporation, etc. listed in item (iii) directly holds a number of voting rights equivalent to 50% or more of the total voting rights;
- (ix) a corporation, etc. (excluding those set forth in each of the preceding items) in which the corporation, etc. listed in item (iii) and the corporation, etc. listed in the preceding item directly hold a number of voting rights equivalent to 50% or more of the total voting rights;
- (x) an officer (meaning directors and others equivalent thereto; hereinafter the same applies in this paragraph) of the acquirer of shares (limited to a corporation, etc.) or an officer of the corporation, etc. listed in each of the preceding items;
- (xi) a corporation, etc. (excluding those set forth in item (i) through item (ix)) the majority of whose officers are officers listed in the preceding item;
- (xii) the spouse of an acquirer of shares;
- (xiii) a lineal relative of an acquirer of shares;
- (xiv) in case where an acquirer of shares is a government institution, public organization, or an entity equivalent thereto of a country other than Japan (including a region which is a part thereof), any other government institution, public organization, or an entity equivalent thereto of the same country (excluding those listed in item (i) through item (ix) and item (xi));
- (xv) in case where an acquirer of shares has agreed to jointly exercise voting rights and other rights as a shareholder of a listed company, etc. with another non-resident individual or corporation, etc. that owns shares in the relevant listed company, etc. (excluding when the relevant acquirer of shares and the relevant other non-resident individual or corporation, etc. have entrusted the authority necessary to invest in the shares of the relevant listed company, etc., and the authority to exercise voting rights and other rights as shareholders of the relevant listed company, etc. to a person listed in one of the items of Article 26, paragraph (1) of the Act (excluding the relevant acquirer of shares and the relevant other non-resident individual or corporation, etc.) (limited to when the relevant acquirer of shares and the relevant other non-resident individual or corporation, etc. cannot exercise the rights due to the relevant entrustment) based on a discretionary investment contract (meaning a discretionary investment contract defined in Article 2, paragraph (8), item (xii) (b) of the Financial Instruments and Exchange Act; hereinafter the same applies in this Article) or any other contract), the relevant non-resident individual or corporation, etc. (excluding those set forth in each of the preceding items).
- (5) The ratio to be specified by Cabinet Order referred to in Article 26, paragraph (2), item (iii) of the Act is 10%.

(6) The establishment or change to be specified by Cabinet Order referred to in Article 26, paragraph (2), item (v) of the Act is the establishment of a branch office, a factory or other places of business (hereinafter referred to as a "branch office, etc.") in Japan in connection with the following business undertakings, or the establishment or substantial change of a branch office, etc. already existing in Japan other than the substantial change of the type or business purpose of the relevant branch office, etc.:

(i) the banking business prescribed in Article 2, paragraph (2) of the Banking Act (Act No. 59 of 1981) (including business deemed to be a banking business pursuant to the provisions of Article 3 of the same Act);

(ii) the business undertakings of a foreign insurance company, etc. prescribed in Article 2, paragraph (7) of the Insurance Business Act (Act No. 105 of 1995);

(iii) the general gas pipeline service business prescribed in Article 2, paragraph (5) of the Gas Business Act (Act No. 51 of 1954);

(iv) the general electricity transmission and distribution business prescribed in Article 2, paragraph (1), item (viii) of the Electricity Business Act (Act No. 170 of 1964) and the electricity transmission business prescribed in item (x) of the same paragraph;

(v) the business undertakings of a financial instruments business operator prescribed in Article 2, paragraph (9) of the Financial Instruments and Exchange Act who engages in the Type I Financial Instruments Business prescribed in Article 28, paragraph (1) of the same Act or the investment management business prescribed in paragraph (4) of the same Article;

(vi) the business undertakings of a foreign trust company prescribed in Article 2, paragraph (6) of the Trust Business Act (Act No. 154 of 2004); and

(vii) the fund transfer services prescribed in Article 2, paragraph (2) of the Act on Financial Settlements (Act No. 59 of 2009).

(7) The amount to be specified by Cabinet Order referred to in Article 26, paragraph (2), item (vi) of the Act is the amount specified in each of the following items in accordance with the classification of the cases listed in the following item:

(i) in case where the outstanding balance of loans to a corporation having its principal office in Japan after a loan prescribed in Article 26, paragraph (2), item (vi) of the Act (hereinafter referred to as "loans") has been made to the relevant corporation is not less than 100 million yen and less than the amount specified by order of the competent ministry: the amount specified by the relevant order of the competent ministry;

(ii) in case where the outstanding balance of loans to a corporation having its principal office in Japan after a loan is made to the relevant corporation exceeds the amount specified by order of the competent ministry set forth in the preceding item: the amount calculated by deducting the total of the outstanding balance of the relevant loans and the outstanding balance of bonds issued by the relevant corporation (limited to a company) and offered to specified parties as prescribed in paragraph (9), item (i) (hereinafter referred to as "bonds" in this item) which are owned by the person who made the relevant loan (including the total of the outstanding balance of a loan made, and the outstanding balance of bonds acquired by a non-resident individual or corporation, etc. that falls under the items of paragraph (4), if the person that made the relevant loan is deemed to be an acquirer of shares set forth in the same paragraph, and excluding the amount of the relevant loan) from an amount equivalent to 50% of the amount to be specified by order of the competent ministry as the amount of liabilities of the relevant corporation after the relevant loan is made (or zero, if the amount thus calculated is less than zero).

