Incorporation of a Japanese Company
(Brief Description)

To engage in **commercial business activities in Japan,** the practical option is to establish a "**Branch Office**" or a "**Japanese Company**" (**Kabushiki-Kaisha** [**KK Co.**] or **Godo-Kaisha** [**GK Co.]** as a legal entity.

Branch Office

There are no fundamental differences between a "Branch Office" and a "Japanese Company" regarding the range of business activities allowed. The tax rate is the same for a Branch office and a Japanese company. For registration, there is no requirement to establish a statutory officers/management body, and it only needs a local physical address (not a PO Box) and a Representative in Japan (must be a "Resident of Japan"). A Branch Office can register a maximum of 2 (two) "Representatives in Japan," but one must be a "Resident of Japan."

Japanese Company

To establish a Japanese company, there are the following options:

a) **Kabushiki-Kaisha** [**KK**] (Joint-stock corporation) {Kabushiki Joto Seigen Kaisha - (If No Committee is Established)}
b) **Godo-Kaisha** [**GK]** Limited Liability Company (LLC) or similar entity stipulated by Japan's Companies Act.

There are formats such as Gomei-Kaisha (unlimited partnerships) and Goshi-Kaisha (limited partnerships) under the Companies Act. Still, they are rarely chosen in practice because equity participants' burden is absolute rather than a limited liability.

For incorporation of either a KK Co. or GK Co., the minimum standard criteria are as follows:

- A "**Japan physical address**" for the co.'s "**Registered Office Address**" (**physical address and not a PO Box**)

Since Mar'2015, the Japanese government has revised the Companies Act to allow foreign companies and individuals to incorporate a Japanese Company without a "Resident of Japan." Therefore, shareholders/Investors and directors/executives could be non-residents in Japan.

Registration of a Japanese Company by the non-resident in Japan: Any of the following options are available for completing the "paid-up capital" procedure:

1) The **Shareholder/Investor** opens a **Bank account** with a **Japanese bank** in the home country;
2) The **Shareholder/Investor** temporarily **uses a "Resident of Japan bank account."** In this case, the following steps need to be followed:
   - A **Japan Resident has temporarily given a token of one(1) share at the time of incorporation**. The resident's bank account is used for paid-up capital/equity procedures for registration purposes.
   - Once the registration is completed, the resident's token share/equity can be transferred back to the non-resident foreign **Shareholder/Investor** through an internal company document duly endorsed by both parties.
   - However, in the "**Notification to Bank of Japan**," the share/equity participation at the incorporation/registration time shall be reflected and cannot be amended post-registration.

The non-resident foreign Shareholders/Investors' 100% investment shall reflect on the company tax-return document once the first company tax return is filed to the tax authorities.

Establishing a Japanese Company/Subsidiary Co in Japan

A foreign company willing to establish a subsidiary company in Japan have the following options:

(a) **Kabushiki-Kaisha [KK] (Joint-stock corporation) {Kabushiki Joto Seigen Kaisha - (If No Committee is Established)}**

(b) **Godo-Kaisha [GK Co.] Limited Liability Company (LLC) or similar entity stipulated by Japan's Companies Act.**

There are formats such as Gomei-Kaisha (unlimited partnerships) and Goshi-Kaisha (limited partnerships) under the Companies Act. Still, they are rarely chosen in practice because equity participants' burden is absolute rather than a limited liability.

A subsidiary company is a separate legal entity from the parent company; therefore, the foreign company will bear the liability of an equity participant stipulated by law for all debts and credits generated by the subsidiary company's activities.

For incorporation of either a KK Co. or GK Co., the minimum standard criteria are as follows:

- A "**Japan physical address**" for the co.'s "**Registered Office Address**" (**physical address and not a PO Box**)

Since March 2015, the Japanese government has revised the Companies Act to allow foreign companies and individuals to incorporate a Japanese Company without a "Resident of Japan." Therefore, shareholders/Investors and directors/executives could be non-residents in Japan.

At a Glance: Features of Kabushiki-Kaisha [KK] and Godo-Kaisha [GK]

