

New Database to Assist Japanese Securities firms in Anti-Social Forces Screening

June 2010

The Japanese National Police Agency (NPA) is reported to be preparing to provide access to its database on domestic organised criminal groups to members of the Japan Securities Dealers Association (JSDA). However it remains to be seen how this will assist other industry groups as they seek to comply with the law or undertake due diligence on other “anti-social forces”.

The Japanese National Police Agency (NPA) database is understood to contain nearly 40,000 names of individuals linked to Japan's plethora of organised criminal groups (OCGs) and syndicates, more frequently referred to as Yakusa or Bōryokudan. The NPA currently provides information on members of OCGs unofficially in response to requests by financial institutions. However, these checks often take several days to complete and are not centralised or uniform.

In a move designed to restrict account opening and capital to designated individuals, this database information is likely to be supplied to members of the Japan Securities Dealers Association (JSDA), the self regulatory organisation of the securities markets. The move has been requested by individual firms and the JSDA itself.

The new database may be operating in some form in 2011 but is likely to face challenges on the basis of privacy and data protection concerns. There will also remain problems identifying those who are not listed on the NPA database as members of an OCG but who are suspected of involvement or association with a gang member. The database also will not include individuals or groups which are active outside Japan which is particularly relevant to other Asian investment and export markets where Japanese firms are most active. It is unclear whether the NPA will eventually expand access to the database to other industry groups outside the financial services sector. This is particularly relevant in light of published reports by the NPA which highlight the Boryokudan's targeting of the construction and real estate sectors.

Under Japanese law when allocating new shares to a third party, the issuing company is required to investigate the third party for links to “anti-social forces”. It is also required to publicly disclose the results of the investigation and the name of the due diligence company that carried out the investigation. So called “anti-social forces” are broadly defined as not only including OCGs but also right wing groups and religious sects, as well as Sokaiya and other groups who may use violence, coercion or fraud to seek economic benefit.

If you would like to know more about Anti-Social Screening Reports or the subjects covered in this publication, please contact:

Helen Symonds
+44 20 7236 8070
hsymonds@billiterpartners.com

Kate Parker
+44 20 7236 8070
kparker@billiterpartners.com

Tom Roch
+852 6647 1097
troch@billiterpartners.com

Billiter Partners

60 Lombard Street
London, EC3V 9EA
+ 44 20 7236 8070

3rd Floor, Three Pacific Place
1 Queen's Road East
Hong Kong
+852 2588 3433

40 Wall Street, 28th Floor
New York, NY 10005
+ 1 212 400 7213

www.billiterpartners.com
contact@billiterpartners.com

New Database to Assist Japanese Securities firms in Anti-Social Forces Screening

The issue of screening for anti-social forces has been in the Japanese headlines recently following accusations that the former President of Fujitsu had ties to Yakuza members. Japan continues to face serious problems with organised crime and related corruption and money laundering issues.

In Japan most corporate information is available only in Japanese and strict domestic privacy laws restrict access to certain civil and criminal records. This makes enhanced due diligence and the completion of checks for links to “anti social forces” a complex process. With proprietary Japanese OCG databases and Japan-focussed Analysts, Billiter assists Japanese and international clients across all sectors in avoiding involvement with antisocial forces in Japan and other jurisdictions by undertaking comprehensive Anti-Social Forces Screening on counterparties.

Billiter’s Enhanced Due Diligence (EDD) reports seek to identify non-Japanese based anti-social forces and assist clients in avoiding association with individuals or groups which may pose a compliance or reputational risk. For more information on Billiter’s Anti-Social Forces Screening reports or tailored EDD solutions in Japan please contact our team.

Billiter Partners

Billiter Partners is a specialist provider of compliance due diligence reports on counterparties. Billiter work with clients globally, across all sectors, to design and implement compliance due diligence programmes that are tailored to the needs of each individual business and help our clients comply with the FCPA and a number of other domestic anti-bribery laws and rules based regimes including the provisions of the UK Bribery Act.

Disclaimer of Liability This client memorandum does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. All of the information contained herein is based on information obtained from sources which Billiter Partners Limited believes to be reliable. As a result, the information in this client memorandum is provided “as is” without any representation or warranty of any kind. Billiter Partners Limited cannot accept responsibility for the accuracy or otherwise of any statement given. Billiter Partners Limited disclaims all liability for the accuracy, completeness, currency or lawfulness of any information originating from Internet sites, press and public sources which make up this report. All rights reserved. No part of this document may be reproduced or transmitted in any form or by any means, including photocopying and recording, without the written permission of the copyright holder. Neither this client memorandum nor any copy of part thereof may be distributed in any other jurisdictions where its distribution may be restricted by law and persons into whose possession this document comes should inform themselves about, and observe any such restrictions. © Billiter Partners Limited 2010