(8) The financial institutions to be specified by Cabinet Order referred to in Article 26, paragraph (2), item (vi) of the Act are the following financial institutions:

(i) a person engaged in trust business, insurance business or financial instruments business;

(ii) the International Bank for Reconstruction and Development and the U.S. Import-Export Bank;

(iii) beyond the persons set forth in the preceding two items, a person that makes loans on a regular basis (excluding cases where a person whose business is the sale, transport or storage of goods or a sales intermediary makes loans in association with these transactions);

(iv) a person to be specified by order of the competent ministry as being equivalent to any of those listed in the preceding three items.

(9) The acts to be specified by Cabinet Order referred to in Article 26, paragraph (2), item (vii) of the Act are as follows:

(i) the acquisition of bonds issued by a company which are offered to specified parties among those listed in each of the items of Article 26, paragraph (1) of the Act; provided, however, that an acquisition of bonds falling under any of the following is excluded:

(a) an acquisition of bonds made on a regular basis by a person engaged in banking business or a person listed in item (i) or item (iii) of the preceding paragraph;

(b) an acquisition of Japanese currency-denominated bonds by a party listed in Article 26, paragraph (1), item (iii) or item (iv) of the Act;

(c) an acquisition of bonds for which the period from the date of acquisition to the date of principal redemption is not more than one year;

(d) an acquisition of bonds in an amount not more than that specified in 1. or 2. below, in accordance with the classification of the case listed in 1 or 2 below:

1. if the outstanding balance of bonds of the relevant company to be owned after acquisition is not more than the amount not less than 100 million yen to be specified by order of the competent ministry: the amount specified by the relevant order of the competent ministry;

2. if the outstanding balance of bonds of the relevant company to be owned after acquisition exceeds the amount specified by order of the competent ministry set forth in 1.: the amount calculated by deducting the total of the outstanding balance of the relevant bonds and the outstanding balance of the loans made to the relevant company by the person that acquired the relevant bonds (including the total of the outstanding balance of bonds acquired, and the outstanding balance of a loan made by a non-resident individual or corporation, etc. that falls under the items of paragraph (4) if the person that acquired the relevant bonds is deemed to be an acquirer of shares set forth in the same paragraph, and excluding the amount of the relevant acquisition) from an amount equivalent to 50% of the amount to be specified by order of the competent ministry as the amount of liabilities of the relevant corporation after the relevant acquisition (or zero, if the amount thus calculated is less than zero).

(e) other acquisition of bonds to be specified by order of the competent ministry;

(ii) the acquisition of investment securities issued by a corporation established pursuant to a special Act;

(iii) discretionary investment in shares of a listed company, etc., which satisfies the following requirements:

(a) the authority necessary to invest in shares of the relevant listed company, etc. and the authority to exercise voting rights and other rights as a shareholder of the relevant listed company, etc. have been entrusted to a person listed in one of the items of paragraph (1) of Article 26 of the Act, and the mandator cannot exercise the relevant rights due to the relevant entrustment;

(b) the ratio of the number of shares of the relevant listed company, etc. that are subject to the discretionary investment in shares (including the number of shares of the relevant listed company, etc. that are subject to discretionary investment in shares (limited to those that satisfy the requirement listed in (a)) by a non-resident individual or corporations, etc. that falls under any of the items of paragraph (4), if the person carrying out the discretionary investment in shares is deemed to be the acquirer of shares referred to in that paragraph) to the total number of issued shares of the relevant listed company, etc. is 10% or more.

(10) The term "discretionary investment in shares" referred to in item (iii) of the preceding paragraph means investment in shares (including instructing to do so) after entrustment by another person based on a discretionary investment contract or any other contract.

Article 3 (Notification of Inward Direct Investment, and Service of Recommendations to Modify the Substance Thereof)

(1) Inward direct investment, etc. referred to in Article 26, paragraph (2) of the Act (hereinafter referred to as "inward direct investment, etc."), to be specified by Cabinet Order in consideration of circumstances such as succession, bequest, or a merger of corporations, as referred to in Article 27, paragraph (1) and Article 55-5, paragraph (1) of the Act, is inward direct investment, etc. that falls under the category of any of the following acts:

- (i) acquisition of a company's shares or equity through succession or bequest;
- (ii) acquisition of the relevant shares and equity by a corporation that survives after a merger or by a newly established corporation resulting from a merger with a corporation that owns the shares or equity of a company that is not a listed company, etc. (excluding those operating a business in the business types to be specified by order of the competent ministry as business types involving inward direct investment, etc. which is highly likely to cause a situation that impairs national security; referred to as a "specified non-listed company" in the following item);
- (iii) acquisition of the relevant shares and equity by a corporation newly established after a company split or a corporation that assumes business resulting from a company split by a corporation that owns the shares or equity of a specified non-listed company;
- (iv) acquisition of shares or equity of a company that is not a listed company, etc. (hereinafter referred to as a "non-listed company" in this item and paragraph (1), item (ii) and paragraph (2) of the following Article) (excluding an acquisition wherein the ratio of the number of shares or the amount of investment in (hereinafter referred to as "shares, etc." in this item and paragraph (1), item (ii) of the same Article) the relevant non-listed company in connection with the relevant acquisition to the total number of issued shares or the total amount of investment in (hereinafter referred to as "issued shares, etc." in this item and paragraph (1), item (ii) of the same Article) the relevant non-listed company, or the ratio of the total number of shares, etc. in the relevant non-listed company that the party that acquires them is to own after the relevant acquisition plus the shares, etc. in the relevant non-listed company that are owned by a non-resident individual or corporation that falls under any of the items of paragraph (4) of the preceding Article if the person who makes the relevant acquisition is deemed to be the acquirer of shares referred to in paragraph (4) of the preceding Article to the issued shares, etc. of the relevant non-listed company, is 10% or more), other than the acquisition of shares or equity falling under the category of inward direct investment, etc. listed in any of the items of the following paragraph (excluding the acquisition of shares to be specified by order of the competent ministry as being equivalent to the shares of a listed company, etc.);
- (v) acquisition of new shares issued as a result of a share split or consolidation of shares, or discretionary investment in shares in connection with the relevant new shares (meaning discretionary investment in shares prescribed in paragraph (10) of the preceding Article; the same applies in Article 7, item (i));

