



# GLOBAL EXPANSION GUIDEBOOK CORPORATE

*Japan*



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## INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Corporate*.

### GLOBAL EXPANSION GUIDEBOOK SERIES

To compete and be successful today, companies need to develop and scale their businesses globally. Each country presents its own set of unique laws, rules and regulations and business practices that companies must understand to be successful. In order to help clients meet the opportunities and challenges of expanding internationally, we have created a handy set of global guides that cover the basics companies need to know when going into and doing business in new countries. The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, intellectual property and technology, executive compensation, and tax laws in key jurisdictions around the world.

### CORPORATE

The *Global Expansion Guidebook – Corporate* has been created based on our research, our experience and feedback we have received from clients in both established and emerging businesses that have expanded internationally. We hope it will be a helpful resource for you.

The *Global Expansion Guidebook – Corporate* covers corporate basics in 54 key jurisdictions across the Americas, Asia Pacific, Europe and the Middle East. We touch on a wide range of corporate issues for companies expanding internationally, including establishing a corporate presence and choice of entity, liability considerations, tax presence and tax filings, capital requirements, the formation process, director, officer and shareholder requirements, registration processes, office lease processes and possible exit strategies.

With more than 600 lawyers, DLA Piper's global Corporate group is one of the largest in the world, with one of the widest geographical footprints of any global law firm and experience across the legal areas companies need as they expand internationally. With both global experience and local knowledge, we partner with our clients wherever they do business to find solutions and manage their risk in relation to their challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to seek advice regarding the specific matters that concern you. If you wish to speak to any of our contributors, you may find their contact details at the end of the guide.

We hope you find this guide valuable, and we welcome your feedback.

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## JAPAN



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### FORM OF ENTITY

#### Registered branch

This form is often used by foreign companies seeking to gain presence and do business in Japan without establishing a subsidiary. A foreign company must appoint at least 1 representative in Japan.

#### *Kabushiki-Kaisha (KK)*

A KK is a distinct legal entity. KKs are most similar to C-corporations in other jurisdictions. The liability for shareholders is limited, and the KK is a well-established structure. The KK may be established with or without a board of directors.

#### *Godo-Kaisha (GK)*

A GK structure is similar to an LLC in other jurisdictions. The GK allows more flexibility in regards to corporate governance and management decisions. The annual corporate governance requirements costs are generally lower as there are few formal corporate governance requirements that must be observed.

### ENTITY SET UP

#### Registered branch

- This form is used by foreign companies which wish to gain presence in Japan without establishing a subsidiary.
- Appointment of a representative in Japan who has an address in Japan is needed. Other than that, there are no requirements regarding corporate maintenance.
- This form is taxed on its income attributable to the branch in principle.

#### *Kabushiki-Kaisha (KK)*

- Unlimited number of shareholders

- No personal liability of the shareholders
- Taxed on its earnings at a corporate level, and shareholders are taxed on any distributed dividends, even though the Japanese taxation on distributed dividends can be reduced or exempt under applicable double-tax treaties.
- The corporate formalities are fairly strict.
- Directors have overall management responsibility. A KK may be established with or without a board of directors.

## *Godo-Kaisha (GK)*

- Unlimited number of members allowed
- Liability of members is limited to the amount of equity participation.
- Taxed on its earnings at a corporate level, and members are taxed on any distributed profits, even though the Japanese taxation on distributed dividends can be reduced or exempt under applicable double-tax treaties.
- There are few formal corporate governance requirements that must be observed.
- Members are designated to manage the business.

## MINIMUM CAPITAL REQUIREMENT

### *Registered branch*

Depends on the governing law of the foreign company.

### *Kabushiki-Kaisha (KK)*

JPY 1.

### *Godo-Kaisha (GK)*

JPY 1.

## LEGAL LIABILITY

### *Registered branch*

A registered branch is considered as a part of its foreign company, which will be liable for any activities or debts of the registered branch.



## *Kabushiki-Kaisha (KK)*

Liability of shareholders is limited to the amount of equity participation.

## *Godo-Kaisha (GK)*

Liability of members is limited to the amount of equity participation.

## TAX PRESENCE

### Registered branch

Income arising within Japan is, in principle, taxed, and income attributable to a branch arising in the countries other than Japan (if any) is subject to income tax in Japan.

