*Getting the Deal Through “Public Mergers and Acquisitions 2022 – Japan”より抜粋

QUESTIONNAIRE

Structures and applicable law

Types of transaction

1. How may publicly listed businesses combine?

In mergers and consolidations, there are instances where an acquirer takeover the business or business assets and the current shareholders (typically minority shareholders) leave the business, or an acquirer obtain business while the current shareholders remain as investors. In this chapter, we call the former the acquisition and the latter the consolidation.

The acquisition contains purchase of outstanding shares, which can be basically done through private share purchase, but sometimes are required to be conducted through a mandatory tender offer in accordance with the Financial Instruments and Exchange Act (Act No. 25 of 1948, as amended) (the FIE Act). The cash tender offer sometimes followed by a second-step squeeze-out transaction is a typical case for acquisition. The cash-out merger is also one of acquisition type transaction.

The consolidation contains share exchange, joint share transfer and stock for stock merger. The new scheme, share delivery (kabushiki kofu) has been introduced by amendment of Companies Act (Act No. 86 of 2005, as amended) (the Companies Act) with the effective date of 1 March 2021 aiming to provide acquirers with more flexibility in the use of share considerations in consolidation. While share exchange is available for an acquirer company only to make another company its wholly owned subsidiary by using its own shares as consideration, share delivery enables an acquirer company to make another company its subsidiary by delivering shares as long as the acquirer obtains the majority of voting rights. There are advantages in share delivery over share exchange because the former releases the acquirer company from in-kind contribution regulations, including those with regard to issuance of shares at a preferable price. The shareholders of the targeted company may voluntarily choose whether they transfer their shares or not, therefore, it is worth noting that a mandatory tender offer may be required in accordance with the FIE Act to complete the share delivery.

In this chapter, as typical cases, we will focus on cash tender offer as a typical instance of acquisition, and stock for stock merger as a typical case of consolidation.

Statutes and regulations

2. What are the main laws and regulations governing business combinations and acquisitions of publicly listed companies?

These are:

- Companies Act (Act No. 86 of 2005, as amended);
- Financial Instruments and Exchange law (Act No. 25 of 1948, as amended) (the FIE Act); and
- Act on Strengthening Industrial Competitiveness (Act No. 98 of 2013, as amended).

Cross-border transactions

3. How are cross-border transactions structured? Do specific laws and regulations apply to cross-border transactions?

In the case of a Japanese inbound acquisition, share purchase is one of the more straightforward measures to acquire business. An acquirer that is a foreign entity may appoint itself to be a party to the share purchase transaction, but it is also available to use an acquisition vehicle that is newly established in Japan or the acquirer has already had in Japan. Such an acquisition vehicle established as a company in Japan can conduct cash-out merger, stock for stock merger, share exchange, share transfer and share delivery under Companies Act. While foreign companies themselves cannot use these methods to obtain control of a company, triangular mergers or triangular share exchanges allow foreign parent companies to conduct a merger in Japan through a Japanese subsidiary, where the shares of the foreign parent company are offered to the shareholders of the target company.

The Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949, as amended) provides regulations on foreign direct investment (FDI), and the amended FDI regulations effected in 2020 to implement the tougher national security regulations. The Ministry of Finance published the summary of the amended FDI regulations, which is available in its press release of 24 April 2020. The amended FDI requires foreign investors seeking a stake of 1 per cent or more in any Japanese companies engaging the designated business sectors to make a prior-investment notification, after which the related investor basically has to refrain from the investment for the period of 30 days. The amended FDI also introduced the exemption scheme for prior-investment notification for the share purchase of the listed companies. The requirements for and the scope of the exemption depend on (1) the types of investors (eg, qualified financial institutions may enjoy the widest range of exemption with fewer conditions, while state-owned enterprises cannot at all) and (2) into which classification target companies engaging the designated business sectors fall (ie, core sector or non-core sector). The exemption scheme imposes three conditions on foreign investors that enjoy the exemption, including that the investor or its closely related individuals may not become board members of the target company regardless of classification. In the case of a target company within any core sector that is subject to the strictest FDI regulations, the exemption imposes two additional conditions on the investor other than qualified financial institutions: one being to prohibit the investor or its designated person from joining the board of directors or other decision-making committee of the target company in relation to the core business sector. It is an investor's responsibility to make the necessary surveys and a decision on whether or not a target company engages in the designated business sectors, and, if yes, into which classification the target company falls. The Ministry of Finance published and occasionally updates the classification list for the benefit of foreign investors, where it categorizes listed companies into three classifications: non-designated sector, non-core designated sector or core-designated sector, based on its survey.