(vi) an act listed in Article 26, paragraph (2), item (i), item (iii), item (iv) or item (vi) of the Act or an act specified in any item of paragraph (9) of the preceding Article, which is conducted by a specified listed company, etc. (meaning a listed company, etc. among those specified in Article 26, paragraph (1), item (iii) of the Act, wherein all of the ratios of the number of shares of the relevant listed company, etc. directly owned by each shareholder (limited to a foreign corporation, etc. or other companies) of the relevant listed company, etc. (including the number of shares owned by a non-resident individual or corporation, etc. that falls under any of the items of paragraph (4) of the preceding Article if the shareholder is deemed to be the acquirer of shares set forth in the same paragraph) to the total number of issued shares of the relevant listed company, etc. is less than 10%; the same applies in paragraph (1), item (iii) of the following Article);

(vii) beyond what is set forth in the preceding items, acts to be specified by order of the competent ministry.

(2) Inward direct investment, etc. to be specified by Cabinet Order as being likely to fall under the category of inward direct investment, etc. that requires examination, as referred to in Article 27, paragraph (1) of the Act, is inward direct investment, etc. falling under any of the following items:

(i) inward direct investment, etc. involved in the business types to be specified by order of the competent ministry as business types that fall under either (a) or (b) (with regard to inward direct investment, etc. listed in Article 26, paragraph (2), item (i) through item (iv) of the Act and paragraph (9), item (i) and item (iii) of the preceding Article, including a case where a subsidiary company of a listed company, etc., or of another company set forth in the relevant provisions (meaning a subsidiary company set forth in Article 2, item (iii) of the Companies Act (Act No. 86 of 2005), but limited to those located in Japan; the same applies hereinafter) and those to be specified by order of the competent ministry as other companies on which the relevant company has a material influence regarding the determination of their financial, operational, or business policies (excluding subsidiary companies) operate a business in the business types to be specified by the relevant order of the competent ministry):

(a) business types involving inward direct investment, etc. which are likely to impair national security, disturb the maintenance of public order or hinder the protection of public safety;

(b) business types involving inward direct investment, etc. of which Japan has lodged a reservation pursuant to the provisions of Article 2-b of the Code of Liberalization of Capital Movements of the Organization for Economic Cooperation and Development;

(ii) inward direct investment, etc. to be specified by order of the competent ministry as being likely to fall under the category of inward direct investment, etc. listed in Article 27, paragraph (3), item (ii) of the Act;

(iii) inward direct investment, etc. to be specified by order of the competent ministry as being likely to fall under a capital transaction as designated by the Minister of Finance pursuant to Article 11, paragraph (1) of the Foreign Exchange Order (Cabinet Order No. 260 of 1980).

(3) The notification pursuant to the provisions of Article 27, paragraph (1) of the Act must be submitted within six months before the day when inward direct investment is intended to be made based on the procedures to be specified by order of the competent ministry.

(4) If a foreign investor prescribed in Article 26, paragraph (1) of the Act who must submit a notification pursuant to the provisions of Article 27, paragraph (1) of the Act (hereinafter referred to as a "foreign investor"), falls under a case listed in Article 26, paragraph (1), item (i) or item (ii), the relevant foreign investor must submit the relevant notification through an agent who is a resident (limited to persons who have the authority to receive documents that are served pursuant to the provisions of paragraph (7) and paragraph (12)).

(5) The matters to be specified by Cabinet Order that are referred to in Article 27, paragraph (1) are the following:

(i) the name, address or residence, nationality, and occupation of the person submitting the notification (or for a corporation or any other organization, its name, the location of its principal office, the content of the business it operates, its stated capital, and the name of its representative);

(ii) the business purpose pertaining to the inward direct investment, etc.;

(iii) the amount of inward direct investment, etc. and the timing of its closing;

(iv) the reason for making the inward direct investment, etc.;

(v) other matters to be specified by order of the competent ministry.

(6) The multilateral treaty or other international agreement on inward direct investment, etc. to be specified by Cabinet Order that is referred to in Article 27, paragraph (3), item (i) of the Act is the Convention on the Organization for Economic Cooperation and Development (limited to the part pertaining to the Code of Liberalization of Capital Movements decided pursuant to the provisions of Article 5 (a) of the relevant Convention) and Annex 1B: General Agreement on Trade in Services to the Marrakesh Agreement Establishing the World Trade Organization.

(7) The extension of the period during which inward direct investment, etc. is prohibited pursuant to the provisions of Article 27, paragraph (3) or paragraph (6) of the Act is made by serving a document that states the relevant extension of the period at the address, residence or business office of the person who is to be served, through service by mail or via correspondence delivery service prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002) by an ordinary correspondence delivery business operator prescribed in paragraph (6) of the same Article or a specified correspondence delivery business operator prescribed in paragraph (9) of the same Article (hereinafter referred to as "mail, etc."), or through personal service; provided, however, that if a foreign investor has submitted the relevant notification of inward direct investment, etc. through an agent who is a resident, the relevant document is served at the address, residence or business office of the relevant agent.

(8) If the document prescribed in the preceding paragraph is sent by mail, etc. with ordinary handling, the postal item or the correspondence mail prescribed in Article 2, paragraph (3) of the Act on Correspondence Delivery by Private Business Operators is presumed to have been served at the time it should have normally arrived.