## *Kabushiki-Kaisha (KK)*

A KK is taxed at 2 levels. First, the KK is subject to corporate tax; then, shareholders are taxed on any dividends distributed by the KK, even though tax on distributed dividends can be reduced or exempt under applicable double-tax treaties. A KK is treated as a per se corporation for US tax purposes.

## *Godo-Kaisha (GK)*

A GK is taxed at 2 levels. First, the GK is subject to corporate tax; then, members are taxed on any dividends distributed by the GK, even though tax on distributed dividends can be reduced or exempt under applicable double-tax treaties. A GK can be treated as a disregarded entity for US tax purposes.

## INCORPORATION PROCESS

### Registered branch

A foreign company is required to register with the Legal Affairs Bureau.

## *Kabushiki-Kaisha (KK)*

Notarization of the Articles of Incorporation by Japanese notary public and registration with the Legal Affairs Bureau are required.

## *Godo-Kaisha (GK)*

Registration with the Legal Affairs Bureau is required.

## BUSINESS RECOGNITION

### Registered branch

This form is used by foreign companies which wish to gain presence without establishing a subsidiary in Japan.

## *Kabushiki-Kaisha (KK)*

Well regarded and widely used.

## *Godo-Kaisha (GK)*

Some business entities may be hesitant in dealing with 3rd-party GKs as the structure is relatively new. A GK structure was introduced with the adoption of revised Japanese Companies Act in 2006, and it took some time to come to be recognized. However, as the number of GKs increased and some major global companies selected GKs as entities in Japan, GKs are getting to be commonly used.

## SHAREHOLDER MEETING REQUIREMENTS

### Registered branch

No requirements.

### *Kabushiki-Kaisha (KK)*

A ordinary general shareholders meeting, in principle, must be held at least once every year. It must be held within 3 months of the end of the fiscal year in most Kks.

### *Godo-Kaisha (GK)*

None.

## BOARD OF DIRECTOR MEETING REQUIREMENTS

### Registered branch

No requirements.

### *Kabushiki-Kaisha (KK)*

A KK must hold board of directors meetings once in 3 months if the KK has a board of directors.

### *Godo-Kaisha (GK)*

None.

## ANNUAL COMPANY TAX RETURNS

### Registered branch

A registered branch must annually file tax returns with the National Tax Agency.

### *Kabushiki-Kaisha (KK)*

A KK must annually file tax returns with the National Tax Agency.

## *Godo-Kaisha (GK)*

A GK must annually file tax returns with the National Tax Agency.

## BUSINESS REGISTRATION FILING REQUIREMENTS

### Registered branch

A foreign company intending to engage in business in Japan on a regular basis must register necessary information, which is also required from most other similarly situated companies in Japan, in order to carry out continuous transactions. In addition, the foreign company must register its governing law, name and address of its representative in Japan, and means by which it will provide public notice. A registered branch must also register changes to those items which have been registered in its corporate registry.

## *Kabushiki-Kaisha (KK)*

Registration with the Legal Affairs Bureau is required. In addition, a KK must register changes of items that have been registered in its corporate registry.

## *Godo-Kaisha (GK)*

Registration with the Legal Affairs Bureau is required. In addition, a GK must register changes of items that have been registered in its corporate registry.

## BUSINESS EXPANSION

### Registered branch

If the scope of business purpose is expanded, filing the changes with the Legal Affairs Bureau is required.

## *Kabushiki-Kaisha (KK)*

If the scope of business purpose is expanded, the articles of incorporation must be amended by a special resolution of a general meeting of shareholders, which normally requires the presence of a majority of shareholders and an approval of 2/3 or more of votes. In addition, filing such changes with the Legal Affairs Bureau is required.

## *Godo-Kaisha (GK)*

If the scope of business purpose is expanded, the Articles of Incorporation must be amended by the unanimous consent of its members (unless otherwise provided for in the Articles of Incorporation) and filing such changes with the Legal Affairs Bureau is required.

## EXIT STRATEGY



## Registered branch

If all of the representatives in Japan have resigned, a branch office can be closed.

## *Kabushiki-Kaisha (KK)*

Dissolution will be approved by a special resolution of a general meeting of shareholders which normally requires presence of a majority of shareholders, and an approval of 2/3 or more of votes. A liquidator must perform the liquidation tasks. Dissolution and completion of liquidation are filed with the Legal Affairs Bureau.

## *Godo-Kaisha (GK)*

Dissolution will be approved by all members, and a liquidator will perform liquidation tasks. Dissolution and completion of liquidation are filed with the Legal Affairs Bureau.