Sector-specific rules

4. Are companies in specific industries subject to additional regulations and statutes?

There are a foreign ownership regulations and approval processes that are applicable to specific industries.

Some industry laws, such as the Broadcasting Act (Act No. 132 of 1950), Radio Act (Act No. 131 of 1950) and Civil Aeronautics Act (Act No. 231 of 1952), set upper limits of foreign capitalization. In the case of the Broadcasting Act, it is one of the disqualifications for a broadcast certificate that foreign shareholders directly or indirectly hold 20 per cent or more of the company's voting rights. The Broadcasting Act even allows core broadcasters that are listed companies to refuse to make such an entry in its shareholder registry that may cause its own disqualification as a broadcaster.

Some industry laws, such as the Banking Act (Act No. 59 of 1981) and Insurance Business Act (Act No. 105 of 1995), require an approval to be obtained before certain transactions. For instance, the Banking Act requires an acquirer seeking to obtain 20 per cent or more voting rights in a bank to obtain prior approval from the Commissioner of the Financial Services Agency (the FSA). The Banking Act specifies the standard period for assessment to be one month. The applicant may request a preliminary examination prior to making a formal application and it is common for applicants to initiate the process from the preliminary examination. Accordingly, it is advisable to wait at least one month for the preliminary examination and another month for the formal application although the actual time frame varies depending on cases.

The Banking Act also generally requires prior approval for a merger involving a bank as the surviving company or the newly established company.

Transaction agreements

5. Are transaction agreements typically concluded when publicly listed companies are acquired? What law typically governs the agreements?

In the case of cash tender offer, no agreements are required to complete it. However, in some cases, an acquirer that launches a tender offer may agree with the other investors (ie, concert parties) to acquire shares of a target company in concert, and in other cases, it executes an agreement with a large shareholder to oblige the shareholder to tender its own shares in the tender offer.

In the case of a stock for stock merger, parties to the merger are required to execute a merger agreement as one of merger requirements under the Companies Act.

Filings and disclosure

Filings and fees

6. Which government or stock exchange filings are necessary in connection with a business combination or acquisition of a public company? Are there stamp taxes or other government fees in connection with completing these transactions?

In the case of cash tender offer, under the Financial Instruments and Exchange Act (FIE Act), an acquirer is required at the timing to initiate a tender offer, submit a tender offer statement together with supplemental documents (eg, certificate of funds) to the Kanto Local Finance Bureau and provide an explanatory booklet of the tender offer to potential subscriber and to make a public notice, and on the following date of the expiration date of tender offer period, to submit a tender offer report to the Kanto Local Finance Bureau unless the tender offer has been cancelled. The FIE Act also requires a target company to submit an opinion statement to the Kanto Local Finance Bureau.

An acquirer through a tender offer may be subject to FDI regulations that require foreign investors seeking a stake of 1 per cent or more in any Japanese companies engaging the designated business sectors to make a prior-investment notification although the exemption may be available for the acquirer.

Among the other disclosure obligations under the FIE Act, it is important to note that a large volume shareholding report must be filed to the Kanto Local Finance Bureau by an acquirer holding shares of a listed company at the shareholding ratio of 5 per cent or more. Change reports are also required to be filed every time the triggering events happens, including an increase or decrease in the shareholding ratio by 1 per cent or more.

In the case of stock for stock merger, as the offering disclosure, the FIE Act requires an acquirer that is not a listed company to submit in advance a securities registration statement on its shares to be delivered as a consideration to the shareholder of a listed target company. A stamp duty of ¥40,000 is imposed on each merger agreement. A merger agreement must generally be approved by a super-majority resolution of the shareholders' meeting of both the merging company and merged company, except for cases that are exempted. For the related company (especially a listed company) to fix shareholders to exercise voting rights at the shareholders' meeting, the company is required to issue a public notice on a certain date when the company will decide who will exercise their voting right based on the then shareholders' registry. The parties to a merger are also required to make public notice on the details of its merger plan in the creditor protection process. If the merger results in an increase in the stated capital of the surviving company, the application for change in its company registry will require a registration tax calculated by 0.7 per cent of the increase in the amount of the stated capital (not including capital surplus).

The Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947, as amended) (the Anti-monopoly Act) also requires a prior notification to the Japan Fair Trade

Commission (the JFTC) in the case of a certain share acquisition, merger or share transfer. For example, in the case of share acquisitions, the factors to trigger the prior notification are (1) an acquirer group with the total domestic sales of ¥20 billion or more, (2) a target company with the total domestic sales amount of Y5 billion (inclusive of its subsidiary's domestic sales amount) and (3) as a result of the share acquisition, the voting rights in the target company held by the acquirer group exceeds 20 or 50 per cent. The related transactions may not be affected generally for 30 days after the day that such prior notice was received (the waiting period). A tender offer subject to prior notification may not be completed without clearance by the JFTC.

Information to be disclosed

7. What information needs to be made public in a business combination or an acquisition of a public company? Does this depend on what type of structure is used?

In the case of a cash tender offer, an offeror is required to disclose information on, such as its name and address, purpose of the tender offer, tender offer price and descriptions on the offer in a tender offer statement, an explanatory booklet of the tender offer and a public notice. On the other hand, a target company is required to disclose its opinion as the tender offer in an opinion statement under the FIE Act.

If an acquirer is also a listed company, under the FIE Act, the acquirer is also required to make timely disclosure on a decision to initiate a tender offer and the result of it.

The rules of the stock exchange also provide disclosure rules on a tender offer. If a target company is listed on the Tokyo Stock Exchange, under the rules of Tokyo Stock Exchange (the Rules), the target company is required to make a disclosure on a launch of tender offer soon after it hears the related announcement. Although, under the Rules, disclosure of its opinion on the tender offer can follow after the disclosure on the tender offer launch, in many cases of friendly tender offers, it is usual that a target company discloses its recommendation opinion at the same time. A stock for stock merger may fall within events that trigger an obligation of a company subject to reporting obligation to submit an extraordinary report to the Kanto Local Finance Bureau under the FIE Act. Furthermore, the FIE Act also requires a merging company that is not a listed company, as the offering disclosure, to submit in advance a securities registration statement on its shares to be delivered as a consideration to the shareholder of a target listed company.

In the case of either a cash tender offer or stock for stock merger, a shareholder holding shares of a listed company at a shareholding ratio of 5 per cent or more is required to file a large volume shareholding report under the FIE Act. The large volume shareholding report discloses information on the shareholder, number and shareholding ratio of the shares held by it, details on share transactions made in the last 60 days, the purpose of investment and total amount spent for the currently held shares. If such a shareholder has entered into an important agreement such as a collateral agreement or co-investment agreement with concert parties, this information must also be disclosed. In the case of a cash tender offer, if a shareholder that has submitted a large volume shareholding report enters into a tender agreement with the (prospective) offeror, such an agreement is also interpreted as being an important agreement to trigger a change report where the execution of the tender agreement is disclosed.

Disclosure of substantial shareholdings

8. What are the disclosure requirements for owners of large shareholdings (eg, more than 5 per cent) in a public company? Are the requirements affected if the company is a party to a business combination?

Under the FIE Act, a large volume shareholding report is required to be filed by a shareholder holding shares of a listed company at the shareholding ratio of 5 per cent or more. In related to concert parties that agreed to acquire shares in concert with others, for example, through a tender offer, their shareholding ratio are added up in determination of the filing obligation and specified in the large volume shareholding report.

Directors' and shareholders' duties and rights

Duties of directors and controlling shareholders

9. What duties do the directors or managers of a publicly traded company owe to the company's shareholders, creditors, and other stakeholders in connection with a business combination or sale? Do controlling shareholders have similar duties?

Under the Companies Act, directors (and executive officers) of a company owe a fiduciary duty to the company and this fiduciary duty is basically not interpreted to be the one to the shareholders. The Companies Act provides that a director may be held personally liable to a third party (ie, creditors, and the recent court decisions confirmed to include shareholders) if the directors fail to perform their duties with gross negligence or willfully misconduct, but the duties that can be at issue here are interpreted by the court to be those only to the company although the academia suggests also including the shareholders. Under the Companies Act, controlling shareholders owe no duty to the company or the other shareholders.