(9) If the document prescribed in paragraph (7) is sent by mail, etc. with ordinary handling, the Minister of Finance and the competent minister for the business must prepare in advance a record by means of which it will be sufficient to ascertain the name (or for a corporation or any other organization, its appellation) of the person who is to be served with the document (in a case under the proviso to the same paragraph, the agent; the same applies in the following paragraph and paragraph (11)), the destination, and the date on which the relevant document was sent.

(10) The delivery service referred to in paragraph (7) must be conducted by an official of the relevant administrative organ (including an official of the Bank of Japan engaging in the affairs listed in Article 10, item (iii) pursuant to the provisions of Article 69, paragraph (1) of the Act) who delivers the document to the person who is to be served at the place which the document prescribed in paragraph (7) is to be served; provided, however, that the relevant document may be delivered at other places if the person who is to be served has no objection.

(11) In a case listed in any of the following items, the delivery service referred to in paragraph (7) may be conducted by the acts specified in each of the relevant items in lieu of the delivery prescribed in the preceding paragraph:

(i) if the person who is to be served with the document prescribed in paragraph (7) cannot be met with at the place which service should be made: delivery of the relevant document to an employee, worker, or cohabitant who has the capacity to receive the relevant document (referred to as an "employee, etc." in the following item);

(ii) if neither the person who is to be served with the document prescribed in paragraph (7) nor an employee, etc. is available at the place which the service should be made or if such persons refuse to receive the relevant document without justifiable grounds: leaving the relevant document at the place which the service should be made.

(12) The recommendation or order pursuant to the provisions of Article 27, paragraph (5) and paragraph (10) of the Act is issued by serving a document that states the content of the relevant recommendation or order at the address, residence or business office of the person who is to be served, through service by mail, etc. or personal service; provided, however, that if a foreign investor has submitted the relevant notification of inward direct investment, etc. through an agent who is a resident, the relevant document is served at the address, residence or business office of the relevant agent.

(13) The provisions of paragraph (8) through paragraph (11) apply mutatis mutandis to a document that states the content of the recommendation or order prescribed in the preceding paragraph. In this case, the term "the preceding paragraph" in paragraph (8) and the term "paragraph (7)" in paragraph (9) are deemed to be replaced with "paragraph (12)"; the terms "paragraph (7)" and "Article 10, item (iii)" in paragraph (10) are deemed to be replaced with "paragraph (12)" and "Article 10, item (iv) or item (vi)," respectively; and the term "paragraph (7)" in paragraph (11) is deemed to be replaced with "the following paragraph."

(14) The notice pursuant to Article 27, paragraph (7) of the Act must be given based on the procedures to be specified by order of the competent ministry.

Article 4 (Notification of Specified Acquisition and Service of Recommendations to Modify the Substance Thereof)

(1) Specified acquisition referred to in Article 26, paragraph (3) of the Act (hereinafter referred to as "specified acquisition"), to be specified by Cabinet Order in consideration of circumstances such as succession, bequest, or merger of corporations as referred to in Article 28, paragraph (1) of the Act, is specified acquisition that falls under the category of any of the following acts:

- (i) specified acquisition through succession or bequest;
- (ii) specified acquisition (excluding specified acquisition whereby the ratio of the shares, etc. of a non-listed company in connection with the relevant specified acquisition to the issued shares, etc. of the relevant non-listed company, or the ratio of the total of the shares, etc. of a non-listed company in connection with the relevant specified acquisition that the party that acquires them is to own after the relevant acquisition and the shares, etc. of the relevant non-listed company that are owned by a non-resident individual or corporation, etc. that falls under any of Article 2, paragraph (4) if the party that makes the relevant specified acquisition is deemed to be the acquirer of shares referred to in the same paragraph to the issued shares, etc. of the relevant non-listed company, is 10% or more) which corresponds to an acquisition of shares specified by order of the competent ministry as being equivalent to shares of a listed company, etc.;
- (iii) specified acquisition made by a specified listed company, etc.; and
- (iv) beyond what is set forth in the preceding three items, acts to be specified by order of the competent ministry.

(2) Specified acquisition to be specified by Cabinet Order as being likely to fall under the category of specified acquisition that requires examination, as referred to in Article 28, paragraph (1) of the Act, is specified acquisition involved in the business types to be specified by order of the competent ministry as business types involving specified acquisition which is highly likely to cause a situation that impairs national security (including a case where a subsidiary company of a non-listed company, etc. involved in the relevant specified acquisition, and those to be specified by order of the competent ministry as other companies on which the relevant non-listed company, etc. has a material influence regarding the determination of their financial, operational, or business policies (excluding subsidiary companies) operate a business in the business types to be specified by the relevant order of the competent ministry).

(3) The notification pursuant to the provisions of Article 28, paragraph (1) of the Act must be submitted within six months before the day when specified acquisition is intended to be made based on the procedures to be specified by order of the competent ministry.

(4) If a foreign investor who must submit a notification pursuant to the provisions of Article 28, paragraph (1) of the Act falls under a case listed in Article 26, paragraph (1), item (i) or item (ii), the relevant foreign investor must submit the relevant notification through an agent who is a resident (limited to persons who have the authority to receive documents that are served pursuant to the provisions of paragraph (7) and paragraph (9)).

(5) The matters to be specified by Cabinet Order that are referred to in Article 28, paragraph (1) are the following:

(i) the name, address or residence, nationality, and occupation of the person submitting the notification (or for a corporation or any other organization, its name, the location of its principal office, the content of the business it operates, its stated capital, and the name of its representative);

(ii) the business purpose pertaining to the specified acquisition;

(iii) the amount of specified acquisition and the timing of its closing;

(iv) the reason for making the specified acquisition;

(v) other matters to be specified by order of the competent ministry.

