

Merger Control 2025

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Contributing Editors:

Nigel Parr & Steven Vaz

Ashurst LLP

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Ashurst LLP

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Overview of merger control activity during the last 12 months

The Japan Fair Trade Commission (“**JFTC**”), established under the Antimonopoly Act (“**AMA**”), is the authority responsible for the enforcement of Japan’s competition law. The AMA regulates business combinations and imposes a pre-notification requirement on M&A transactions. The JFTC reviews transactions such as share acquisitions, mergers, company splits, share transfers, and business transfers to determine whether they may substantially restrain competition.

The JFTC has published the *Guidelines to the Application of the Antimonopoly Act Concerning Review of Business Combinations* (“**Merger Guidelines**”) and the *Policies Concerning Procedures of Review of Business Combinations* (“**Merger Review Policy**”), which clarify the JFTC’s review policies. The JFTC also annually publishes statistics on notified transactions and the outcomes of key cases to enhance transparency and predictability in its merger control process.

According to the JFTC’s published data on merger notifications for fiscal year 2023 (April 1, 2023 to March 31, 2024), a total of 345 merger cases were filed. Of these, 335 cases were concluded in the first-phase review (“**Phase I**”) with the JFTC notifying the parties that no cease-and-desist order would be issued under the AMA. In 10 cases, the filings were withdrawn during Phase I. Notably, no cases proceeded to the second-phase review (“**Phase II**”) during that fiscal year. Between fiscal years 2021 and 2023, only one case has advanced to Phase II. In addition, the JFTC completed its review of 13 non-notifiable merger plans during fiscal year 2023. These included cases where the parties voluntarily consulted the JFTC or where the JFTC initiated the review *ex officio*. There were 34 merger plans involving foreign companies as transaction parties, of which 30 involved mergers between non-Japanese companies.

The chart below summarises the JFTC’s merger review activity over the past three fiscal years:

	FY2021	FY2022	FY2023
Total number of merger cases filed	337	306	345
Number of cases cleared in Phase I	328	299	335
Number of cases in which the waiting period was shortened	248	243	262
Number of cases withdrawn before completion of Phase I	8	7	10
Number of cases sent to Phase II	1	0	0
Number of merger cases not subject to notification that have been reviewed and concluded	14	15	13

In response to the rapid changes in the socio-economic environment, the JFTC formulated and published a policy in June 2022 titled *Towards the Active Promotion of Competition Policy in response to Socioeconomic Changes as represented by Digitalization – Coordination and Strengthening of Competition Policy Advocacy and Law Enforcement* (“**Proactive Digital Competition Policy**”). Under this policy, the JFTC expressed its commitment to conducting swift and accurate merger reviews by implementing measures such as soliciting information and opinions from third parties, utilising internal documents in merger review, and utilising economic analysis.

In line with this policy, during fiscal year 2023, the JFTC conducted the following in connection with merger review cases: solicitation of information and comments from third parties in one case; utilisation of internal documents in 10 cases; application of economic analysis in seven cases; and exchange of views with foreign competition authorities in five cases.

New developments in jurisdictional assessment or procedure

In Japan, merger reviews are governed by the AMA, which sets forth specific notification thresholds. Transactions that meet these thresholds are subject to mandatory pre-closing notification. In the case of share acquisitions, notification is required when the acquiring company has domestic sales exceeding JPY 20 billion, and the target company has domestic sales exceeding JPY 5 billion, and the acquisition will result in the acquiring company holding more than 20% or 50% of the voting rights in the target company. However, in cases where the acquisition occurs within the same corporate group, in principle, it is exempted from the obligation to submit a notification.

In practice, it is customary for the parties to engage in a voluntary consultation process with the JFTC prior to the formal notification. This “pre-notification consultation” involves discussions on the outline of the transaction, the definition of relevant markets, and potential competitive concerns. Based on the outcome of this consultation, the formal notification is then submitted.

To enhance transparency and predictability in its merger review process, the JFTC has formulated and published two key documents: the Merger Guidelines; and the Merger Review Policy. These guidelines clarify the criteria and analytical methods the JFTC uses to assess whether transactions such as share acquisitions, mergers, corporate splits, share transfers, and business transfers – which are subject to merger control under the AMA – are likely to substantially restrain competition. Parties are expected to submit their notifications to the JFTC in accordance with the Merger Guidelines and Merger Review Policy.

