

Re “Local Resident” for a branch office or a local subsidiary co. establishment in Japan

Re “Local Resident” for establishment of a branch office or a local subsidiary co. of a “foreign company” in Japan

If you wish to set up a “branch office” or “a subsidiary / domestic co” of a “Foreign company” in Japan you must have a “Local Resident in Japan” either a Japanese national or a foreigner with proper status of residence (appropriate category of work-permit or permanent resident permit) in Japan.

“Note” re exception allowed for “subsidiary co.” since the change of regulation effective Mar'15.

Japanese govt. has allowed foreign co. to register a local **subsidiary co.** in Japan without a local “Resident in Japan”. [*In case of G.K. Co. the overseas investor must be a corporation*]

But in both cases it would require a temporarily a local “**Resident in Japan**” for the purpose of completing the procedure of paid-up capital for K.K. Co. & equity participation for G.K. Co.

In case of a **K.K. Co.** a “local resident shareholder” & in case of a **G.K. Co.** a “local resident member (equity holder)”.

In case of a branch office the official term is “**Representative in Japan**” and in case of a local subsidiary co. the official term is either a “**Promoter**” or a “**Director / Executives**”.

“**Local Resident in Japan**” (hereinafter is called as “**LR**”)

“**Foreign company**” (hereinafter is called as “**FC**”)

A nominee shareholder / director like offshore jurisdictions is not normally practiced in Japan as the person who takes up the role of a “LR” cannot avoid completely the legal responsibility in case of any unwanted incident takes place concerning the local legal entity in Japan! [especially if “LR” is taking up the role for a certain period of time acting as a “Director” or equivalent management title in the “new company / branch in Japan” (hereinafter called as “New Entity”)]

However, in the event we at **Sarkar Office Japan KK** (hereinafter called as “**SOJK**”) need to assist the client to locate a “**LR**” who might consider taking up the position in such “**New Entity**” then we first conduct a due diligence of the **client's KYC and proposed business activities in Japan**. For the said purpose we would require complete details of the clients profile along with all relevant information ([please refer to # note below](#)).

In the case of assisting with a “**LR**” please note the following requirements: -

- A. The “**FC**” shall be responsible legally, financially and in all other ways in running the “**New Entity**”. Furthermore, for running the Japan operation of “**New Entity**”, the “**FC**” must appoint one or more directors from the “**FC**”'s parent co. either shareholder(s) / Director(s) / Representative in the “**New Entity**”.
- B. The “**FC**” shall require providing a Nominee Director Indemnity Agreement, to indemnify the nominee “**LR**” from and against any losses, penalties, statutory fines, claims or demands of any nature resulting from the nominee “**LR**” appointment in the “**New Entity**”.
- C. The “**LR**” shall not enter into any business contract or financial or moral commitment on behalf of the “**New Entity**” (unless absolutely required and fully legally backed up by the “**FC**”). However, depending on the nature of the contract the “**LR**” shall reserve the right to choose i.e. whether to use the “**New Entity**” Co. stamp registered under “**LR**” name to use it or not for any contract. In such case the overseas resident director / shareholder of the “**New Entity**” can use the co. stamp registered under his/her name after consulting with SOJK.
- D. The “**LR**” shall not be responsible to manage and run the day to day operation of the “**New Entity**” and the “**FC**” shall make arrangement to manage and run the local operation in Japan. In the event “**LR**” need

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to visit any organization such as bank etc. for the “**New Entity**” then “**LR**” may charge an additional fee for such visit besides the fixed monthly fees.

- E. The “**FC**” must ensure that all mandatory local requirements are met through a local administrative legal services firm, i.e. SOJK in a timely manner and “**LR**” shall be given the assurance in writing.
- F. The “**FC**” shall assure the “**LR**” that any change in shareholding pattern and or in Executives at the parent company / organization shall be notified in writing within 7(seven) days from the date of such changes.
- G. The “**FC**” accept & agree that the “**New Entity**” co. seal (stamp) which will be registered with local authority under the name of “**LR**” (as per local regulation) shall be in “**LR**” or SOJK’s possession and all official documents shall be endorsed only after due verification (when & if required). And in case of any objection the “**LR**” shall express it & cite reasons for it and then it will be mutually resolved between the “**FC**” and the “**LR**” and SOJK will coordinate the process.
- H. The person who takes up the responsibility of a “**LR**” must be paid a fixed monthly fees by “**FC**” for normally a yearly-based contract and or otherwise as agreed by both parties in advance.
*[Depending on the situation (especially for more than three months period) the “**LR**” may need to be enrolled in Social Insurance scheme, as it is mandatory for the company to enroll all staffs including management executives with Social insurance and unemployment office and follow the procedure as per local regulation including making payments.]*
- I. The “**FC**” shall pay a security deposit equivalent of 4(four) months of monthly fees (for yearly contract), which is refundable upon termination of the agreement by either party giving a 2(two) months advance notice in writing. At this point the “**FC**” must satisfy the “**LR**” with documentary proof of the “**LR**” replacement in the “**New Entity**” duly registered with Legal Affairs Bureau (local co registration office), tax office, bank and all other relevant local authorities. At this point of time the security deposit will be refunded without any interest.

Note: Please send the following information & documents soft copy for evaluation purpose (especially for the yearly contract) :

- a) Copy of registration certificate of the company in home country;
- b) Copy of Articles of Memorandum & Association of the company in home country;
- c) Copy of latest Balance Sheet & Profit & Loss Statement of the company in home country; or Company Profile mentioning all the relevant data ;
- d) Copy of passport copy ID pages of the shareholders and directors of the overseas co.;
- e) Reason(s) to establish a legal entity in Japan? Brief info. re past or present business activities in Japan?
- f) Business objectives and activities to be conducted through the New Entity?
- g) Proposed shareholding structure & capitalization of the New Entity (in case of a subsidiary co.?
i.e. Corporate shareholding or Individual shareholding?
- h) The Company profile and URL address of the overseas co.

Disclaimer: This information is for illustration purpose, no warranty is given that it is free from error or omission, and Sarkar Office® cannot be held liable for any decision made based on this information only!