- **Capital**: 1(one) yen or more. [Establishment with zero yen capital is theoretically possible, but it is impossible to incorporate without paying capital in practice.]
- **Investors**: 1(one) or more
- **Corporation as an Investor**: Possible (the process of registration is lengthy)
- **Liability of Investors**: Limited to the amount of investment/equity participation.
- **Directors / Executive officers**: 1(one) or more (In the case of a GK. Co. in principle, all members are executive officers, but maybe stipulated otherwise in "Articles of Association")
- **Legally stipulated term of office** of Directors / Executive officers: In KK (with capital less than 500 million & without committee [Kabushiki Joto Seigen Kaisha]) 2 years in principle & extendable up to 10 years. In the case of GK no legally stipulated term.
- **Transfer of share/equity**: In the case of KK Co., it can be transferred freely unless stipulated in "Articles of Association" that it requires the board of directors' approval. In the case of a GK Co., unanimous consent of members (equity holders) is required.
- **Resident in Japan**: Effective Mar '15 Japanese govt has allowed foreign co. to register a KK or GK without a resident in Japan.
- **Registered Office**: A local address in Japan is required. (physical address and not a PO Box)
- **Co. Secretary**: Not required
- **Yearly Auditing of accounts**: Not mandatory

Timeframe for Registration: Depends on the entity type and structure of investors, directors (executive officers), etc. It takes about 2(two) weeks to obtain a company registration certificate upon applying to Legal Affairs Bureau for registration. For further details, please refer to the registration procedural steps and flowchart of Kabushiki-Kaisha **[KK Co]** and Godo-Kaisha **[GK Co].**

Comparison between Japanese Kabushiki Kaisha & Godo-Kaisha

	KK Co. (Kabushiki Joto Seigen Kaisha) [If No Committee is Established]	GK Co. (Godo-Kaisha) [Limited Liability Co] LLC
Transfer of equity participation share	It may be transferred freely in principle. Maybe stipulated in articles of incorporation so that the board of directors' approval is needed to transfer shares.	Unanimous approval of equity participants (members) is required.
The number of executives required.	Appointment of one (1) or more required. Representative director with the right to execute business. Executive officers have the right to representation if no representative director is appointed.	No legally stipulated minimum. In principle, all members are executive officers, but a representative member may be appointed.
Legally stipulated term of office for executives	Two years in principle. Expandable up to 10 years	No legally stipulated term
Possibility of a Company to be a Director	Not possible	Possible. However, the co should nominate an individual staff from the co.
Director must be from a shareholder /member.	Not necessarily	In principle, all members are executive officers but may be stipulated otherwise in "Articles of Association."
Regular general meeting of shareholders/members	In principle, it must be held every year	Not required
Possibility of the public offer of stock	Possible	Not possible
Possibility of reorganization	A joint-stock corporation (KK) may be reorganized into a limited liability company (LLC) (GK).	A limited liability company (LLC) (GK) may be reorganized into a joint-stock corporation (KK)
Distribution of profits and losses	Allocated according to equity participation ratio	It May be allocated at a different ratio from the equity participation ratio if specified in the Articles of Association.

Comparison between "Branch Office" and "Japanese Company"

	Branch Office	Subsidiary Company	
		Kabushiki-Kaisha (KK Co.) {(Kabushiki Joto Seigen Kaisha) (If No Committee is Established)}	**Godo-Kaisha (GK Co.)** Limited Liability Co (LLC)
Capital	No capital (same as HO)	1 yen or more (*1)	1 yen or more (*1)
Number of investors	Not applicable	One or more	One or more
Liability of equity participants/parent co. toward creditors	Unlimited	Limited to the amount of equity participation	Limited to the amount of equity participation
Transfer of equity participation shares	Not applicable	Maybe transferred freely in principle. Maybe stipulated in articles of incorporation so that the board of directors' approval is needed to transfer shares.	Unanimous approval of equity participants (members) required
The Number of executives required.	Representative in Japan - 1 or 2(*2)	Appointment of 1 or more (*2). Representative director with the right to execute business. Executive officers have the right to representation if no representative director is appointed.	No legally stipulated min. In principle, all members are executive officers, but a representative member may be appointed (*2).
Legally stipulated term of office for executives	No legally stipulated term	Two years in principle. Extendable up to 10 years	No legally stipulated term
Regular general meeting of shareholders/members	Not required	In principle, it must be held every year	Not required
Possibility of the public offer of stock	Not applicable	Possible	Not possible
Possibility of reorganization into a joint-stock corporation	Not possible. Need to separately close branch office and establish a joint-stock corporation (*3)	N/A	Possible
Distribution of profits and losses	C/o Parent Co.	Allocated according to equity participation ratio	It May be allocated at a different ratio from the equity participation ratio if specified in articles of association.
Taxation of profits	Income arising within Japan is, in principle, taxed	Taxed on profits according to a KK Co and profits allocated to shareholders	Taxed on profits according to a GK Co and profits allocated to members

(*1) The Establishment with zero yen capital is theoretically possible but impossible to incorporate without paying capital in practice.
(*2) At least one representative must be a "Resident of Japan." [Except for subsidiary company (KK co or GK co) under the regulation effective Mar' 2015]
(*3) Refer to "Closure of branch office" for details.

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