

RENEWABLE ENERGY

Japan



Renewable Energy

Consulting editors

John Dewar

Milbank LLP

Quick reference guide enabling side-by-side comparison of local insights into market and legal frameworks; treatment of environmental attributes; government incentives and authorisations; dispute resolution; utility-scale renewable energy projects; hydropower; distributed generation; energy storage; foreign investment considerations; offtake arrangements; decommissioning; transaction structures; and recent trends.

Generated 02 August 2022

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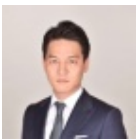
Norio Maeda
n.maeda@nishimura.com
Nishimura & Asahi



Amane Kawamoto
a.kawamoto@nishimura.com
Nishimura & Asahi



Hudson Hamilton
h.hamilton@nishimura.com
Nishimura & Asahi



Boram Kim
b_kim@jurists.co.jp
Nishimura & Asahi

**NISHIMURA
& ASAHI**

MARKET FRAMEWORK

Government electricity participants

Who are the principal government participants in the electricity sector? What roles do they perform in relation to renewable energy?

The principal government participants in Japan are the Ministry of Economy, Trade and Industry (METI) and its affiliated agency, the Agency for Natural Resources and Energy.

These authorities are in charge of enforcing the laws and regulations with respect to the energy business, including the electricity generation business from renewable energy sources. In addition, these authorities are in charge of implementing the feed-in tariff (FIT) and feed-in premium (FIP) programmes in Japan, and issuing certificates that make renewable energy projects eligible for (1) mandatory power purchase arrangements under the FIT programme and (2) payment of a premium in addition to the market price for the electricity under the FIP programme.

Law stated - 06 June 2022

Private electricity participants

Who are the principal private participants in the electricity sector? What roles do they serve in relation to renewable energy?

There are 10 major vertically integrated electric power utilities in Japan, each of them covering a different area of Japan. The electricity transmission business is dominated by these 10 utility companies, which also take up a large share of the electricity generation business and electricity retail business.

Regarding electricity generation, in addition to the vertically integrated utilities that are involved in electricity generation business, there are a number of independent power producers in Japan such as trading companies and affiliates of investment funds. After the commencement of the FIT programme in Japan in 2012, foreign investors have also participated in renewable power generation projects.

The electricity retail business has been fully liberalised since April 2016. Although vertically integrated utilities are still the dominant players in the market, various types of non-utility electricity suppliers are increasing their market share.

Law stated - 06 June 2022

Definition of 'renewable energy'

Is there any legal definition of what constitutes 'renewable energy' or 'clean power' (or their equivalents) in your jurisdiction?

The definition of renewable energy varies depending on the relevant statute.

Under the Act on Special Measures Concerning Promotion of Utilization of Electricity from Renewable Energy Sources (the Renewable Energy Act), which regulates the implementation of the FIT and FIP programmes in Japan, renewable energy is defined as solar power, wind power, hydraulic power, geothermal heat and biomass.

There are statutes that have a broader definition. For example, under the Act on the Promotion of Use of Non-Fossil Energy Sources and Effective Utilization of Fossil Energy Materials by Energy Suppliers, renewable energy includes solar heat and other sources of natural heat, such as the heat in the air, in addition to solar power, wind power, hydraulic power, geothermal heat and biomass.

Framework

What is the legal and regulatory framework applicable to developing, financing, operating and selling power and 'environmental attributes' from renewable energy projects?

The legal framework generally applicable to selling power from renewable energy projects is the FIT programme under the Renewable Energy Act. Under the FIT programme, the owner of a renewable energy project with a certification from METI has the right to request a transmission utility to enter into a power purchase agreement with it and purchase all available electric power at a fixed price (ie, a price set by METI depending on the type of renewable energy source and the output capacity of the project) over a long-term period (ie, 10, 15 or 20 years depending on the type of renewable energy source). A transmission utility is required to accept such requests unless there is a legitimate reason not to. Legitimate reasons are strictly limited by and defined under the Renewable Energy Act. The utilities that are required to purchase electric power from renewable energy projects have the right to receive a renewable energy subsidy, the cost of which is ultimately borne by the end-users who are required to pay renewable energy surcharges under the FIT programme.

