Miyake & Partners
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Japanese Law Explained

Corporate Fraud Investigations in Japan

In recent years, corporate fraud cases have been increasingly. The reasons why people commit fraud is complicated and it is difficult to eliminate fraud completely; but, once discovered, a company must investigate as soon as possible to prevent such occurrences from happening again.
This article introduces how corporate fraud is investigated in Japan, including a discussion on internal whistleblowing systems, the role and responsibility of third-party committees, and the purposes of fraud investigation.

1. How is corporate fraud uncovered?

In Japan, corporate fraud is most often exposed by employees through company hotlines or designated compliance channels.
Japan's Whistleblower Protection Act encourages employees to report misconduct and fraud to the proper authorities; as a result, many scandals are revealed before external audits or the media discovers it.

- **Japan's Whistleblower Protection Act** (*Koeki Tsuhosha Hogo Ho*, 公益通報者保護法)
  This law aims to protect employees who report misconduct within their organizations with the goal of promoting compliance and corporate transparency. Businesses may not dismiss, demote, reduce the salary of, refuse to pay retirement allowance for, or otherwise treat whistleblowers disadvantageously because of their actions.

2. Once reported, who investigates corporate fraud?

(1) Conducting an Initial Investigation

First, companies should organize a team to investigate the facts and assess the situation. Understandably, the team should not include any person suspected or involved with the reported fraudulent activity.
The purpose of the initial investigation is to determine whether fraud occurred, to report to the relevant authorities as necessary, and to decide who should conduct the full-scale investigation.

(2) Full-Scale Investigation

Small fraud cases often may be investigated internally; however, investigations for large and serious fraud cases require an investigation team with professionals (e.g. attorneys, certified public accountants, scholars) from outside the company or a commissioned third-party committee.

Once formed, the team or committee analyzes pertinent documents, conducts a digital forensic investigation, sends questionnaires and/or interviews related parties. The Whistleblower Protection Act requires that anyone conducting such an investigation must not divulge any information that may enable the whistleblower to be identified.

After its investigation, the team or committee completes their report about the facts surrounding the fraudulent activity and reports it to the appropriate entities, as necessary.

■ **Guidelines by The Japan Federation of Bar Associations ("JFBA")**

JFBA created the "Guidelines for Third-Party Committees" to ensure that investigators conform to requisite legal standards and societal expectations. These guideline detail how committees may conduct corporate fraud investigations, outline the committee's duty to provide sufficient explanations within their report, and how they may advise businesses to preventing recurrence of unlawful activity. The guidelines also obligate businesses to cooperate with third-party committees.

3. What is the investigation's goal?

While it is incredibly important to reveal how fraud occurs within a business, the most important thing is to prevent recurrence.

Companies must actively eliminate any factor that creates the possibility for fraud including removing any possible motivation or justification for fraudulent activity. The investigative team or committee must establish recurrence prevention measures that are tailored to the business in question.

4. Why Miyake & Partners?

If a company discovers fraudulent activity, it must investigate its situation properly and prevent further fraud. Our firm has experience in this field and has conducted multiple corporate fraud investigations. Our team has experience investigating corporate fraud cases and can provide advice on developing the appropriate measures to prevent fraud cases from happening again. For further information, please contact us at the address below.

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