## ANNUAL CORPORATE MAINTENANCE REQUIREMENTS

### Registered branch

None.

### *Kabushiki-Kaisha (KK)*

The requirements are an annual shareholders' meeting for every KK and a board of directors meeting once every 3 months if the KK has a board of directors.

### *Godo-Kaisha (GK)*

None. A GK may flexibly organize its maintenance policy.

## DIRECTOR / OFFICER REQUIREMENTS

### Registered branch

At least 1 representative in Japan who has an address in Japan is required.

### *Kabushiki-Kaisha (KK)*

At least 1 director is required for every KK. A KK with a board of directors must have 3 or more directors and 1 or more statutory auditors. An accounting auditor which is a CPA or an accounting firm is required if the KK has stated capital of at least JPY500 million or liabilities of at least JPY20 billion (this kind of KK is called a "large company").

### *Godo-Kaisha (GK)*

No requirements regarding directors. Normally, members execute the business of the GK, and such members represent the GK. The GK may also appoint specific members (ie, managing members) who execute the business. In this case, only the managing members represent the GK. In the case where a managing member is a legal entity,

such legal entity must appoint natural person(s) who will execute the business affairs on behalf of such managing member as executive manager(s).

For more information on directors' duties, see our [Global Guide to Directors' Duties](#).

## LOCAL CORPORATE SECRETARY REQUIREMENT

Registered branch

None.

*Kabushiki-Kaisha (KK)*

None.

*Godo-Kaisha (GK)*

None.

## LOCAL LEGAL OR ADMIN REPRESENTATIVE REQUIREMENT

Registered branch

None.

*Kabushiki-Kaisha (KK)*

None beyond the required directors, statutory auditor and accounting auditor.

*Godo-Kaisha (GK)*

None.

## LOCAL OFFICE LEASE REQUIREMENT

Registered branch

To lease property in the name of a foreign company, most lessors require a certified copy of the registration with the Legal Affairs Bureau indicating that the foreign company is duly constituted and that the individual representative in Japan has been duly authorized to act on behalf of the company.

*Kabushiki-Kaisha (KK)*

None required for incorporation.

## *Godo-Kaisha (GK)*

None required for incorporation.

## OTHER PHYSICAL PRESENCE REQUIREMENTS

### Registered branch

None. A representative in Japan's address will be considered the address of the branch if the branch office does not register its own address.

## *Kabushiki-Kaisha (KK)*

None.

## *Godo-Kaisha (GK)*

None.

## SUFFICIENCY OF VIRTUAL OFFICE

### Registered branch

Sufficient for registration.

## *Kabushiki-Kaisha (KK)*

Allowed for incorporation.

## *Godo-Kaisha (GK)*

Allowed for incorporation.

## PROVISION OF LOCAL REGISTERED ADDRESS BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER

### Registered branch

Allowed for registration.

## *Kabushiki-Kaisha (KK)*

Allowed for incorporation.

## *Godo-Kaisha (GK)*

Allowed for incorporation.

## PROVISION OF LOCAL DIRECTOR OR CORPORATE SECRETARY BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER

Registered branch

Allowed for registration.

*Kabushiki-Kaisha (KK)*

Allowed for incorporation.

*Godo-Kaisha (GK)*

Allowed for incorporation.

## NATIONALITY OR RESIDENCY REQUIREMENTS FOR SHAREHOLDERS, DIRECTORS AND OFFICERS

Registered branch

At least 1 representative in Japan must have an address in Japan, but such person does not have to be a Japanese national.

*Kabushiki-Kaisha (KK)*

None.

*Godo-Kaisha (GK)*

None.

## RESTRICTIONS REGARDING APPOINTMENT OF NOMINEE SHAREHOLDERS OR DIRECTORS

Registered branch

None.

*Kabushiki-Kaisha (KK)*

None.

*Godo-Kaisha (GK)*

None.

## SUMMARY OF DIRECTOR'S, OFFICER'S AND SHAREHOLDER'S AUTHORITY AND LIMITATIONS THEREOF

### Registered branch

Depends on the governing law of the foreign company. No relevant provisions under Japanese law.

### *Kabushiki-Kaisha (KK)*

Directors are the highest authority in the management structure of a KK and govern the organization.

### *Godo-Kaisha (GK)*

Normally, members execute the business of a GK and such members represent the GK. A GK can also appoint specific members (ie, managing members) who execute the business. In this case, only the managing members represent the GK.