The FIT programme is being replaced by the FIP programme for solar power with the amendment of the Renewable Energy Act effective as of 1 April 2022. Under the FIP programme, power producers will receive a premium in addition to the market price for the electricity that they generate, instead of the fixed electricity price determined by METI under the FIT programme. The premium amount will be calculated based on a determined reference price for the electricity (FIP price), which will be established through (1) a prescribed method to be determined by the Minister of METI, which considers, among other factors, the opinion of the committee organised by METI, the type of renewable energy and the capacity of the project; or (2) a bidding system among interested developers, which is similar to the procurement procedure established under the FIT regime. The FIP framework contemplates that all pricing risks associated with market fluctuations will be borne by energy producers. In other words, no payments will be made to the power producers in the event that the FIP price becomes lower than the reference price.

The development, financing and operation of renewable energy projects are subject to other general laws and regulations governing each area. Regarding permission for development, some local governments impose specific regulations on the development of renewable energy power plants.

Renewable Energy Certificates

The most widely distributed renewable energy-related certificates in Japan are Non-Fossil Certificates (NFCs). NFCs were originally introduced in 2017 for electricity retailers to comply with the legal obligation to procure a certain percentage of their electricity from non-fossil sources. Since then, the role of NFCs has expanded, and all the environmental values in renewable electricity procured by retail electric utilities are to be represented in NFCs. Japan has had a demonstrative tracking system in place for NFCs from power sources supported under the FIT system (FIT NFCs) since February 2019. Further, in August 2021 Japan introduced a demonstrative tracking system for NFCs that are not supported under the FIT system (Non-FIT NFCs).

There are two other types of renewable-energy-related certificates in Japan: J Credit and Green Power Certificates. If an entity reduces its emissions of greenhouse gas or increases its absorption of greenhouse gas by introducing energy-saving equipment, providing forest management or the like, along with fulfilling certain criteria, such reduction of emissions or increase in absorption of greenhouse gas can be certified as J-Credit. If an entity introduces a renewable energy power project, along with fulfilling certain criteria, the increase in environmental value from the power generation from such renewable energy project can be certificated into a Green Power Certificate.

Stripping attributes**Can environmental attributes be stripped and sold separately?**

FIT NFCs can be obtained separately from the renewable energy by electricity retailers, brokers or electricity consumers. However, Non-FIT NFCs are sold bundled with electricity under the current system. Only electricity retailers can purchase Non-FIT NFCs, and electricity consumers cannot directly acquire Non-FIT NFCs themselves. In response to the increasing demand from consumers who want to access the value of electricity as a renewable energy source, the government is considering the introduction of a system that would allow consumers to directly acquire Non-FIT NFCs as well as FIT NFCs.

J-Credit and Green Power Certificates can be stripped and sold separately. A purchaser of J-Credit may resell them to third parties. With respect to Green Power Certificates, only the initial holder may sell it to a third party; however, the purchaser from the initial holder is not allowed to resell it.

Law stated - 06 June 2022

Government incentives**Does the government offer incentives to promote the development of renewable energy projects? In addition, has the government established policies that also promote renewable energy?**

After adopting the Kyoto Protocol, the Japanese government has been promoting the use of renewable energy to reduce greenhouse gas emissions. At one time Japan had a renewable portfolio standard (RPS) programme. Since 2012, however, the FIT programme has replaced the RPS programme and has been bolstering the development of renewable energy projects. The amended Renewable Energy Act, which became effective as of 1 April 2022, further introduced the FIP programme, under which applicable projects will earn a premium in addition to the revenue generated by the sale of electricity in the wholesale electricity market. The FIP programme will be initially available to renewable energy power sources such as solar power and wind that are deemed competitive enough to survive in the market without financial support from the government. This transition from the FIT regime to the FIP regime is in line with the government's policy to make renewable energy the main source of power in Japan.