(6) The multilateral treaty or other international agreement on specified acquisition to be specified by Cabinet Order that is referred to in Article 28, paragraph (3) of the Act is the Convention on the Organization for Economic Co-operation and Development (limited to the part pertaining to the Code of Liberalization of Capital Movements decided pursuant to the provisions of Article 5- (a) of the relevant Convention) and Annex 1B: General Agreement on Trade in Services to the Marrakesh Agreement Establishing the World Trade Organization.

(7) The extension of the period during which specified acquisition is prohibited pursuant to the provisions of Article 28, paragraph (3) or paragraph (6) of the Act is made by serving a document that states the relevant extension of the period at the address, residence or business office of the person who is to be served, through service by mail, etc. or personal service; provided, however, that if a foreign investor has submitted the relevant notification of specified acquisition through an agent who is a resident, the relevant document is served at the address, residence or business office of the relevant agent.

(8) The provisions of paragraph (8) through paragraph (11) of the preceding Article apply mutatis mutandis to a document that states the extension of the period as prescribed in the preceding paragraph. In this case, the term "the preceding paragraph" in paragraph (8) of the same Article and the term "paragraph (7)" in paragraph (9) through paragraph (11) of the same Article are deemed to be replaced with "paragraph (7) of the following Article."

(9) The recommendation or order pursuant to the provisions of Article 28, paragraph (5) or the provisions of Article 27, paragraph (10) of the Act as applied mutatis mutandis pursuant to Article 28, paragraph (7) of the Act is issued by serving a document that states the content of the relevant recommendation or order at the address, residence or business office of the person who is to be served, through service by mail, etc. or personal service; provided, however, that if a foreign investor has submitted the relevant notification of specified acquisition through an agent who is a resident, the relevant document is served at the address, residence or business office of the relevant agent.

(10) The provisions of paragraph (8) through paragraph (11) of the preceding Article apply mutatis mutandis to a document that states the content of the recommendation or order prescribed in the preceding paragraph. In this case, the term "the preceding paragraph" in paragraph (8) of the same Article and the term "paragraph (7)" in paragraph (9) of the same Article are deemed to be replaced with "paragraph (9) of the following Article"; the terms "paragraph (7)" and "Article 10, item (iii)" in paragraph (10) of the same Article are deemed to be replaced with "paragraph (9) of the following Article" and "Article 10, item (iv) or item (vi)," respectively; and the term "paragraph (7)" in paragraph (11) of the same Article is deemed to be replaced with "paragraph (9) of the following Article."

(11) The notice pursuant to Article 27, paragraph (7) of the Act as applied mutatis mutandis pursuant to Article 28, paragraph (7) of the Act must be given based on the procedures to be specified by order of the competent ministry.

Article 4-2 (Technical Replacement Deemed to Be Made for Article 27 of the Act)

The technical replacement deemed to be made pursuant to the provisions of Article 28, paragraph (7) of the Act is as set forth in the following table.

Provision for which a term is deemed to be replaced	Term deemed to be replaced	Term used to make the replacement

|Article 27, paragraph (7)|paragraph (5)|paragraph (5) of the following Article|

|Article 27, paragraph (8)|inward direct investment, etc.|specified acquisition|

|Article 27, paragraph (9)|paragraph (3) or paragraph (6)|paragraph (3) or paragraph (6) of the following Article|

||inward direct investment, etc.|specified acquisition|

|Article 27, paragraph (10)|paragraph (5)|paragraph (5) of the following Article|

||inward direct investment, etc.|specified acquisition|

||paragraph (3) or paragraph (6)|paragraph (3) or paragraph (6) of the same Article|

|Article 27, paragraph (11)|inward direct investment, etc. pertaining to a notification pursuant to the provisions of paragraph (1) has ceased to fall under inward direct investment, etc. pertaining to national security, etc.|specified acquisition pertaining to a notification pursuant to the provisions of paragraph (1) of the following Article has ceased to fall under specified acquisition concerning national security|

||pertaining to inward direct investment, etc.|pertaining to specified acquisition|

|Article 27, paragraph (12)|Beyond what is prescribed in paragraphs (5) through (11), ... pertaining to inward direct investment, etc.|Beyond what is prescribed in paragraph (7) through the preceding paragraph and paragraphs (5) and (6) of the following Article, ...pertaining to specified acquisition|

Article 4-3 (Service of Ordering Measures)

(1) The order pursuant to the provisions of Article 29, paragraph (1) through paragraph (4) of the Act is issued by serving a document that states the content of the relevant order at the address, residence or business office of the person who is to be served, through service by mail, etc. or personal service.

(2) The provisions of Article 3, paragraph (8) through paragraph (11) apply mutatis mutandis to a document that states the content of the order prescribed in the preceding paragraph. In this case, the term "the preceding paragraph" in paragraph (8) of the same Article and the term "paragraph (7)" in paragraph (9) of the same Article are deemed to be replaced with "Article 4-3, paragraph (1)"; the terms "paragraph (7)" and "Article 10, item (iii)" in paragraph (10) of the same Article are deemed to be replaced with "Article 4-3, paragraph (1)" and "Article 10, item (vi)," respectively; and the term "paragraph (7)" in paragraph (11) of the same Article is deemed to be replaced with "Article 4-3, paragraph (1)."

(3) Service to be effected in a foreign state is effected as commissioned by the Minister of Finance and the competent minister for the business to the competent government agency of that state or the Japanese ambassador, minister, or consul stationed in that state.