## PUBLIC DISCLOSURE OF IDENTITY OF DIRECTORS, OFFICERS AND SHAREHOLDERS

### Registered branch

Name of directors, name and residential address of representative in Japan are registered on a corporate registry which is publicly accessible.

### *Kabushiki-Kaisha (KK)*

Name of directors, statutory auditors, accounting auditor and residential address of the representative director are registered on a corporate registry which is publicly accessible; however, shareholders are not disclosed.

### *Godo-Kaisha (GK)*

Name and address of managing members and executive managers, if appointed, are disclosed in a corporate registry which is publicly accessible; however, name and address of non-managing members are not disclosed.

## MINIMUM AND MAXIMUM NUMBER OF DIRECTORS AND SHAREHOLDERS

### Registered branch

At least 1 representative in Japan is needed.

### *Kabushiki-Kaisha (KK)*

The minimum number of directors is 3 in a KK with a board of directors, but 1 for a KK without a board of directors. There is no limitation on the number of shareholders.

### *Godo-Kaisha (GK)*

There is no limitation on the number of members and executive managers.

## MINIMUM NUMBER OF SHAREHOLDERS REQUIRED

Registered branch

Depends on the governing law of the foreign company.

*Kabushiki-Kaisha (KK)*

1 shareholder is sufficient.

*Godo-Kaisha (GK)*

1 member is sufficient.

## REMOVAL OF DIRECTORS OR OFFICERS

Registered branch

Depends on the governing law of the foreign company.

*Kabushiki-Kaisha (KK)*

Removal of directors is generally allowed by a majority vote of shareholders at the general meeting of shareholders.

*Godo-Kaisha (GK)*

A managing member who appointed its executive manager may freely remove its executive manager.

## REQUIRED AND OPTIONAL OFFICERS

Registered branch

Depends on the governing law of the foreign company.

*Kabushiki-Kaisha (KK)*

An accounting auditor is required for a KK that has stated capital of at least JPY-500 million or liabilities of at least JPY-20 billion (this kind of KK is called a "large company"). An accounting auditor is optional for all forms of KKs.

*Godo-Kaisha (GK)*

None.

## BOARD MEETING REQUIREMENTS



## Registered branch

Depends on the governing law of the foreign company.

## *Kabushiki-Kaisha (KK)*

Board of director meetings are required once in 3 months. If permitted by the articles of incorporation of the KK, a resolution in relation to an agenda proposed by a director can be replaced by written consents of all directors, unless none of the statutory auditors make an objection to such agenda.

## *Godo-Kaisha (GK)*

None.

## QUORUM REQUIREMENTS FOR SHAREHOLDER AND BOARD MEETINGS

### Registered branch

Depends on the governing law.

### *Kabushiki-Kaisha (KK)*

For a shareholder meeting, usually a majority of shareholders must be present at the meeting and a majority vote of the shareholders present is required, or all shareholders must sign written consents to a particular agenda. For a board meeting, usually a majority of directors must be present at the meeting and a majority vote of directors present is required. The resolution may be replaceable by all directors' written consent as mentioned in "[Board meeting requirements](#)."

### *Godo-Kaisha (GK)*

A majority vote of members.

## MUST A BANK ACCOUNT BE OPENED PRIOR TO INCORPORATION, AND MUST THE BANK ACCOUNT BE LOCAL?

### Registered branch

Not necessary for registration, and not limited to local accounts.

### *Kabushiki-Kaisha (KK)*

Not necessary in order to incorporate. Opening of a bank account for a KK before incorporation is not possible.

### *Godo-Kaisha (GK)*

Not necessary in order to incorporate. Opening of a bank account for a GK before incorporation is not possible.

## AUDITING OF LOCAL FINANCIALS. IF SO, MUST THE AUDITOR BE LOCATED IN LOCAL JURISDICTION, AND MUST THE COMPANY'S BOOKS BE KEPT LOCALLY?

Registered branch

None.

*Kabushiki-Kaisha (KK)*

An audit is required for a KK with statutory auditors or an accounting auditor. Statutory auditors review the financial statements of the company and are responsible for auditing the execution of duties by directors for compliance with statutes and the Articles of Incorporation unless such statutory auditor's scope of audit is limited to accounting matters. There is no requirement that a statutory auditor be an accountant, and they do not have to be located in local jurisdiction. A KK must keep its books for 10 years, must place its books for 5 years at its head office and must place a copy of its books for 3 years at its branch office (if any).

