

Modifications to the FEFTA's Rules and Regulations in response to Public Comment

- Definition of "Closely-related Persons" : "A person who was a board member of the foreign investor in the previous one year" is excluded from the definition of "Closely-related Persons" if the nomination of the person to the board of the investee company is made by a third party.
- Exemption condition (Not accessing non-public information about the investee company's technology) : Obtaining confidential technology-related information or requesting disclosure of such information by the M&A advisory services section of a financial institution does not constitute a breach of the exemption condition if measures are in place to prevent information leakage across sections in the financial institution.
- Requirement to specify ministers responsible for business sectors : Investors are not required to specify ministers responsible for business sectors in the post-investment report on stock purchases (under 10%) with exemption in designated business sectors. This also applies to the post-investment report on stock purchases in non-designated business sectors.

Definition of "Closely-related Persons"

Scope of "closely-related persons" of a foreign investor	①Nomination is made by the foreign investor itself ^{1/}			②Nomination is made by a third party ^{2/} (including the investee company)		
	Board member of the foreign investor	Employee of the foreign investor	Member of the foreign investor's committee that has authority on investment decisions	Board member of the foreign investor	Employee of the foreign investor	Member of the foreign investor's committee that has authority on investment decisions
The foreign investor (if company)	○	○	○	○	×	○
Its subsidiaries, second-generation subsidiaries, parent companies, or grandparent companies ^{3/}	○	○	○	○	×	○
Its other family companies such as uncle/aunt companies, cousin companies, brother/sister companies, or nephew/niece companies ^{3/}	○	○	○	○	×	×
The foreign investors' business partners ^{4/}	○	○	○	×	×	×
Persons who receive substantial amount of financial rewards and/or other assets from the foreign investor ^{4/}	○			×		
Persons who were in the status of the above categories in the previous one year ^{4/}	○			○ → ×		
Spouse of the foreign investor (if natural person) ^{3/}	○			○		
Lineal ascent or descent of the foreign investor (if natural person) ^{3/}	○			○		
Persons (or their closely-related persons) who have agreement with the foreign investor to jointly exercise voting rights ^{3/}	○			○		

1/ This includes the case where nomination is made by a third party on behalf of the foreign investor.

2/ On-the-spot nomination at a shareholder's meeting is not subject to the prior-notification requirement.

3/ Same as the FEFTA's definition of "closely-related persons" used to calculate the total shares of investment in a single listed company.

4/ Same as the definition under the Tokyo Stock Exchange guidelines of the persons not eligible for becoming an independent board member due to conflicts of interest.

5/ If the foreign investor is a state-owned enterprise, "closely-related persons" include members of the state's central government, local governments, government agencies, central bank or political parties.

Definition of “Access to Non-public Information about the Investee Company’s Technology”

- Obtaining confidential technology-related information^{1/} managed by the investee company’s sections that conduct business activities in the designated business sectors^{2/, 3/}
- Requesting disclosure of confidential technology-related information^{3/}
- Requesting a change in the investee company’s internal rules on the treatment of confidential technology-related information

^{1/} The followings do NOT constitute confidential technology-related information:

- Information about employment terms or remuneration of board members and employees
- Financial information

^{2/} The case where the investee company voluntarily provides such information to the foreign investor does NOT constitute a breach of this exemption condition.

^{3/} Obtaining confidential technology-related information or requesting disclosure of such information by the M&A advisory services section of a financial institution does NOT constitute a breach of this exemption condition if measures are in place in the financial institution to ensure the followings:

- (i) Confidential technology-related information is not allowed to be shared with the equity market section; and
- (ii) the M&A advisory services section is not allowed to exercise influence on the investee company taking advantage of stocks of the company held by the equity market section.

PN-SP and Post-investment Report

PN-SP

- Following clearance of PN-SP by the authorities, foreign investors can purchase stocks up to the notified amount anytime within six months after submission of the PN-SP. Additional PN-SP will not be required for individual transactions up to the notified amount.
- Post-investment reports after stock purchases must be submitted within 45 days from the transaction settlement date, extended from 30 days before the amendment.

Post-investment report

- Post-investment reports after exemption will be required when the investor's total shareholding reaches:
 - (i) 1% for the first time^{1/};
 - (ii) 3% for the first time^{1/}; and
 - (iii) 10% or more for each transaction (as has been the case before the amendment).
- ^{1/} Post-investment reports will not be required at the second and subsequent transactions reaching 1% or 3%; if shareholding goes down below 1%/3% by stock sales, and subsequently returns to or beyond 1%/3% by stock purchases, post-investment reports will not be required.
- Post-investment reports must be submitted within 45 days from the transaction settlement date.
- For the following transactions, investors are not required to specify ministers responsible for business sectors in the post-investment report:
 - (a) stock purchases (under 10%) with exemption in designated business sectors; and
 - (b) stock purchases in non-designated business sectors.

Indicative Schedule

Month in 2020	Events
April 24 th	➤ Authorization of the Amended Rules and Regulations
April 30 th	➤ Promulgation of the Amended Rules and Regulations
May 8 th	➤ Entry into force of the Amended Act, Rules and Regulations (Full implementation starts 30 days after its entry into force ^{1/}) ➤ List of companies' classification made public
June 7 th	➤ Full implementation of the Amended Act, Rules and Regulations

^{1/} Article 3, supplementary provisions of the Amended Act.