(4) In the following cases, the Minister of Finance and the competent minister for the business may effect service by publication:

- (i) if the address and residence of the person who is to be served are unknown, and no other place to be served to is known;
 - (ii) if, with regard to service that is to be effected in a foreign state, it is impossible to effect service through the means under the provision of the preceding paragraph or it is found to be impossible to effect service even through such means.
- (5) Service by publication is effected by posting, at the posting area of the Ministry of Finance, notice to the effect that the document prescribed in paragraph (1) will be delivered to the person who is to be served at any time.
- (6) Service by publication becomes effective when two weeks have passed since the day on which the posting under the provision of the preceding Article was made.
- (7) In the case of service by publication for service that is to be effected in a foreign state, the period set forth in the preceding paragraph is six weeks.

Chapter III Conclusion, etc. of a Technology Introduction Contract

Article 5 (Notification of the Conclusion of a Technology Introduction Contract and Service of Recommendations to Modify the Substance Thereof)

(1) The conclusion, etc. of a technology introduction contract prescribed in Article 30, paragraph (1) (hereinafter referred to as "conclusion, etc. of a technology introduction contract") to be specified by Cabinet Order that is referred to in the same paragraph, is the conclusion, etc. of a technology introduction contract which falls under any of the following items:

(i) the conclusion of a contract (excluding conclusion of a contract due to a change in one of the parties to the contract pertaining the conclusion, etc. of a technology introduction contract) constituting the conclusion, etc. of a technology introduction contract listed in (a) through (d), which pertains to specified technology (meaning the technology to be specified by order of the competent ministry as technology pertaining to the conclusion, etc. of a technology introduction contract which is likely to impair national security, disturb the maintenance of public order, or hinder the protection of public safety; hereinafter the same applies in this paragraph and Article 6-4, paragraph (2), item (ii)):

(a) the conclusion, etc. of a technology introduction contract for which the amount of consideration (excluding travel expenses and sojourn expenses in Japan; hereinafter referred to as "consideration of the technology introduction contract") to be paid pursuant to the conclusion, etc. of the technology introduction contract to a non-resident (including the non-resident's branch office, etc. in Japan; hereinafter the same applies in this item) who is the other party to the contract exceeds an amount equivalent to 100 million yen;

(b) the conclusion, etc. of a technology introduction contract for which the consideration of the technology introduction contract has not been determined;

(c) the conclusion, etc. of a technology introduction contract under which a resident intends to transfer industrial property and other rights related to technology, grant licenses relating thereto or give technological guidance related to business operations as consideration of the technology introduction contract;

(d) the conclusion, etc. of a technology introduction contract in which a resident, who is a company in which 50% or more of the total voting rights are directly held by a non-resident who is the other party to the conclusion, etc. of a technology introduction contract intends to conclude, etc. the technology introduction contract with the relevant non-resident;

(ii) the change of a clause of the contract pertaining to the conclusion, etc. of a technology introduction contract listed in (a) through (d) of the preceding item (limited to a new addition of a specified technology);

(iii) the contract for which the amount of the consideration of the technology introduction contract exceeds an amount equivalent to 100 million yen as a result of a change in a clause of a contract pertaining to the conclusion, etc. of the technology introduction contract (excluding those listed in (b) through (d) of item (i)), which pertains to a specified technology.

(2) The notification pursuant to the provisions of Article 30, paragraph (1) of the Act must be submitted within three months before the day when the conclusion, etc. of a technology introduction contract is intended to be made based on the procedures to be specified by order of the competent ministry.

(3) The matters to be specified by Cabinet Order that is referred to in Article 30, paragraph (1) of the Act are the following:

(i) the name, address or residence, and occupation of the person submitting the notification (or for a corporation or other organization, its name, the location of its principal office, the content of the business it operates, its stated capital, and the name of its representative);

(ii) the type and consideration of the technology pertaining to the conclusion, etc. of the technology introduction contract;

(iii) the timing for carrying out the conclusion, etc. of the technology introduction contract;

(iv) the reason for intending to carry out the conclusion, etc. of the technology introduction contract;

(v) beyond what is set forth in the preceding items, the clauses of the contract pertaining to the conclusion, etc. of the technology introduction contract and other matters to be specified by order of the competent ministry.

(4) The multilateral treaty or other international agreement to be specified by Cabinet Order that is referred to in Article 30, paragraph (3) of the Act is the Convention on the Organization for Economic Cooperation and Development (limited to the part regarding the Code of Liberalization of Current Invisible Operations decided pursuant to the provisions of Article 5 (a) of the relevant Convention).

(5) The extension of the period during which the conclusion, etc. of a technology introduction contract is prohibited pursuant to the provisions of Article 30, paragraph (3) or paragraph (6) is made by serving a document that states the extension of the period at the address, residence or business office of the person who is to be served, through service by mail, etc. or personal service.

(6) The provisions of Article 3, paragraph (8) through paragraph (11) apply mutatis mutandis to a document that states the extension of the period as prescribed in the preceding paragraph. In this case, the term "the preceding paragraph" in paragraph (8) of the same Article and the term "paragraph (7)" in paragraph (9) through paragraph (11) of the same Article is deemed to be replaced with "Article 5, paragraph (5)."

(7) A recommendation or order pursuant to the provisions of Article 30, paragraph (5) of the Act or the provisions of Article 27, paragraph (10) of the Act as applied mutatis mutandis pursuant to paragraph (7) of the same Article is issued by serving a document that states the content of the relevant recommendation or order at the address, residence or business office of the person who is to be served, through service by mail, etc. or personal service.