In addition, in furtherance of the Japanese government's policy goal of achieving carbon neutrality by 2050, in March 2021 METI established a ¥2 trillion Green Innovation Fund with the twin goals of (1) supporting companies engaged in fields consistent with the Japanese government's Green Growth Strategy that require long-term, continuous funding support measures focusing on R&D projects; and (2) establishing incentive frameworks to ensure that companies supported as described above are committed to the stated policy goals such as the cancellation of projects that are not sufficiently committed to such goals.

Law stated - 06 June 2022

Are renewable energy policies and incentives generally established at the national level, or are they established by states or other political subdivisions?

METI and its affiliated agency, the Agency for Natural Resources and Energy, establish renewable energy policies and incentives, including the FIT programme, at the national level.

Law stated - 06 June 2022

Purchasing mechanisms

What mechanisms are available to facilitate the purchase of renewable power by private companies?

On 15 March 2022, METI announced its programme to publicly solicit applicants for the Subsidy to Promote Consumer-led Solar Power Generation (the Subsidy). Consumers in this context include private companies that will purchase renewable power pursuant to corporate PPAs. Under the Subsidy programme, eligible operators of solar power generation projects may receive funding for up to one-half of the construction costs incurred to develop the solar power generation facility. If the contemplated project is a partnership with the local government (ie, where the project is built on land owned by the local government, or where the local government owns the majority stake in the project), funding for up to two-thirds of the construction costs will be provided to eligible operators.

An operator of a renewable power generation facility must meet the following requirements in order to receive the Subsidy:

- FIT/FIP projects are not eligible – the project may not receive the Subsidy if it has been certified by METI to receive a fixed price for the FIT period under the Renewable Energy Act;
- it must be a new project with an aggregate generation capacity of 2MW (AC) or more, and the subsidised cost per kW must be less than 250,000 yen (AC);
- the project is contemplated to commence operations by 28 February 2023;
- the project must execute a corporate PPA with the consumer for a term of more than eight years. Such corporate PPA must be executed among the operator, retailer and consumer, and more than 70 per cent of the power generated from the project must be used by consumers. Further, while the Subsidy programme allows the operator to sell power to multiple retailers, only one operator/retailer is allowed in principle; and
- the project must be operated in accordance with the Business Plan Guideline for Solar Power Generation provided under the Renewable Energy Act.

The operator should commence construction of the contemplated solar power generation facility following publication and notice of approval of the Subsidy by the Japan Photovoltaic Energy Association (JPEA), an entity that is delegated to implement the programme by METI. During construction, JPEA will conduct interim inspections to verify that construction is progressing as planned. The construction will be deemed to have been completed once the commercial operation of the project has commenced and all the subsidised costs related to construction have been paid to respective suppliers, etc. The construction must be completed by 28 February 2023 in order to remain eligible for the Subsidy.

Law stated - 06 June 2022

Legislative proposals

Describe any notable pending or anticipated legislative proposals regarding renewable energy in your jurisdiction.

The Japanese government intends to reduce its greenhouse gas emissions by 46 per cent by 2030 compared with 2013 levels, a significant increase from the previous commitment of 26 per cent. In order to achieve this ambitious goal, the government plans to reform regulations that have been a hindrance to the further deployment of renewable energy. One example of such deregulation is a proposed legislative change that enables electric power users to directly

purchase NFCs from power producers in relation to non-FIT renewable energy projects. This legislative change will remove one of the practical hurdles to implement virtual PPAs in Japan.

Law stated - 06 June 2022

Drivers of change

What are the biggest drivers of change in the renewable energy markets in your jurisdiction?

Owing to the shortage of capacity of utilities' transmission and distribution lines, it is increasingly difficult for utility-scale renewable projects to connect to the grid. To address this, METI and the Agency for Natural Resources and Energy have revised the rules for grid connection by introducing non-firm grid access so that an increased number of renewable projects can access the transmission grid. Under non-firm grid access, electricity power producers can connect to the grid subject to curtailment without compensation in case of network constraints.

