

Process to Incorporate A Japanese Company (KK/*Kabushiki Kaisha*)

A kabushiki kaisha (KK/Stock Corporation) is a typical type of corporation for a business enterprise. Although there are other types of corporations (e.g., godo kaisha/limited liability company), Kks are used for many Japanese subsidiaries of foreign oriented companies as well as domestic companies. We have summarized the basic process to incorporate a KK in Japan below.

- A) Decide the promotor, who will be the initial shareholder, and the initial directors (and statutory auditors if necessary), and execute service agreements with them as necessary
- B) Prepare the Articles of Incorporation setting forth basic corporate matters such as trade name, corporate purpose, shares, shareholders meeting, board of directors and dividend, as well as initial capital contribution, initial directors and other matters applicable to the initial fiscal year, and other incorporation documents
- C) Have the Articles of Incorporation notarized by a notary
- D) Have the promotor deposit the initial contribution funds.
- E) Have the initial directors (and statutory auditors if any) verify the incorporation procedures, e.g., payment of initial contribution, and prepare the verification report
- F) File an application for commercial registration of the incorporation with the Legal Affairs Bureau

A KK is incorporated and acquires a legal status as a corporation upon completion of the commercial registration; however, the incorporation date will retroactively be the date of filing of the application. After completion of commercial registration, the following action will generally be required.

- G) Have the initial shares transferred from the promotor to the parent company if applicable
- H) Open a bank account of the KK and transfer the initial contribution funds to the account
- I) Execute agreements with employees, vendors, customers, landlord and other related parties
- J) Have the notification of acquisition of the KK shares filed with the Bank of Japan if the KK shares are acquired by a foreign investor defined in the Foreign Exchange and Foreign Trade Law
- K) Make other necessary filings with tax and other government and local authorities

The foregoing process is for incorporation of a basic type of KK with the initial contribution of less than 1 billion yen in cash only. Additional procedures are required if contribution-in-kind is involved. Also, if its stated capital amount is 500 million yen or more (or its liability amount is 2 billion yen or more), it is categorized as a “large company” and requires appointment of an accounting firm or CPA as accounting auditor and is subject to other regulations.

Authority, responsibility and liability of directors and statutory auditors will be discussed in a separate topic.

A godo kaisha (GK/Limited Liability Company) is a corporation managed by its managing shareholders with a more flexible governance structure than KK, which is typically used as an investment or securitization vehicle, but increasingly being used for business enterprises as well. The

incorporation process is also a little simpler. A comparison of KK and GK will be discussed in a separate topic.

If you need any specific advice or assistance in connection with the above topics, please contact Kamiyacho International Law Office at info@kamlaw.com.

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