(8) The provisions of Article 3, paragraph (8) through paragraph (11) apply mutatis mutandis to a document that states the content of the recommendation or order prescribed in the preceding paragraph. In this case, the term "the preceding paragraph" in paragraph (8) of the same Article and the term "paragraph (7)" in paragraph (9) of the same Article are deemed to be replaced with "Article 5, paragraph (7)"; the terms "paragraph (7)" and "Article 10, item (iii)" in paragraph (10) of the same Article are deemed to be replaced with "Article 5, paragraph (7)" and "Article 10, item (iv) or item (vi)," respectively; and the term "paragraph (7)" in paragraph (11) of the same Article is deemed to be replaced with "Article 5, paragraph (7)."

(9) The notice prescribed in Article 27, paragraph (7) of the Act which applies mutatis mutandis pursuant to Article 30, paragraph (7) of the Act must be given based on the procedures specified by order of the competent ministry.

Article 6 (Technical Replacement Deemed to Be Made for Article 27 of the Act)

The technical replacement deemed to be made pursuant to the provisions of Article 30, paragraph (7) of the Act is as set forth in the following table.

Provision for which a term is deemed to be replaced	Term deemed to be replaced	Term used to make the replacement
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Article 27, paragraph (7)	paragraph (5)	Article 30, paragraph (5)
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|Article 27, paragraph (8)|must make an inward direct investment, etc.|must effect the conclusion of a technology introduction contract, etc.|

|Article 27, paragraph (9)|paragraph (3) or paragraph (6)|Article 30, paragraph (3) or paragraph (6)|

||the inward direct investment, etc.|the conclusion of a technology introduction contract, etc.|

||make an inward direct investment, etc.|effect the conclusion of a technology introduction contract, etc.|

|Article 27, paragraph (10)|paragraph (5)|Article 30, paragraph (5)|

||content pertaining to the inward direct investment, etc.|all or part of the clause pertaining to the conclusion of a technology introduction contract, etc.|

||paragraph (3) or paragraph (6)|paragraph (3) or paragraph (6) of the same Article|

|Article 27, paragraph (11)|inward direct investment, etc. pertaining to a notification pursuant to the provision of paragraph (1)inward direct investment, etc. pertaining to national security, etc.|the conclusion of a technology introduction contract, etc. pertaining to a notification pursuant to the provisions of Article 30, paragraph (1).....conclusion of a technology introduction contract, etc. involving national security, etc. prescribed in paragraph (3) of the same Article|

||content pertaining to inward direct investment, etc.|all or part of the clause pertaining to the conclusion of a technology introduction contract, etc.|

|Article 27, paragraph (12)|Beyond what is prescribed in paragraph (5) through paragraph (11), content pertaining to inward direct investment, etc.|Beyond what is prescribed in paragraph (7) through the preceding paragraph and Article 30, paragraph (5) and paragraph (6),all or part of the clause pertaining to the conclusion of a technology introduction contract, etc.|

Article 6-2 (Exclusion from Application)

The conclusion, etc. of a technology introduction contract to be specified by Cabinet Order that is referred to in Article 30, paragraph (8) is the conclusion, etc. of a technology introduction contract pertaining to technological guidance related to business operations.

Chapter III-2 Reports

Article 6-3 (Report of Inward Direct Investment)

(1) The report pursuant to the provisions of Article 55, paragraph (1) of the Act must be submitted based on the procedures specified by order of the competent ministry by the fifteenth day of the month following the month in which the date the inward direct investment was made falls.

(2) If a foreign investor who must submit a notification pursuant to the provisions of Article 55, paragraph (1) of the Act falls under the cases listed in Article 26, paragraph (1), item (i) or item (ii), the relevant foreign investor must submit the relevant notification through an agent who is a resident.

(3) The matters specified by Cabinet Order that are referred to in the provisions of Article 55, paragraph (1) of the Act are the following:

(i) the name, address or residence, nationality, and occupation of the person submitting the report (or for a corporation and other organization, its name, the location of its principal office, the content of the business it operates, its stated capital, and the name of its representative);

(ii) the business purpose pertaining to the inward direct investment, etc.;

(iii) the amount of inward direct investment, etc. and the date of its closing;

(iv) other matters specified by order of the competent ministry.

Article 6-4 (Report of the Conclusion of a Technology Introduction Contract)

(1) The report pursuant to the provisions of Article 55-6, paragraph (1) of the Act must be submitted based on the procedures to be specified by order of the competent ministry within 15 days from the date on which the conclusion, etc. of a technology introduction contract was effected.

(2) The conclusion, etc. of a technology introduction contract to be specified by Cabinet Order that is referred to in Article 55-6, paragraph (2), is the following conclusion, etc. of a technology introduction contract:

(i) the conclusion, etc. of a technology introduction contract pertaining to technological guidance related to business operations;

(ii) the conclusion, etc. of a technology introduction contract for technology other than specified technology.

Article 6-5 (Report Pursuant to Article 55-8 of the Act)

(1) If the Minister of Finance or the Minister of Finance and the competent minister for the business require the person or persons conducting or having conducted a transaction or engaging in or having engaged in an act governed by these provisions to submit a report on the content of the transaction or act, the timing of its implementation, and other matters related to the relevant transaction or act to the extent necessary for enforcing the provisions of Articles 26 through 30, Article 55-5, or Article 55-6 of the Act and this Cabinet Order, pursuant to the provisions of Article 55-8 of the Act, the Minister of Finance or the Minister of Finance and the competent minister for the business are to designate the matters on which the person or persons are required to report pursuant to the provisions of Ministry of Finance Order or by order of the competent ministry.

(2) A person who is required to submit a report on the matters designated under the preceding paragraph must submit the relevant report pursuant to the procedures to be specified by Ministry of Finance Order or order of the competent ministry.

