

Guideline regarding “Japan Resident” for the establishment of a Branch Office or a local Subsidiary Japanese Company of a “foreign company” in Japan

A **Japan Resident** is mandatory as a “**Representative in Japan**” for setting up a “**Branch Office**” in Japan. However, for a **subsidiary company** in the form of a **KK/GK**, a **Japan Resident for Shareholder or Director** is **optional**.

“**Japan Resident**” (hereinafter is called “**JR**”)

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

*Like offshore jurisdictions, a nominee shareholder/director is not typically practised in Japan as the person who takes up the role of a “**JR**” cannot avoid legal responsibility in case of any unwanted incident concerning the local legal entity in Japan! [especially if “**JR**” is taking up the role for a certain period 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 “**SOJK**”) need to assist the client in locating a “**JR**”. We first conduct due diligence on the **client's KYC** and **proposed business activities in Japan**. We would require complete details of the client's Profile and all relevant information (**please refer to # note below**).

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

- A. The “**FC**” shall be responsible legally, financially, and for running the “**New Entity**” in all other ways. Furthermore, for running the Japan operation of the “**New Entity**”, the “**FC**” must appoint one or more directors from the “**FC**”’s parent company, 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 “**JR**” from and against any losses, penalties, statutory fines, claims or demands of any nature resulting from the nominee “**JR**” appointment in the “**New Entity**”.
- C. The “**JR**” 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 “**JR**” shall reserve the right to choose, i.e. whether to use the “**New Entity**” registered Company Seal (stamp) (i.e. registered under the “**JR**” name) to use it or not for any contract. In such a case, the overseas resident director/shareholder of the “**New Entity**” can use the company seal (stamp) registered under the name of the non-resident after consulting with SOJK.
- D. The “**JR**” shall not be responsible for managing and running the day to day operation of the “**New Entity**”, and the “**FC**” shall make arrangements to manage and run the local operation in Japan. In the event “**JR**” need to visit any organization, such as a bank etc., for the “**New Entity**”, then “**JR**” 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 and legal services firm, i.e. SOJK, on time, and “**JR**” shall be given the assurance in writing.

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- F. The “FC” shall assure the “JR” 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 and agrees that the “New Entity” Company Seal (stamp), which will be registered with the local authority under the name of “JR” (as per local regulation), shall be with “JR” or in SOJK's possession. "JR" shall endorse all official documents for the new entity after due verification (when and if required). And in case of any objection, the “JR” shall express it and cite reasons for it and then it will be mutually resolved between the “FC” and the “JR”, and SOJK will coordinate the process.
- H. The person who takes up the responsibility of a “JR” must be paid a fixed monthly fee 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 “JR” may need to be enrolled in the Social Insurance scheme by the New Entity and follow the procedure as per local regulation, including making payments.]*
- I. The “FC” shall pay a security deposit equivalent to 4(four) months of monthly fees (for the yearly contract), which is refundable upon termination of the agreement by either party giving a 2(two) month advance notice in writing. At this point, the “FC” must satisfy the “JR” with documentary proof of the “JR” replacement in the “New Entity” duly registered with the Legal Affairs Bureau (company registration office), tax office, bank and all other relevant local authorities. At this point, the security deposit will be refunded without any interest.

Note: Please send the following information and documents soft copy for evaluation purposes:

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

Note: We may require other information and documents after reviewing the above documents.

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