Another big driver of change is the Japanese government's policy goal of achieving carbon neutrality by 2050. The Japanese government pledged to reduce its greenhouse gas emissions by 46 per cent by 2030 compared with 2013 levels, a significant increase from the previous commitment of 26 per cent. The government revised its Strategic Energy Plan in October 2021, which calls for increasing the share of renewable power in the power generation sector to 36–38 per cent by 2030.

Law stated - 06 June 2022

Disputes framework

Describe the legal framework applicable to disputes between renewable power market participants, related to pricing or otherwise.

With respect to disputes regarding utilities' wheeling services and their transmission and distribution lines, the Organization for Cross-regional Coordination of Transmission Operators (OCCTO) was designated as the dispute resolution business operator under the Act on Promotion of Use of Alternative Dispute Resolution. Pursuant to this designation, OCCTO conducts conciliation and mediation proceedings. There is no specific legal framework for resolution for other types of disputes that may arise between or among renewable energy market participants. These disputes are resolved through normal civil judicial proceedings, civil conciliation proceedings or arbitration proceedings.

Law stated - 06 June 2022

UTILITY-SCALE RENEWABLE PROJECTS

Project types and sizes

Describe the primary types and sizes of existing and planned utility-scale renewable energy projects in your jurisdiction.

After the commencement of the feed-in tariff (FIT) programme in 2012, the number of large-scale solar power projects, such as those with an output of 10MW or more, has increased significantly. In addition, the number of projects involving the development of large-scale biomass projects has increased during the past few years.

Law stated - 06 June 2022

Development issues

What types of issues restrain the development of utility-scale renewable energy projects?

There is a growing number of disputes between the solar power producers and local government/local residents due to inappropriate project planning and construction, resulting in disasters such as landslides. As a result, implementation of large-scale solar projects has become increasingly regulated and therefore difficult.

In addition, because of the increased number of solar and wind power projects since the commencement of the FIT programme, there is less and less land that is suitable for solar and wind power projects.

Law stated - 06 June 2022

HYDROPOWER

Primary types of project

Describe the primary types of hydropower projects that are prevalent.

Historically, hydropower generation projects with large-scale dams have been an important source of energy and play a significant role in the renewable energy sector. These dams are developed and owned by vertically integrated utilities. Recently, however, small and medium-sized hydropower projects have also been gaining attention with the support of the feed-in tariff (FIT) programme. Hydropower projects with output capacity less than 30MW are eligible for mandatory power purchase arrangements under the FIT programme.

Law stated - 06 June 2022

What legal considerations are relevant for hydroelectric generation in your jurisdiction?

Although small and medium-sized hydropower generation projects are supported by the FIT programme, other types of hydroelectric technologies, such as electricity generation by wave power and tidal power, are not. To expand the field of hydroelectric power generation to wave power and tidal power, financial support from a governmental programme would be beneficial.

Law stated - 06 June 2022

DISTRIBUTED GENERATION

Prevalence

Describe the prevalence of on-site, distributed generation projects.

There are several companies that provide on-site, distributed generation projects (on-site projects provider) for their customers such as the owners of public facilities, factories, plants, airports, railway stations, shopping malls and residential areas. There are currently many on-site distributed generation projects in operation. As for larger-scale projects, there are several substantive microgrid experiments in local cities and remote islands.

Law stated - 06 June 2022

Types

Describe the primary types of distributed generation projects that are common in your jurisdiction.

According to the materials distributed by on-site projects providers, there are many solar power plants owned by on-site projects providers (or, to a lesser degree, the offtakers, such as owners of factories or large buildings). These solar power plants are operated by on-site project providers. In addition, another type of generation project has been used more frequently in Japan – the third-party ownership (TPO) model, wherein the solar power facility is operated by a contractor under the power purchase agreement and not by the site owner. Under the TPO model, site owners are able to develop renewable power plants with no initial costs. A third party other than the developer will normally bear the construction costs and own the facility, and the developer will enter into a power purchase agreement with the site owner. Site owners will be able to purchase power generated by the facility at a reduced price.

Law stated - 06 June 2022

Regulation

Have any legislative or regulatory efforts been undertaken to promote the development of microgrids? What are the most significant legal obstacles to the development of microgrids?