Regardless of the interpretation above, in a situation where interests conflict between a director and shareholders such as a management buyout case, a recent lower court decision on the director's liability to a third party (ie, a shareholder), took protection of common interests of the shareholders into consideration for the director's fulfilment of duties to the company. If a director pursues its own or a third party's interest in a management buyout (MBO) at the company's expense, the director will be found to have breached his or her fiduciary duties to the company. A court decision further clarified that the directors should protect the common interests of the shareholders in a way to allow the shareholders to receive appropriate distribution of the company's value in the MBO.

Approval and appraisal rights

10. What approval rights do shareholders have over business combinations or sales of a public company?

Do shareholders have appraisal or similar rights in these transactions?

In the case of cash tender offer, no shareholders' approval is required to launch or complete it.

In the case of stock for stock merger, under the Companies Act, both parties to a merger agreement are generally required to obtain approval by a super-majority resolution of the shareholders' meeting except for cases where the approval is exempted. There are some exceptions, but the exemptions are available, in principle, for the merging company if the merger is such small that the amount of consideration is one-fifth of the amount of the merging company's net asset or less, and for both parties if the merging company is a parent of the merged company with 90 per cent or more voting rights.

Completing the transaction

Hostile transactions

11. What are the special considerations for unsolicited transactions for public companies?

Unlike stock-for-stock mergers, cash tender offer scan be conducted in a hostile way as it can be launched without an agreement with a target company.

Although the number of hostile tender offers has been comparatively small in Japan for a long while, the number of hostile tender offers has significantly increased in 2020 and 2021, amounting to about 10 per cent of the overall tender offers in 2021. It is also a notable trend that the probability of the success of a hostile tender offer also increased in 2020 and 2021. However, if an acquirer seeks to obtain control of a target company in a hostile way, it should also note the latest court judgments on validity of anti-takeover measures.

In 2021, there were several court judgments on the validity of anti-takeover measures adopted only by a board resolution (ie, introduction of poison pill to trigger issuance of dilutive stock acquisition rights exercisable by the shareholders other than a hostile acquirer) under emergency situations. Especially, in the cases of hostile tender offers, court judgments seem to have reached different conclusions depending on the company's plan of whether it is going to obtain ratification by the majority shareholders at a shareholders' meeting. Namely, in the case of an anti-takeover measure adopted and executed by a board resolution without a plan for the shareholders' ratification, the Supreme Court affirmed a judgment of a lower court issuing an injunction against the gratis allotment of subscription rights to shares, while in the case of a plan to obtain ratification by the majority shareholders at a shareholders' meeting, a lower court dismissed the injunction request. As it can take months for a listed company to call and hold an extraordinary shareholders' meeting, it is not uncommon for target companies to request the acquirer to voluntarily extend the tender offer period in addition to the extension of 30 business days (ie, 42 calendar days) that the target companies may legally request, so that the target company can decide whether to complete the anti-takeover measure by shareholder vote. Currently, it is not clear how the acquirer's rejection of the extension request affects a court's judgment on the validity of anti-takeover measures, but in many cases hostile acquirers extend the tender offer period and provide information requested by the target company to enable their independent committee to assess the benefit of the acquisition in the company's value and shareholders' interests.

In the case of a hostile takeover sought through on-market trading, which does not legally trigger a mandatory tender offer, the supreme court further confirmed the validity of the anti-takeover measure adopted and executed by a board resolution that was ratified only by the majority of minority voting of shareholders, meaning that the shareholders' vote was held excluding the number of voting rights acquired by the hostile acquirer.

If an acquirer cannot reach an agreement with the management of a target company, it is advisable to keep an eye on the latest trend in court decisions on anti-takeover measures and actual practice before initiating or continuing with a share acquisition.

Break-up fees – frustration of additional bidders

12. Which types of break-up and reverse break-up fees are allowed? What are the limitations on a public company's ability to protect deals from third-party bidders? (Describe any 'financial assistance' restrictions and how they can affect business combinations.)