Once a notification is submitted, a statutory waiting period of 30 days is imposed as a Phase I period, during which the transaction may not be implemented in principle. During this period, the JFTC typically

takes one of the following actions: (i) it issues a notice stating that it will not issue a cease-and-desist order because there are no concerns under the AMA; (ii) it issues a request for reports or information and proceeds to Phase II if a more detailed examination is required; or (iii) it issues a notice to initiate a commitment procedure.

If no substantive concerns are identified under the AMA, the JFTC will issue a “notice of non-issuance of cease-and-desist order”. The JFTC may also shorten the 30-day waiting period if deemed appropriate. In practice, it is common for parties to request a shortened waiting period after filing, and, if a pre-notification consultation has been held and no major concerns are identified, the JFTC often grants the request promptly. In cases where, during Phase I, the notifying company is found not to violate the AMA on the condition that it implements remedial measures, or in other cases deemed useful as references for other companies, the JFTC will make the details public.

If the transaction proceeds to Phase II, the JFTC requests additional information from the parties and begins an in-depth review. The JFTC publicly announces the initiation of Phase II, and third parties may submit opinions within 30 days. The JFTC must conclude its review by the later of (i) 120 days from the acceptance of the initial notification, or (ii) 90 days from the receipt of all requested information. The JFTC then either clears the transaction, initiates commitment procedures, or issues a notice for a hearing.

When a case proceeds to Phase II, the JFTC requests the submission of reports and other relevant information from the parties, and the review formally begins upon receipt of the requested materials. The issuance of such a request is made public, and third parties are allowed to submit their opinions during a 30-day comment period. In Phase II, the JFTC must take one of the following actions by the later of either 120 days from the date of the initial notification or 90 days from the date on which all requested reports and materials have been received: (i) issue a notice that no cease-and-desist order will be given because no competition concerns are found; (ii) issue a notice initiating the commitment procedure; or (iii) issue a notice of hearing. The outcome of Phase II will be disclosed to the public.

The outline of Japan’s merger review procedure is as described above; however, in recent years, there have been developments in the procedure with a particular focus on the digital sector.

In December 2019, the JFTC revised the Merger Review Policy. Under the revision, parties are encouraged to consult with the JFTC in advance even if a transaction does not meet the statutory notification thresholds, provided that the transaction value exceeds JPY 40 billion and the target company has business operations or R&D activities in Japan, or engages in sales directed at Japanese consumers. This revision was prompted by concerns over so-called “killer acquisitions”, in which large companies acquire innovative startups possessing cutting-edge technology or services – transactions that would typically fall outside the scope of review under traditional revenue-based thresholds. In particular, acquisitions by large digital platform operators were identified as a gap in the system, as they often involve significant deal values and may have material future impacts on competition, yet were not subject to mandatory notification. The revision expanded the review framework to capture substantial transactions with potential competitive effects.

In the 2021 *Google/Fitbit* case, although Fitbit’s domestic sales in Japan did not meet the statutory notification thresholds, the transaction value was expected to exceed JPY 40 billion and the deal was anticipated to affect Japanese consumers. As a result, the JFTC conducted its review in accordance with the procedures applicable to notifiable mergers. Since multiple foreign competition authorities were also reviewing the transaction, the JFTC proceeded while exchanging information with its overseas counterparts.

Similarly, the proposed acquisition of Figma by Adobe in 2023 did not meet the notification thresholds, but given the substantial acquisition value and the anticipated impact on Japanese consumers, the JFTC conducted a merger review. However, in December 2023, the parties terminated their agreement, and the review was accordingly concluded.

In 2022, the JFTC released the Proactive Digital Competition Policy. This policy signalled a more flexible approach to merger review procedures, including soliciting third-party information and opinions, exercising investigative powers under Article 40 of the AMA, utilising internal documents, and applying economic analysis – all intended to enhance information gathering and allow for more timely and accurate fact-finding in rapidly evolving markets.

Although the JFTC had previously invited third-party comments only in Phase II reviews, this policy clarified that it may do so regardless of whether the review has proceeded to Phase II. For example, in the *Adobe/Figma* case mentioned above, the JFTC publicly announced that it had solicited third-party opinions to gather information efficiently, even though the transaction was not subject to mandatory notification under the AMA.

