Annual Report 2011/2012

Securities and Exchange Surveillance Commission

JAPANESE GOVERNMENT

Message from the Chairman

The Securities and Exchange Surveillance Commission (SESC) is fulfilling its mission of ensuring integrity of capital markets and protecting investors. This year is the 21st year since its establishment in 1992.

Amid the restructuring of international regulatory frameworks, Japanese markets have been experiencing dynamic changes. For instance, a series of amendments have been made to the Financial Instruments and Exchange Act (FIEA), and innovations continue to be made in financial products and trading methods. In order for the SESC to conduct efficient and effective market oversight, it needs to respond appropriately to these changes. Two further issues for the SESC in connection with the inspection of financial instruments business operators are: (1) further improving its risk sensitivity with respect to the diverse business types of financial instruments business operators, to the characteristics of customers (personal investors, corporate pensions, etc.), and to financial instruments and transactions which are becoming increasingly complex and diverse; and (2) strengthening its capacity for collecting and analyzing information accordingly. Moreover, the SESC will need to cooperate closely with overseas regulators in dealing with cross-border transactions, which are conducted frequently, and it will need to continue to take firm action against unfair trading and unlawful activities, etc. committed by professional investors in Japan and overseas.

Since sound market operation requires shared recognition of problems and close information exchange with self-regulatory organizations, relevant authorities and organizations playing important roles in market fairness, in addition to further strengthening its cooperative relationships with such organizations, the SESC aims to reinforce its dialogue with market participants and its dissemination of information to the market.

The SESC commits itself to pursuing its mission of being “feared by wrongdoers and trusted by ordinary investors.”

March 2013

Kenichi SADO
Chairman
Securities and Exchange Surveillance Commission

Annual Report 2011/2012

<Contents>

[Disclaimer: This is an unofficial translation and provided for reference only]

1. Activities for Enhanced Market Integrity

The Securities and Exchange Surveillance Commission (SESC) is engaged in market surveillance under a mission of ensuring the fairness and transparency of Japanese markets and protecting investors.

During FY2011 (April 1, 2011–March 31, 2012; the same shall apply hereinafter), which is the period covered by this publication, the SESC was engaged in market surveillance as described below, based on its policy statement, and properly utilized the power and authority with which it has been invested.

With respect to routine market surveillance, the SESC continued its efforts aimed at achieving comprehensive and flexible market surveillance. This included accepting information from ordinary investors. etc., conducting market surveillance targeting primary and secondary markets, cooperating with overseas regulators in view of the globalization of markets, reviewing manipulating transactions, insider trading and fraudulent means, and responding to new financial instruments, etc. Sometimes the information collected or the review of transactions would reveal certain conduct impairing the fairness of transactions. In these events, following an investigation and inspection by the relevant divisions within the SESC, the SESC would make a recommendation for administrative disciplinary actions or file a criminal accusation.

Inspections of financial instruments business operators and the like revealed a case in which a business operator conducting discretionary investment management business (hereinafter referred to as a "DIM business operator"), which was entrusted with the management of corporate pension fund assets, had provided false information when soliciting for conclusion of discretionary investment contracts, and delivered customers with investment reports containing false contents. The inspections on type I financial instruments business operators also revealed cases associated with deterioration in financial soundness, such as the fraudulent uses of the customer assets which are deposited in segregated accounts, and the decreases in net assets and the capital-to-risk ratio below the legal requirement. In cases where a serious violation of laws or regulations was found, including these two cases, the SESC has made recommendations for administrative disciplinary actions. Furthermore, from the perspectives of public interest and investor protection, the SESC has also filed petitions for court injunctions under Article 192 of the Financial Instruments and Exchange Act (FIEA) against unregistered business operators which conducted fund solicitation without the registration required by the FIEA.

With respect to market misconduct, the SESC conducted swift and efficient investigations. The cases where it made recommendations for administrative monetary penalty payment orders included a case of insider trading by an advisor of a securities company using information obtained during the course of his duties, and a case of market manipulation by an online trader using multiple accounts. The SESC also made a recommendation for an administrative monetary penalty payment order against a large trust bank for insider trading committed prior to the announcement of a large public offering of new shares.