We are not aware of any major legislative or regulatory efforts that have focused specifically on the promotion of microgrids. However, there are certain subsidies provided by the government (the Ministry of the Environment) to compensate for the costs incurred to install microgrid systems that connect public facilities.

With regard to the obstacles to the development of microgrids, unlike the often-discussed technical obstacles, there are no significant legal obstacles to the development of microgrids.

Law stated - 06 June 2022

Other considerations

What additional legal considerations are relevant for distributed generation?

With respect to rooftop solar projects as distributed generation projects, there are legal issues as to the method by which to perfect the lease of rooftops. Under the current Real Property Registration Act, a part of a building, such as a rooftop, cannot be registered. As a result, the lease right (as well as the security interest created on the lease right) of a rooftop may not be perfected.

With respect to net-metering, since the owner of a renewable energy project has the right to require a transmission utility to purchase all available electricity at a fixed price, the owner of a renewable energy distributed generation project can sell all surplus electric power to the transmission utility.

Law stated - 06 June 2022

ENERGY STORAGE

Framework

What storage technologies are used and what legal framework is generally applicable to them?

Large-scale battery energy storage systems (BESS) have been used in Japan in connection with renewable power

generation projects; however, due in part to ambiguity under existing law as to the treatment of BESS, such systems have been uncommon. BESS is subject to the legal framework under the Electricity Business Act of Japan. The amendment to the Electricity Business Act, which passed the National Diet in May 2022, clarifies that large storage batteries fall within the 'power generation business' under the Electricity Business Act, and also establishes environments for connecting large storage batteries to systems.

Law stated - 06 June 2022

Development

Are there any significant hurdles to the development of energy storage projects?

Traditionally, the high cost of batteries has been the most significant hurdle to the development of energy storage projects. This concern has been alleviated somewhat in recent years by the drop in price of batteries and the introduction of government subsidies for large-scale battery storage systems, covering up to half the cost of these systems.

Law stated - 06 June 2022

FOREIGN INVESTMENT

Ownership restrictions

May foreign investors invest in renewable energy projects? Are there restrictions on foreign ownership relevant to renewable energy projects?

Yes, foreign investors may invest in renewable energy projects. However, a foreign investor who intends to acquire shares or similar types of equity in a Japanese entity that is involved or will be involved in electricity business (ie, power generation from renewable energy source) is required to submit to the Minister of Finance a pre-filing for approval of such acquisition. A foreign investor may acquire shares or similar types of equity only after approval is given. Approval is typically given after a waiting period of 14 to 30 days. If an electricity business of a Japanese entity is not scheduled to start within six months of the acquisition of shares or similar types of equity by a foreign investor, the foreign investor may first acquire the shares or similar types of equity without making a pre-filing for approval with the Minister of Finance. In such cases, the foreign investor must make another filing to the Minister of Finance for approval during the six-month period prior to the commencement of the electricity business.

In May 2022, the Diet passed the Act Concerning Promotion of Ensuring Security by Implementing Comprehensive Economic Measures (Economic Security Promotion Act), as an initiative to protect and secure industries and technologies that are vital to the economic security of Japan. Under the Economic Security Promotion Act, core power generation facilities may be designated as a Specified Critical Facility that may be subject to prior inspections by the government where the implementation and maintenance of such facility is to be delegated to a third party. Whether such Specified Critical Facility would include renewable energy sources is yet to be unveiled in the government ordinance; such prior inspection may impose a burden on foreign investors looking into investments in the renewable energy market in Japan.

In addition, the Act on the Survey of Land Use and Regulation of Land Use in the Vicinity of Important Facilities and Border Remote Islands (Important Land Survey Act) was established on 16 June 2021 and was scheduled to partially come into effect from 1 June 2022 and comprehensively from 1 September 2022. Under the Important Land Survey Act, if an area falls under a Special Attention Area, one of the parties that intend to enter into a contract for transfer of title to the subject real estate within the Special Attention Area must notify the prime minister in advance with detailed information regarding the contemplated real estate transaction. Special Attention Area includes an area within 1,000

metres around an Important Facility such as a defence force facility, a Japan Coast Guard facility and a certain facility related to the daily lives of the people to be specified by Cabinet Order. Once it is clarified which area and facility will be designated as Special Attention Area and Important Facility, investors will have clarity on what restrictions will be implemented. Investors in the Japanese renewable energy market should pay due attention to the regulatory updates pending the Important Land Survey Act coming into effect, and ensure compliance with the prior notification requirement in connection with the Special Attention Area and Important Facility.