In the 2023 *Microsoft/Activision Blizzard* case, the JFTC likewise sought input from third parties, receiving a number of submissions from both businesses and individuals, and conducted its review based on the information and opinions gathered.

As a result of these revisions, the JFTC has established a framework that enables merger reviews based not only on formal revenue thresholds but also on transaction value and the substantive impact on competition. In particular, for mergers in the digital sector, engagement with the authority through pre-notification consultations has become increasingly important, regardless of whether a formal notification is required.

Key industry sectors reviewed and approach adopted to market definition, barriers to entry, nature of international competition, etc.

Greenhouse gas-reducing product markets

In March 2023, the JFTC published the *Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society* under the AMA (“**Green Guidelines**”), which clarify the application of the AMA to environmentally conscious business combinations, including collaborations and mergers aimed at achieving carbon neutrality. The Green Guidelines provide hypothetical examples along with commentary to illustrate how such transactions would be evaluated.

Regarding market definition in merger reviews, the Green Guidelines state that for consumers who prioritise greenhouse gas reductions, newly developed products that contribute to greenhouse gas reductions may not be substitutable with existing products. Therefore, it is possible to define separate markets for new and existing products. Furthermore, the April 2024 revision of the Green Guideline indicated that new products contributing to greenhouse gas reduction may be positioned as belonging to markets adjacent to those of existing products. It also showed that existing products may serve as pro-competitive elements in the market for new products, and that new products may similarly function as pro-competitive elements in the market for existing products.

The JFTC also considers efficiency improvements post-merger – such as economies of scale, integration of production facilities, specialisation of factories, reduction in transportation costs, and enhanced R&D capabilities – when these are expected to lead to more competitive behaviour by the parties. The Green Guidelines mention that, when a merger aimed at promoting a green society is expected to generate pro-competitive effects – such as innovation in GHG-reducing technologies or the creation of new markets for eco-friendly products – such efficiency gains will also be taken into account in the competitive impact assessment.

In the 2025 *Kubota/Nippon Chutetsukan* case, the planned merger involved changes to the manufacturing process of the relevant products that were expected to contribute to greenhouse gas reduction. While the JFTC did not classify the resulting products as distinct new products contributing to GHG reduction, it

did recognise the modified manufacturing process as environmentally beneficial. Referring to the Green Guidelines, the JFTC acknowledged improved efficiency in the form of reduced carbon dioxide emissions resulting from the merger, and recognised the associated pro-competitive effects.

Digital markets

In the 2019 revision of the Merger Guidelines, the JFTC clarified its approach to market definition in platform businesses. Recognising the characteristics of multi-sided markets – where different groups of users (e.g., end-users and service providers) coexist – the basic approach is to define separate relevant markets for each group. However, in cases where strong indirect network effects are present (i.e., where the expansion of one user group increases the value for the other), the JFTC may adopt a layered approach and define a single, integrated market encompassing multiple user groups.

Additionally, in markets where competition is not primarily based on price (such as internet-based services), the JFTC may define the relevant market by assessing substitutability based on changes in factors such as quality or convenience, rather than price alone.

The 2019 revision also explicitly acknowledged that, in addition to traditional factors such as market share, merger reviews in digital sectors should consider competition-reducing factors unique to digital markets, including network effects and the dynamics of multi-sided platforms. Notably, both direct network effects (e.g., increased user numbers enhance service value and attract more users) and indirect network effects were identified as important elements in assessing competitive impact. The revised guidelines also clarified the treatment of important inputs such as data in vertical and conglomerate mergers. In particular, they emphasise the competitive impact of refusals to supply competitively significant data by data-holding firms, as well as the elimination of potential market entry through the acquisition of startups. The assessment of competitive effects will take into account factors such as the type, volume, and frequency of data collection, as well as comparisons with data accessible to competitors.

In the 2020 *Z Holdings/LINE* case, it was noted that the integration of multiple distinct platforms – such as advertising, search, payments, and social networking – would result in the concentration of large-scale user data, thereby centralising competitively significant inputs. In the code payment market, two-sided indirect network effects were observed, where an increase in users encouraged merchant adoption, and an increase in merchants further attracted more users. The JFTC conducted a comprehensive review of the competitive impact, taking into account not only traditional market share analysis, but also the quality and quantity of data accessible to the merging parties and the presence of indirect network effects.