Chapter IV Miscellaneous Provisions

Article 7 (Competent Minister for the Business)

The competent minister for the business under the Act and this Cabinet Order, is the minister specified in each of the following items in accordance with the classification of subject matter listed in the relevant item:

- (i) subject matter concerning the acquisition or transfer of the shares or equity, or discretionary investment in shares, of a company (including a corporation established pursuant to a special law) or a substantial change of its business purpose: the competent minister for the business which the relevant company operates (if the company's subsidiary or any of those to be specified by order of the competent ministry as prescribed in Article 3, paragraph (2), item (i) operates a business in the business types to be specified by order of the competent ministry as prescribed in the same item, or if the subsidiary or any of those to be specified by order of the competent ministry as prescribed in Article 4, paragraph (2) operates a business in the business types to be specified by order of the competent ministry as prescribed in the same paragraph, this includes the competent ministers for these businesses; the same applies in item (v));
- (ii) subject matter concerning the establishment of a branch office, etc. in Japan or a substantial change in the type of branch office, etc. or its business purpose: the competent minister for the business which the relevant branch office, etc. operates;
- (iii) subject matter concerning loans made to a corporation having its principal office in Japan: the competent minister for the business which the relevant corporation operates;
- (iv) subject matter concerning the conclusion, etc. of a technology introduction contract: the competent minister for the business of accepting the technology pertaining to the relevant conclusion, etc. of a technology introduction contract;
- (v) subject matter concerning the acquisition of bonds issued by a company: the competent minister for the business which the relevant company operates.

Article 7-2 (Order of the Competent Ministry)

Orders of the competent ministry under this Cabinet Order are orders that the Minister of Finance and the competent minister for the business issue.

Article 8 (Means of Public Notice)

Public notices prescribed in this Cabinet Order are issued through the Official Gazette.

Article 9 (Method of Conversion)

The conversion of a foreign currency to Japanese currency in the cases where the provisions of the Act (limited to Chapter V, Article 55-5, Article 55-6 and Article 55-8 (limited to the part pertaining to Article 6-5 of this Cabinet Order; hereinafter the same applies in the following Article)), this Cabinet Order and the order based thereon apply, is made by using the basic foreign exchange rate or arbitrated foreign exchange rate prescribed in Article 7, paragraph (1) of the Act as of the day on which a transaction is conducted or an act is taken in which a conversion should be made concerning the amount under the relevant provisions, except where the conversion is made using the method specified by order of the competent ministry in accordance with the classification specified by order of the competent ministry.

Article 10 (Delegation of Affairs)

The affairs related to the enforcement of the Act (limited to Chapter V, Article 55-5, Article 55-6 and Article 55-8) which the Minister of Finance or the Minister of Finance and the competent minister for the business have the Bank of Japan handle pursuant to the provisions of Article 69, paragraph (1) of the Act are the following affairs; provided, however, that when the Minister of Finance or the Minister of Finance and the competent minister for the business find necessary, this does not preclude them from handling the relevant affairs of their own accord pursuant to Ministry of Finance Order or order of the competent ministry:

- (i) acceptance of a notification pursuant to the provisions of Article 27, paragraph (1), Article 28, paragraph (1), and Article 30, paragraph (1) of the Act;
- (ii) notice of the shortening of the period pursuant to the provisions of Article 27, paragraph (2) and paragraph (4), Article 28, paragraph (2) and paragraph (4), and Article 30, paragraph (2) and paragraph (4) of the Act and other affairs related to the relevant shortening of the period, as is specified by the Minister of Finance and the competent minister for the business;
- (iii) the sending of the document that states the extension of the period pursuant to the provisions of Article 27, paragraph (3) and paragraph (6), Article 28, paragraph (3) and paragraph (6), and Article 30, paragraph (3) and paragraph (6) of the Act;
- (iv) the sending of the document that states the content of a recommendation pursuant to the provisions of Article 27, paragraph (5), Article 28, paragraph (5) and Article 30, paragraph (5) of the Act;
- (v) acceptance of the notice relating to the compliance pursuant to the provisions of Article 27, paragraph (7) of the Act (including when applied *mutatis mutandis* pursuant to Article 28, paragraph (7) and Article 30, paragraph (7) of the Act);
- (vi) the sending of the document that states the content of an order pursuant to the provisions of Article 27, paragraph (10) of the Act (including when applied *mutatis mutandis* pursuant to Article 28, paragraph (7) and Article 30, paragraph (7) of the Act) and Article 29, paragraph (1) through paragraph (4) of the Act;

- (vii) notice of the rescission pursuant to the provisions of Article 27, paragraph (11) (including when it is applied *mutatis mutandis* pursuant to Article 28, paragraph (7), and Article 30, paragraph (7) of the Act);
- (viii) acceptance of the report pursuant to the provisions of Article 55-5, paragraph (1) and Article 55-6, paragraph (1) of the Act;
- (ix) preparation of the record pursuant to the provisions of Article 3, paragraph (9) (including when applied *mutatis mutandis* pursuant to paragraph (13) of the same Article, Article 4, paragraph (8) and paragraph (10), Article 4-3, paragraph (2), and Article 5, paragraph (6) and paragraph (8));
- (x) acceptance of the report pursuant to the provisions of Article 6-5;
- (xi) affairs incidental to the affairs listed in the preceding items.

Supplementary Provisions

Article 1 (Date of Enforcement)

This Cabinet Order comes into force as of the date of enforcement (December 1, 1980) of the Act Partially Amending the Foreign Exchange and Foreign Trade Control Act (Act No. 65 of 1979).

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