Law stated - 06 June 2022

Equipment restrictions

What restrictions are in place with respect to the import of foreign manufactured equipment?

There are no restrictions specifically focused on the import of foreign manufactured equipment pertaining to renewable energy. However, the import of foreign manufactured equipment is prohibited, if prohibited materials (such as certain chemicals or toxic materials) are used to manufacture the equipment. Foreign manufactured equipment may also be subject to licensing or approval requirements by laws and regulations other than those pertaining to renewable energy upon importation into Japan.

Law stated - 06 June 2022

PROJECTS

General government authorisation

What government authorisations must investors or owners obtain prior to constructing or directly or indirectly transferring or acquiring a renewable energy project?

Physical construction of a renewable energy power plant requires various permissions and authorisations related to land use, land development and environmental protection, such as permission for the conversion of agricultural land, forest development permission, a satisfactory result from the environmental impact assessment and notification (the contents of which must be acceptable to the authority) of a large-scale development.

To be eligible for the feed-in tariff (FIT) programme or the feed-in premium (FIP) programme, it is also necessary to obtain a certificate from the Ministry of Economy, Trade and Industry (METI) on the renewable energy project in question.

In transferring and acquiring a renewable energy project from one entity to another, the permissions and authorisations together with the METI certificate mentioned above need to be transferred effectively. For such transfers, procedures required by the relevant authorities must be taken, such as notification of the transfer to the authority. In the case that the acquirer is a foreign investor, the acquirer is required to obtain approval from the Minister of Finance of its acquisition of shares or similar types of equity in a Japanese entity that is involved or will be involved in electricity business (ie, power generation from renewable energy source).

Law stated - 06 June 2022

Offtake arrangements

What type of offtake arrangements are available and typically used for utility-scale renewables projects?

Due to the introduction of the FIP programme, power producers may receive a premium in addition to the market price

for the electricity that they generate, instead of the fixed electricity price determined by METI under the FIT programme. For solar power generation, the FIP programme has partially replaced the FIT programme effective as of 1 April 2022, and no new FIT applications will be accepted going forward. For wind power generation, the FIP programme will replace the FIT programme from 1 April 2023 and for offshore wind power generation from 1 April 2024.

Law stated - 06 June 2022

Procurement of offtaker agreements

How are long-term power purchase agreements procured by the offtakers in your jurisdiction? Are they the subject of feed-in tariffs, the subject of multi-project competitive tenders, or are they typically developed through the submission of unsolicited tenders?

Under the FIT programme, an owner of a renewable energy project with a certificate from METI has the right to request a transmission utility to enter into a fixed-price (ie, price set by METI depending on the type of renewable energy source and the output capacity of the project), long-term (ie, 10, 15 or 20 years depending on the type of renewable energy source) power purchase agreement. A transmission utility is required to accept such request unless there is a legitimate reason not to. Further, legitimate reasons are strictly limited by and defined under the Renewable Energy Act.

Generally, the purchase price under the FIT programme is set by METI annually. Since April 2017, the purchase price for large-scale solar power projects (with 250kW or more output capacity, as of April 2022) will be set through a bidding process held by METI. The process includes a semi-annual, nationwide process where a developer may submit a bid for a FIT price (not greater than the maximum price set by METI) applicable to its own project. METI only grants FIT certificates to solar power projects that have secured a FIT price through the bidding process.

In contrast, under the FIP programme, the power producers need to prepare offtake arrangements – such as a long-term PPA with a power retailer – themselves.

Law stated - 06 June 2022

Operational authorisation

What government authorisations are required to operate a renewable energy project and sell electricity from renewable energy projects?