In the 2023 *Microsoft/Activision Blizzard* case, it was noted that an increase in the number of users on a gaming platform enhances the incentives for game developers to enter the market, and the diversification of available content further attracts users to the platform. The JFTC examined the potential for input foreclosure and customer foreclosure in the markets for gaming platforms and game distribution services, taking into account the existence of two-sided indirect network effects in these markets.

Barriers to entry

According to the Merger Guidelines, the JFTC states that the potential for new market entry to serve as a competitive constraint after a merger is assessed from multiple perspectives. Specifically, the JFTC evaluates legal or regulatory barriers to entry, practical (*de facto*) barriers, the substitutability between the products of potential entrants and those of the merging parties, and the likelihood of actual entry.

With respect to regulatory barriers, the JFTC considers the existence and stringency of legal regulations or licensing requirements. If such regulations have been relaxed or are expected to be removed in the future, entry pressure is considered strong. On the practical side, the JFTC examines whether the required capital investment, technology, and distribution networks would place potential entrants at a disadvantage compared to incumbent firms. If the products of new entrants are substitutable in terms of quality, price,

or functionality, competitive pressure from entry is deemed stronger. Furthermore, if other companies are planning to enter the market or if market conditions suggest a high probability of entry, concerns over anticompetitive effects may be reduced. Entry pressure tends to be more significant in growing markets or industries experiencing rapid technological innovation.

In the 2024 *Asiana Airlines/Korean Air* case, the JFTC conducted a detailed assessment of entry barriers and found that slot constraints at congested airports posed significant physical and regulatory barriers, limiting the potential for new entrants. Consequently, the JFTC deemed the entry pressure to be limited. It approved the merger conditional on the implementation of remedial measures aimed at facilitating entry, including the transfer of slots and the introduction of a monitoring trustee.

This demonstrates that the JFTC places considerable weight on the possibility of market entry, evaluating institutional, economic, and practical aspects in a comprehensive manner when assessing whether a business combination would substantially restrain competition.

International competition

In the Merger Guidelines, the JFTC states that the definition of the geographic scope of the relevant market, like that of the product market, is fundamentally based on the substitutability of supply from the perspective of demand in each region. Where domestic and foreign customers do not distinguish between suppliers based on location and supply from abroad exerts competitive pressure against domestic price increases, the geographic market may be defined more broadly, such as the global market or the East Asian market, rather than being limited to Japan.

In particular, if suppliers sell products at substantially equivalent prices across global or East Asian markets, and buyers are able to freely select suppliers from those regions, then the relevant geographic market may be defined as a wider area, such as the global or East Asian market. In such markets, domestic price increases in Japan are likely to be constrained by imports, thereby reducing the likelihood of competitive harm.

Accordingly, the cross-border market definition is not determined merely by the existence of import or export activity, but rather through a comprehensive assessment of factors such as pricing consistency across regions, customer procurement behaviour, and the flexibility of supply.

In the 2023 *Riken/Nippon Piston Ring* case, the JFTC found differences in buyer behaviour among purchasers of piston rings. For instance, Japanese engine manufacturers purchasing for OEM and OES purposes primarily procured from domestic suppliers, while licensors of branded OES products sourced globally. Based on these procurement behaviours, the JFTC defined two separate geographic markets: one as the whole of Japan; and the other as the global market.

Import pressure

Even if the geographic scope is not defined as an international market such as the global or East Asian market, the Merger Guidelines state that the competitive constraint imposed by imports should be assessed from multiple perspectives. These include the extent of institutional barriers, transportation and distribution costs associated with imports, the degree of substitutability between imported and domestic products, and the availability and export capacity of overseas suppliers.

For instance, if there are no institutional barriers such as tariffs or import quotas, or if such barriers are expected to be removed in the future, imports are likely to increase, thereby strengthening import pressure. Conversely, if institutional barriers remain in place, the expansion of imports may be difficult and import pressure limited. When transportation costs are low and the domestic logistics and distribution infrastructure is well developed, imported products can circulate smoothly and may more easily replace domestic products in response to price increases. Furthermore, if imported products are

highly substitutable for the products of the merging parties in terms of price, quality, or functionality, customers are more likely to switch to imports, making import pressure more effective. In addition, if overseas suppliers have excess capacity and there is a willingness or specific plan to export to the Japanese market, imports are expected to increase in response to domestic price hikes, thus strengthening the competitive constraint.