Agreements on break-up fees and reverse break-up fees are possible to be enforced in Japan. In 'the guideline to achieve fair M&As' published by Ministry of Economy, Trade and Industry on 28 June 2019, break-up fees were mentioned in the context of a market check of a target company to find a better acquirer, which may function to increase the company's value and shareholders' interests. The guideline says that break-up fees are allowed as a deal protection to the extent that that is not unduly expensive and does not have the effect of coercing the target company's shareholders into approving the related M&A transactions. If a court finds the amount of break-up fees unduly expensive, the court might decide that such an agreement is null and void because it is against the public interest.

If a target company grants exclusive negotiation rights to an acquirer in an agreement such as a letter of interest or memorandum of understanding, that is also generally enforceable. However, it should be noted that there is a Supreme Court case where an application for injunction to stop the target company negotiating with the other acquirer in violation of the exclusivity agreement was declined. In light of the director's duties to increase the company's value, it may be considered to be an excessive restraint that an acquirer agrees with a target company on a deal protection that prohibits the target company from having any contact with other potential acquirers.

Government influence

13. Other than through relevant competition (antitrust) regulations, or in specific industries in which business combinations or acquisitions are regulated, may government agencies influence or restrict the completion of such transactions, including for reasons of national security?

For a cash tender offer

If the acquirer or its ultimate parent company is a foreign company, depending on the three categories of the target company, filing under the Foreign Exchange and Foreign Trade Act and its clearance may be required. If that the target company is in the list of Category II (non-core specified business), if the acquirer plans to send an officer to the target company to make proposal for the disposal of the business or to access to the non-public technology information, prior filing and clearance is required for the acquisition of shares 1 per cent or more. For the clearance it basically takes 30 days. If the target company is in the Category III (core specified business), if the acquirer plans to send an officer to the target company to make a proposal for the disposal of the business or to access to non-public technology information, or if the acquirer plans to send a director to the board of directors or a member of an important committee or makes a written proposal regarding the core business to the board of directors, prior filing and clearance is required for the acquisition of shares of 1 per cent or more. In addition, in the case of a company in Category III, even if the acquirer does not plan to do any of the above, prior filing and clearance is required for the acquisition of 10 per cent or more shares of a company.

For a stock-for-stock merger

Since a foreign company is not legally able to conduct a merger with a Japanese company, there is no such regulation.

Conditional offers

14. What conditions to a tender offer, exchange offer, mergers, plans or schemes of arrangements or other form of business combination are allowed? In a cash transaction, may the financing be conditional? Can the commencement of a tender offer or exchange offer for a public company be subject to conditions?

For a cash tender offer

Conditions, such as availability of bank finance, are not legally allowed, with certain exceptions, such as threshold and cap as to the number of shares to purchase, 'material adverse change' as defined in the Financial Instrument and Exchange Act, clearance of required merger control filing and clearance of required filing under the Foreign Exchange and Foreign Trade Act.

For a stock-for-stock merger

A shareholders' meeting approval of each merger party company, when legally required, is a typical condition, but it is basically free to add any other conditions, subject to the practice and precedents for the company registration handled by the local legal affairs bureau.

Financing

15. If a buyer needs to obtain financing for a transaction involving a public company, how is this dealt with in the transaction documents? What are the typical obligations of the seller to assist in the buyer's

financing?

For a cash tender offer

A certificate of firm commitment to finance issued by a lending bank is required. The target company should not provide assistance to the acquirer for financing by providing loan to or security in favor of the acquirer.

For a stock-for-stock merger

No finance is necessary, because all the consideration for the merger is the stock of the merging company.

Minority squeeze-out

16. May minority stockholders of a public company be squeezed out? If so, what steps must be taken and what is the time frame for the process?

For a cash tender offer

After successful acquisition of 90 per cent or more shares of the target company, the acquirer can demand the remaining minority shareholders cash out. Upon notice of exercise of such right from the acquirer to the target company, the board of directors of the target company will approve the demand and send notice to each shareholder at least 20 days before the effective date of cash-out.

For a stock for-stock-merger

Minority squeeze-out is not applicable.

Waiting or notification periods

17. Other than as set forth in the competition laws, what are the relevant waiting or notification periods for completing business combinations or acquisitions involving public companies?