An owner of an electricity generation project with a certain level of output capacity needs to notify METI of its electricity generation business. In addition, in order to sell electric power under the FIT programme, the project owner must obtain from METI a FIT certificate for their renewable energy project.

Law stated - 06 June 2022

Decommissioning

Are there legal requirements for the decommissioning of renewable energy projects? Must these requirements be funded by a sinking fund or through other credit enhancements during the operational phase of a renewable energy project?

A project owner with a FIT certificate is obligated to hold a certain amount of funds in reserve to secure the costs to decommission its renewable energy facility and also report a plan on reserving decommissioning costs and the status of the funds held in reserve. This requirement has, however, had limited effect as project owners were free to decide

the level and timing to reserve such decommissioning costs. In response to this situation, the government has proposed an amendment to the Renewable Energy Act that requires project owners to reserve funds externally by a third-party agency, with an exception for projects that satisfy certain stringent criteria to reserve the funds on its own. This requirement will initially apply to solar projects with an output capacity of more than 10kW, under which a portion of the proceeds from the sale of electricity will be withheld by the third-party agency on a monthly basis, starting 10 years before the end of the FIT procurement period (the long-term period during which a transmission utility must purchase from renewable energy project owners all available electric power at a fixed price).

Law stated - 06 June 2022

TRANSACTION STRUCTURES

Construction financing

What are the primary structures for financing the construction of renewable energy projects in your jurisdiction?

For equity financing, the Tokumei Kumiai structure is frequently used in addition to normal equity investment in shares of a project company. Tokumei Kumiai is a Japanese silent partnership and has been regularly used in various types of asset financings such as aircraft financing and real estate financing. This arrangement is popular among renewable energy projects owing to its pay-through nature resulting in tax efficiency at the project company level.

For debt financing, non-recourse project financing is usually available for FIT-based renewable energy projects such as solar, wind and biomass projects.

Law stated - 06 June 2022

Operational financing

What are the primary structures for financing operating renewable energy projects in your jurisdiction?

For equity financing, the Tokumei Kumiai structure is frequently used especially for solar PV projects, while there are also structures where an equity investment is made in shares of a project company. For debt financing, non-recourse project financing is usually available for feed-in tariff-based renewable energy projects such as solar, wind and biomass projects. The financing structure is normally designed and put into place at the construction phase to accommodate the operational phase so that there would not be any substantial changes to the financing structure when the project enters the operational phase.

Law stated - 06 June 2022

UPDATE AND TRENDS

Recent developments

Describe any market trends with respect to development, financing or operation in the renewables sector or other pertinent matters.

Corporate Power Purchase Agreements (Corporate PPAs) have been attracting attention due to the government's push towards carbon neutrality and promotion of renewable energy as a viable energy source in Japan. For example, the government has recently provided subsidies to certain major companies for the construction of renewable energy power generation facilities using corporate PPAs, and there is expectation in the energy market that the government

will continue to provide such subsidies going forward. In addition, it also expected that the introduction of the feed-in premium (FIP) programme will further accelerate the expansion of corporate PPAs, as renewable energy power producers will need to sell their electricity through commercial transactions or through the market, and purchasers will have a chance to purchase electricity at a reasonable market price, which excludes the premium.

Law stated - 06 June 2022

Describe any notable pending or anticipated legislative proposals.

The Ministry of Energy, Trade and Industry has proposed revised judgement criteria for offshore wind auctions. The proposed criteria would place greater emphasis on the expected commercial operation date, the feasibility of the development plan, and the stability of the supply of power through factors such as the resilience of the supply chain. Conversely, the proposed supply price of electricity would receive less emphasis under the proposed rules. Other proposed rule changes include a 1GW supply limit set on consortiums, and plans to disclose all bidder names and project overview data in the publication of auction results.

Law stated - 06 June 2022

Jurisdictions

	Bulgaria	Gugushev & Partners Law Office
	Denmark	Poul Schmith/Kammeradvokaten
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	Poland	Squire Patton Boggs
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