In the 2023 *Mitsui Chemicals/Asahi Kasei* case, while the geographic market was defined as all of Japan, the JFTC recognised the competitive pressure from imports. This was based on the finding that imported spunbond nonwoven fabrics were of comparable quality to domestic products and generally priced lower, that imports from China and Thailand had been increasing in recent years, and that transportation costs were not significantly different. Furthermore, following the enforcement of the Regional Comprehensive Economic Partnership (“RCEP”) in 2022, tariffs on imports from China, South Korea, Thailand, and Malaysia were eliminated, resulting in virtually no institutional barriers to imports.

Key economic appraisal techniques applied, e.g., as regards unilateral effects and co-ordinated effects, and the assessment of vertical and conglomerate mergers

The JFTC has increasingly adopted economic assessment methods in its merger reviews, in addition to traditional qualitative evaluations such as market shares and entry barriers. These methods are essential for obtaining a more objective and evidence-based understanding of the competitive effects of a transaction and for making well-reasoned decisions.

Institutionally, the JFTC established an Economic Analysis Office in April 2022 to incorporate specialised economic expertise into its merger review practices. In May of the same year, the JFTC published “*Points to Consider When Submitting an Economic Analysis Report and Data*”, which set forth the principles and structure desirable for economic analysis reports, the procedures for submitting data when the JFTC conducts its own analysis, and key points to consider when communicating with the JFTC regarding such reports. It is noted that reports not in conformity with the Guidelines will not be rejected solely on that basis; however, adherence to the Guidelines may enhance the persuasiveness of the reports. In June of the same year, the JFTC expressed its policy to strengthen enforcement through the use of economic evaluation methods in the Proactive Digital Competition Policy.

In practice, economic methods have been actively utilised in specific cases. For example, in the 2021 *Global Wafers/Siltronic* case, the JFTC employed a quantity competition analysis based on the Cournot competition model. Although it did not meet the notification thresholds, the *Furukawa Battery/Sanyo Electric* case, which was published as a 2022 fiscal year case following a voluntary consultation, the JFTC stated that competitive effects were assessed using a comparative analysis of actual transaction prices. The 2023 *Microsoft/Activision Blizzard* case also involved economic analysis to evaluate concerns about exclusionary conduct in digital markets.

In the 2024 *Korean Air/Asiana Airlines* case, the JFTC commissioned external experts to evaluate the economic analysis submitted by the parties. This included a price analysis and an assessment of upward pricing incentives using the Gross Upward Pricing Pressure Index (“GUPPI”). The conclusion was that the parties’ analysis lacked robustness.

In fiscal year 2023, economic analysis was used in seven merger cases that were reviewed and concluded. The adoption of such methodologies is not solely intended to improve numerical precision. It also plays a critical role in making visible the complex competitive issues that are difficult to assess using traditional frameworks – such as those involving digital platform markets, vertical integrations, and killer acquisitions.

Approach to remedies (i) to avoid second stage investigation, and (ii) following second stage investigation

In merger reviews, it is not uncommon for the parties to proactively recognise potential competitive concerns during Phase I and voluntarily propose remedial measures to address them, thereby avoiding the need for Phase II. This practice is becoming an established procedural strategy, enabling smoother reviews through cooperation with the competition authority and reducing uncertainty for the merging parties.

In the 2024 *Korean Air/Asiana Airlines* case, the JFTC expressed concerns over potential anticompetitive effects, given that both companies are major South Korean carriers and held high market shares on multiple international routes, and competition between full-service carriers would be eliminated on certain routes after the merger.

To address these concerns, Korean Air and Asiana Airlines proposed behavioural remedies, including the transfer or allocation of flight slots on specific routes to rival carriers. Notably, the parties also proposed the appointment of a monitoring trustee – an independent third party responsible for overseeing and reporting on the implementation of the remedies to the JFTC. This measure was intended to ensure both the effectiveness and the continued execution of the proposed remedies and stands out as a key feature of the case.

While the use of monitoring trustees in Japan began in the 2010s and was notably seen in the 2021 *Google/Fitbit* case, such arrangements remain relatively rare in the context of Japanese merger reviews. In that regard, the adoption of a monitoring trustee in this case holds precedent-setting significance as a means of ensuring the effectiveness of remedial measures.