For a cash tender offer

- If the target is in the regulated industry, prior filing to and approval by the competent government office may be required. For example, if the target company is a licensed bank, prior filing to the competent finance bureau for approval is required. It usually takes two months in practice.
- if the acquirer or its ultimate parent company is a foreign company, depending on the three categories of the target company, filing under the Foreign Exchange and Foreign Trade Act and its clearance may be required. If the target company is in the list of Category II (non-core specified business), if the acquirer plans to send an officer to the target company, to make proposal for the disposal of the business or to access to the non-public technology information, prior filing and clearance is required for the acquisition of shares 1 per cent or more. For the clearance, it basically takes 30 days. If the

target company is in Category III (core specified business), if the acquirer plans to send an officer to the target company, to propose the disposal of the business or to access to non-public technology information, or if the acquirer plans to send a director to the board of directors or a member of an important committee or makes written proposal regarding the core business to the board of directors, prior filing and clearance is required for the acquisition of shares 1 per cent or more. In addition, in the case of a company in Category III, even if the acquirer does not plan to do any of the above, prior filing and clearance is required for the acquisition of 10 per cent or more shares of a company.

For a typical stock for stock merger

- If the merging company is a listed company, no filing of securities registration statements is required.
- If the target is in the regulated industry, prior filing to and approval by the competent government office may be required. For example, if the target company is a licensed bank, filing with the competent finance bureau for approval is required. It usually takes two months in practice.

<u>Other considerations</u>

Tax issues

18. What are the basic tax issues involved in business combinations or acquisitions involving public companies?

You should consult with your tax advisers of CPA firms in Japan for the general framework of taxation in relation to the public M&As.

- For sellers of a cash tender offer, it will be a taxable transaction, but for the merged company or merging company, if it is a tax qualified merger, it would not be a taxable transaction. To be a tax qualified merger, either:
  - ➢ more than 50 per cent shares of the merged company were owned by the merging company, no cash is paid as merger consideration, more than 80 per cent of the merged company's employees are succeeded by the merging company and the main business of the merged company is succeeded by the merging company; or
  - ➢ the business of the merged company is related to the business of the merging company, both businesses are of the same size, no cash is paid as merger consideration, more than 80 per cent of employees of the merged company are succeeded by the merging company and the main business of the merged company is succeeded by the merging company.
- As to tax carry-forward losses of the target company, these will be basically maintained after the change of control as a result of a cash tender offer, but in the case of a stock-for-stock merger, these could be maintained and succeeded to the merging company from the merged company only when the merger is a tax-qualified merger and satisfies its requirements.

Labour and employee benefits

19. What is the basic regulatory framework governing labour and employee benefits in a business combination or acquisition involving a public company?

In the case of a cash tender offer, employment relationships and employee benefits will be maintained unchanged. In the case of a stock-for-stock merger, the employment relationships and employee benefits of the merged company will be succeeded as they are to the merging company. In both cases, no prior consultation procedure with employees is required. In the case of a company split or demerger, prior consultation procedure with employees is required.

Restructuring, bankruptcy or receivership

20. What are the special considerations for business combinations or acquisitions involving a target company that is in bankruptcy or receivership or engaged in a similar restructuring?

It is not legally restricted, but a cash tender offer against a company under the proceeding of bankruptcy or statutory restructuring is not realistic. Stock-for-stock mergers with such insolvent company are not legally possible.

Anti-corruption and sanctions

21. What are the anti-corruption, anti-bribery and economic sanctions considerations in connection with business combinations with, or acquisitions of, a public company?

Under Japanese laws, anti-corruption nor anti-bribery will not be an issue for cash tender offer or stock for stock merger, unless government procedure, such as approval by the finance bureau for a bank acquisition or merger, is required.

Update and trends

22. What are the current trends in public mergers and acquisitions in your jurisdiction? What can we expect in the near future? Are there current proposals to change the regulatory or statutory framework governing M&A or the financial sector in a way that could affect business combinations with, or acquisitions of, a public company?

In Japan, traditionally there are many parent-child double listings, where a parent company is listed, and its majority-owned subsidiary is also listed. Such a double listing is criticized by the stock exchanges and stock market players owing to governance issue of the listed subsidiary and conglomerate discount of the stock price of the parent company. As a result, nowadays such double listings have been rapidly decreasing by way of cash tender offers and subsequent minority squeeze-outs by parent companies.

Law stated date

Correct on

23. Give the date on which the information above is accurate.

14 April 2022