

Japanese Law News Monthly Bulletin 2006/1**HEADINGS****FOCUS in January**

1. **Equity (securities law, corporate law)**
2. **Debt (insolvency law, banking and finance law)**
3. **Goods and Services (contracting, competition law, IP, PL, consumer law)**
4. **Labour (employment law, pension system)**
5. **Oversight and Policy (administrative law, public official law, tax policy)**
6. **Social Context (NPO law, civil justice reforms, education)**
7. **Legal Policy (constitutional reform, international relations)**

FOCUS in January: Livedoor eyed dormant firm for swaps / Plan seen as effort to dodge Commercial Code in buying out companies

A Livedoor group executive directed Livedoor Co.'s investment fund to buy up a dormant company to facilitate stock swaps and the purchase of a matchmaking service, sources told The Yomiuri Shimbun. Livedoor Finance Co. was apparently hoping to use the company as a bridge to swap shares with companies the group was planning to buy out. Livedoor Co. has allegedly used a variety of methods, including the fund and stock swaps, to funnel profits from the sales of its stock to its own pockets. An April 1991 revision to the Commercial Code raised the minimum capital for becoming a joint stock company to 10 million yen, making it cumbersome for limited liability companies--which are to have a minimum capital of 3 million yen--to become joint stock firms. In addition to needing an injection of capital funds, such companies would need to renounce their limited liability status through dissolution and establish and register themselves as joint stock firms. This is why Livedoor chose to promptly use an already existing joint stock company, the sources said:

<<http://www.yomiuri.co.jp/dy/national/20060126TDY02009.htm>> (26 January)

See also, "Livedoor deals 'made secretly by fund under its control'"

<<http://www.yomiuri.co.jp/dy/national/20060123TDY02001.htm>> (23 January)

"Investigation into Livedoor widens / Internet business operator gained 4 billion yen profit by selling own shares"

<<http://www.yomiuri.co.jp/dy/national/20060120TDY02009.htm>> (20 January)

"Echoes of Enron heard in Livedoor scandal"

<<http://www.asahi.com/english/Herald-asahi/TKY200601250173.html>> (25 January)

"Horie, Livedoor execs arrested"

<<http://www.asahi.com/english/Herald-asahi/TKY200601230274.html>> (23 January)

1. Equity (securities law, corporate law)

"Livedoor threatened with delisting"

The Tokyo Stock Exchange will consider delisting stocks of Livedoor Co. and its affiliate Livedoor Marketing Co., both of which are listed on TSE's Mothers market for start-ups, if they were found to be involved into serious wrongdoing, such as window-dressing their accounts, the head of the TSE said Wednesday:

<<http://www.yomiuri.co.jp/dy/business/20060119TDY01004.htm>> (19 January)

2. Debt (insolvency law, banking and finance law)

"FSA set to tighten fund rules"

The Financial Services Agency on Thursday [27 January] began discussions toward tightening restrictions on investment funds. The discussions are in response to Livedoor Co.'s suspected violation of the Securities and Exchange Law. Possible amendments to the Securities and Exchange Law would oblige investment funds, dubbed investment unions, to report their establishment to the financial authority and open themselves up to inspections:

<<http://www.yomiuri.co.jp/dy/business/20060127TDY01006.htm>> (27 January)

3. Goods and Services (contracting, competition law, IP, PL, consumer law)

"Ojima denies breaking law in condo sales"

The president of condominium developer Huser Ltd. testified before the Diet committee investigating the construction scandal Tuesday [17 January], insisting he saw no illegality in his company's selling of condominiums last autumn after learning the buildings' earthquake-resistance data had been fabricated:

<<http://www.yomiuri.co.jp/dy/national/20060118TDY01002.htm>> (18 January)

"Govt considering imprisonment for rogue architects"

The government on Monday [30 January] unveiled plans to strengthen penalties, including prison terms, for architects and builders who fabricate earthquake-resistance data of buildings:

<<http://www.yomiuri.co.jp/dy/national/20060131TDY02007.htm>> (31 January)

"Reforming home insurance a hard task / Providing coverage without opening door to building fraud proving to be difficult"

It is proving a difficult task to revise an insurance system that does not protect condominium owners whose homes were built incorporating intentional defects--as is the case with the embattled residents of buildings built using fabricated earthquake-resistance data. A Construction and Transport Ministry panel is discussing what measures should be taken to improve the situation. But it has yet to come up with any alternatives, as the deregulation of the prerequisites for taking out insurance could result in further abuse:

<<http://www.yomiuri.co.jp/dy/national/20060119TDY02008.htm>> (19 January)

4. Labour (employment law, pension system)

"Ex-govt workers may get pension cut"

Retired government employees' pension benefits are likely to be cut as part of the government's drive to unify corporate employees' pension and mutual aid pension

schemes, according to sources. The government has concluded the retirees must shoulder some of the burden as the pension financing situation likely will worsen through the pension schemes' unification:

<<http://www.yomiuri.co.jp/dy/national/20060123TDY03003.htm>> (23 January)

"Equal opportunities can fix labor shortage"

Draft revisions to the Equal Employment Opportunity Law will be submitted to this year's ordinary Diet session. Creating an environment in which both men and women can work comfortably is the key to tackling the shrinking labor force and other issues caused by the declining birthrate and aging population:

<<http://www.yomiuri.co.jp/dy/national/20060127TDY04004.htm>> (27 January)

5. Oversight and Policy (administrative law, public official law, tax policy)

"Koizumi vows to continue reform drive"

Prime Minister Junichiro Koizumi pledged in a policy speech before the Diet on Friday [20 January] to introduce a law to promote administrative reforms, including cuts in the personnel costs of public servants, during the current session. "To reduce the scale of the government dramatically, cuts in the total personnel costs of public servants, reforms of governmental financial institutions and independent administrative institutions, a review of government assets and debts, and a realignment of [the government budget's] special accounts must be carried out," Koizumi said:

<<http://www.yomiuri.co.jp/dy/national/20060121TDY01003.htm>> (21 January)

"Government set to tighten up aviation, rail safety laws"

In an effort to ensure airline and railway safety, the government will amend safety laws to permit inspections of holding firms and investment funds that control or hold a large number of shares in airline and railway firms, ministry officials said. Holding companies and investment funds are currently not subject to safety inspections. The Construction and Transport Ministry is concerned that these companies and funds may be underinvesting in safety measures to make short-term profits:

<<http://www.yomiuri.co.jp/dy/national/20060124TDY02007.htm>> (24 January)

"Tax increase to hit family firms"

The ripple effects are already being felt from a decision to generate increased corporate tax revenue by regulating the inclusion of gross revenue income by family owned businesses as a part of a reformed tax system for fiscal 2006:

<<http://www.yomiuri.co.jp/dy/business/20060126TDY04004.htm>> (26 January)

"Laws for private funding of public facilities to end"

Two laws to develop public facilities by using private funds and know-how will be abolished in May under a government policy to reduce public investment:

<<http://www.yomiuri.co.jp/dy/business/20060131TDY08009.htm>> (31 January)

6. Social Context (NPO law, civil justice reforms, education)

"22 prefectural govts have revised disaster plans"

Thirty prefectural governments and ordinance-designated cities have revised their disaster-prevention plans following the Niigata Prefecture Chuetsu Earthquake and recent natural calamities including storms and floods, according to a Yomiuri Shimbun survey. The central government has asked local governments to set their own damage-limitation targets in preparation for expected massive disasters such as the Tonankai and Nankai earthquakes:

<<http://www.yomiuri.co.jp/dy/national/20060120TDY03002.htm>> (20 January)

"Govt set to pay firms to take on ex-convicts"

The government has decided to offer cash incentives to companies that hire people released from prison on parole and young people are released from juvenile reformatories on probation in a bid to reduce the number of reoffenders:

<<http://www.yomiuri.co.jp/dy/national/20060126TDY02004.htm>> (26 January)

"Black American's lawsuit over discrimination nixed"

The Osaka District Court on Monday [30 January] dismissed an American's lawsuit against the operator of an optical shop in which the man claimed he had been told not to enter the shop because he is black:

<<http://www.yomiuri.co.jp/dy/national/20060131TDY02002.htm>> (31 January)

"Asbestos victims to sue government"

Defense counsel supporting sufferers of asbestos-related diseases announced Sunday [23 January] that it would file a damages suit against the central government, claiming that its delayed prohibition of asbestos use has increased the number of victims:

<<http://www.yomiuri.co.jp/dy/national/20060124TDY02006.htm>> (24 January)

"Govt to pay foreign leprosy patients"

Compensation will be paid to all the 431 former patients segregated at leprosariums in Taiwan and South Korea during Japan's colonial rule and occupation, the Health, Labor and Welfare Ministry announced:

<<http://www.yomiuri.co.jp/dy/national/20060125TDY02006.htm>> (25 January)

7. International Context (constitutional reform, international relations)

[Territorial Disputes]

"Govt to press for 30-day stays for visitors to N. territories"

The government has asked the Russian government to extend the length of time Japanese tourists can visit the four disputed northern islands to 30 days in hope of increasing the number of exchanges between former Japanese residents and the current Russian residents, government sources said Thursday. The government apparently wants to deepen ties between the two sides as part of efforts to lay the groundwork to

resolve the issue over territorial rights to Etorofu, Kunashiri, Shikotan and Habomai group of islands:

<<http://www.yomiuri.co.jp/dy/national/20060120TDY01003.htm>> (20 January)

[International Trade]

"Govt halts U.S. beef imports"

The government has decided to ban U.S. beef imports again due to the discovery that beef shipped from the country contained spine parts, which are among the body parts designated as risk material for mad cow disease, government officials said Friday. The measure will remain until the safety of U.S. beef is reconfirmed:

<<http://www.yomiuri.co.jp/dy/national/20060121TDY01006.htm>> (21 January)

[WWII-Related]

"DPJ members set up WWII panel"

Eight Democratic Party of Japan lawmakers are to set up a policy study group to look into Japan's wartime responsibility. The group's prospectus for establishment says Prime Minister Junichiro Koizumi's visits to Yasukuni Shrine have "isolated Japan in Asia and may even have damaged the national interest in terms of the economy.":

<<http://www.yomiuri.co.jp/dy/national/20060123TDY03004.htm>> (23 January)