After a comprehensive assessment of the proposed measures and the associated monitoring system, the JFTC approved the merger without requiring Phase II. This case is likely to serve as a practical reference for future transactions, particularly in cross-border M&A, and represents an example of the JFTC aligning its approach with global standards by adopting a more internationally coordinated review framework.

Key policy developments

Strengthening of the JFTC's organisational and enforcement capacity

The JFTC has strengthened its organisational capacity by increasing its staff by more than 100 over the past five years, in order to effectively respond to changes in the socio-economic environment. This includes balancing the enforcement of the AMA with advocacy for competition policy, as well as implementing new laws related to freelance transactions and the smartphone software market. In addition, the JFTC has actively hired experienced professionals and term-based staff such as attorneys, thereby enhancing the expertise and diversity of its personnel.

In the area of merger control, since 2021, the JFTC has reinforced its review system for digital-sector mergers by increasing the number of merger investigators. The JFTC also established a dedicated Economic Analysis Office in 2022 to strengthen its economic analysis framework. This new unit conducts data analysis and quantitative assessments of competitive effects using economic methodologies in a more systematic manner.

Establishment and revision of the Green Guidelines

In 2023, the JFTC published the Green Guidelines, which clarify, through specific examples, the circumstances under which collaborative activities aimed at reducing greenhouse gas emissions – such as joint research, shared use of facilities, information sharing on environmental standards, and joint procurement – may or may not raise concerns under the AMA.

With respect to mergers, the Green Guidelines also provide illustrative cases and the JFTC's evaluation comments regarding collaborations and integrations undertaken by companies pursuing carbon neutrality. This aims to enhance legal clarity on how the AMA applies to environmentally conscious business combinations.

In the 2024 revision of the Green Guidelines, the JFTC further clarified that new products contributing to greenhouse gas reduction may not be considered substitutable with existing products. As such, the markets for new and existing products may be defined separately and treated as adjacent markets. Additionally, existing products may be evaluated as a factor that promotes competition in the new product market.

Responding to digitalisation and socioeconomic changes

In 2023, the JFTC released the Proactive Digital Competition Policy, which outlines the JFTC's commitment to addressing structural changes in society, including digital transformation, through the coordinated use of enforcement and advocacy.

In the context of merger review, the policy emphasises the expansion of third-party information and opinion gathering, the active use of investigative authority under Article 40 of the AMA, and the increased application of internal documents and economic assessment methods.

Reform proposals

As of April 2025, no new amendments to the AMA or the relevant guidelines have been announced in the field of merger control.

**Masahiro Nakatsukasa**

Tel: +81 6 6676 8834 / Email: nakatsukasa_m@clo.gr.jp

Masahiro Nakatsukasa, managing partner of Chuo Sogo LPC, is a bilingual international attorney admitted in Japan and New York. With more than 30 years' experience, he represents Japanese and foreign clients in a wide range of transactions and disputes. Renowned for his expertise in cross-border M&A and financial transactions in Japan, Mr. Nakatsukasa has been named "Lawyer of the Year" in Corporate and Mergers and Acquisitions Law, among other categories, by *Best Lawyers*. He served as Vice President of the Osaka Bar Association from 2015 to 2016, and currently sits on the boards of several listed companies as an outside director. He earned his LL.B. from Kyoto University in 1994 and his LL.M. from Northwestern University School of Law in 2005.

**Takashi Oguchi**

Tel: +81 6 6676 8834 / Email: oguchi_t@clo.gr.jp

Takashi Oguchi is a partner at Chuo Sogo. His practice areas include antitrust law, international transaction, and M&A from the initial stages through post-merger integration. Drawing on his experience from his time at a company in the automotive industry, he has extensive knowledge of various aspects of the automotive industry, including the automotive lithium-ion battery business, and offers practical legal advice tailored to the actual business conditions of manufacturing companies. He earned his LL.B. from Kyoto University in 2009 and his LL.M. from Keio Law School in 2011. He worked at Panasonic Corporation Automotive Company from 2019–2021.

Chuo Sogo LPC

OSAKA DOJIMAHAMA TOWER 15th Floor, 1-1-27 Dojimahama, Kita-ku, Osaka 530-0004, Japan

Tel: +81 6 6676 8834 / URL: www.clo.jp/english

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