*Godo-Kaisha (GK)*

Since there are no statutory auditors or accounting auditors in a GK, auditing is not required for a GK. A GK must keep its books for 10 years.

## REQUIREMENT REGARDING PAR VALUE OF STOCK

Registered branch

Depends on the governing law.

*Kabushiki-Kaisha (KK)*

None.

*Godo-Kaisha (GK)*

None.

## INCREASING OF CAPITALIZATION IF NEEDED

Registered branch

Depends on the governing law of the foreign company.

*Kabushiki-Kaisha (KK)*

Increase of stated capital may be done by issuance of new shares. Filing the changes of the stated capital and the number of shares with the Legal Affairs Bureau is required.

*Godo-Kaisha (GK)*

Increase of stated capital may be done by capital injection by existing/new members. Filing the changes of the stated capital with the Legal Affairs Bureau is required.

## SUMMARY OF HOW FUNDS CAN BE REPATRIATED FROM YOUR JURISDICTION (IE DIVIDENDS OR REDEMPTION)

### Registered branch

A branch does not have equity participation shares, but the income of a branch may contribute to dividends of its head office.

### *Kabushiki-Kaisha (KK)*

Funds can be repatriated abroad from Japan via dividends or distribution of residual assets upon liquidation.

### *Godo-Kaisha (GK)*

Funds can be repatriated abroad from Japan via dividends or distribution of residual assets upon liquidation.

## RESTRICTIONS ON TRANSFERABILITY OF SHARES

### Registered branch

Depends on the governing law of the foreign company.

### *Kabushiki-Kaisha (KK)*

A KK can issue shares that cannot be transferred without the approval of the KK, if so prescribed in the Articles of Incorporation.

### *Godo-Kaisha (GK)*

A member cannot transfer their equity without the consent of all members.

## OBTAINING A NAME AND NAMING REQUIREMENTS

### Registered branch

A corporate name cannot be mistaken for other companies, but this limitation is only applicable when other companies are located at the same address.

### *Kabushiki-Kaisha (KK)*

A KK should use in its corporate name the words "*Kabushiki-Kaisha*." A corporate name cannot be mistaken for other companies, but this limitation is only applicable when other companies are located at the same address.

### *Godo-Kaisha (GK)*

A GK should use in its corporate name the words "Godo-Kaisha." A corporate name cannot be mistaken for other companies, but this limitation is only applicable when other companies are located at the same address.

## SUMMARY OF "KNOW YOUR CLIENT" REQUIREMENTS

### Registered branch

There is no need to register information regarding the controller of the company. Only specific business operators, such as financial institutions, are required to conduct customer due diligence.

### *Kabushiki-Kaisha (KK)*

There is no need to register information regarding the controller of the company. Only specific business operators, such as financial institutions, are required to conduct customer due diligence.

### *Godo-Kaisha (GK)*

There is no need to register information regarding the controller of the company. Only specific business operators, such as financial institutions, are required to conduct customer due diligence.

## APPROVAL REQUIREMENTS FOR AMENDING CHARTER DOCUMENT

### Registered branch

Depends on the governing law of the foreign company.

### *Kabushiki-Kaisha (KK)*

Special resolution of a shareholders meeting, which normally requires presence of a majority of shareholders and an approval of 2/3 or more of votes.

### *Godo-Kaisha (GK)*

All members' consent is needed.

## LICENSES REQUIRED TO CONDUCT BUSINESS IN JURISDICTION

### Registered branch

Registration with the Legal Affairs Bureau is required to conduct continuous business. If the registered branch intends to operate a specific business which requires a license under the Japanese law, such license must be obtained before commencing such business.

### *Kabushiki-Kaisha (KK)*

If the KK intends to operate a specific business which requires a license under the Japanese law, such license must be obtained before commencing such business.

## *Godo-Kaisha (GK)*

If the GK intends to operate a specific business which requires a license under the Japanese law, such license must be obtained before commencing such business.

## PROCESS OF PURCHASING AND UTILIZING A SHELF COMPANY

### Registered branch

There is no concept of a shelf company in this jurisdiction.

### *Kabushiki-Kaisha (KK)*

There is no concept of a shelf company in this jurisdiction.

### *Godo-Kaisha (GK)*

There is no concept of a shelf company in this jurisdiction.

## KEY CONTACTS



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