With respect to the violation of disclosure requirements, the SESC conducted timely and efficient inspections. In addition to making recommendations to the FSA to order an administrative monetary penalty for cases related to material misstatements of securities reports and other financial reports, the SESC made recommendations for cases related to unregistered offerings (i.e. public offering of securities without filing securities registration statements) for the first time in its history. In cases where misstatements of financial reports are not recognized as material as a result of inspection, the SESC urges the issuers to revise their statements voluntarily.

With respect to malicious offenses which impair the fairness of markets, the SESC actively made efforts in complicated and malicious cases, filing accusations against three cases involving unfair financing, including a case in which the real estate system of contributions in kind was improperly used, and a case in which a foreign enterprise attempted a "backdoor listing" via fictitious capital increase. Furthermore, with regard to the case on the submission of false securities reports pertaining to the long-term and costly window dressing of accounts by a large listed company, which also drew considerable international attention, the SESC conducted a joint investigation with the Tokyo District Public Prosecutors Office and the Metropolitan Police Department and promptly filed an accusation. In addition, the SESC also exposed a wide range of malicious criminal acts targeting both primary and secondary markets, including filing accusations against a case of spreading of rumors and fraudulent means through the improper use of internet bulletin boards and a case of market manipulation by a day trader using "*Misegyoku*" sham order transactions.

With respect to the SESC's contribution to the development of market rules based on the market practice, in light of cases confirmed by the SESC's investigations, and based on the perspective of preventing violations, the SESC made a policy proposal to the effect that administrative monetary penalties also need to be able to be imposed in cases where a person, who does not fall under the category of a "financial instruments business operator, etc.," and received compensation by committing market misconduct on customer accounts, etc.

With respect to efforts aimed at responding to the globalization of markets, by utilizing information exchange frameworks with overseas authorities, the SESC maintained close cooperation with them through the exchange of information stemming from the market surveillance it performed. This close cooperation led to overseas authorities adopting a stance of taking disciplinary action.

With respect to the enhancement of market discipline, the SESC has worked with financial instruments exchanges and financial instruments firms associations to share their respective awareness of problems through exchanges of information such as regular meetings in an effort for the overall enhancement of market surveillance functions. In addition, the SESC has continued to actively engage itself in dialogue with market participants and the dissemination of information to the market so that the overall market discipline can be enhanced by the voluntary efforts of each market participant. Specifically, in order to encourage the building of internal control systems in the listed companies, the SESC had made speeches in compliance forums organized by different securities exchanges throughout Japan, and

contributed articles to various public relations and mass media. The SESC also used the SESC Email Magazine in an effort to disseminate details of its activities, its awareness of problems and other information in a timely manner. Furthermore, in order to enhance the transparency of market surveillance administration and to encourage the self-discipline of market participants, in June 2011, the SESC published an updated edition of the *Casebook on the Administrative Monetary Penalties under the FIEA*, which is a compilation of preceding cases recommended to the the commissioner of the JFSA for administrative monetary penalty.

January 18, 2011

Securities and Exchange Surveillance Commission

Towards Enhanced Market Integrity

- SESC's Policy Statement for the 7th Term* -

1. Mission

The Securities and Exchange Surveillance Commission (SESC) is committed to pursuing the following mission:

○ To ensure integrity of capital markets, and

○ To protect investors

2. Policy Directions

The Japanese capital markets have been experiencing dynamic changes. Global efforts to rebuild the international regulatory frameworks are ongoing based upon lessons learned from the global financial crisis. A series of amendments have been made to the Financial Instruments and Exchange Act (FIEA). Innovations are continuing in financial products and trading methods. In response to this rapidly changing market environment, and to continue to be "feared by wrongdoers and trusted by ordinary investors", the SESC is determined to pursue our mission through the following three policy directions.

(1) Market oversight with prompt and strategic actions

- Strategic use of our regulatory tools (e.g. market surveillance, inspection of securities firms and other regulated entities, administrative monetary penalty investigation, disclosure statements inspection and investigation into a criminal case) to make our actions more prompt and effective
- Timely and prompt response to changes in market environments, trends of violations, and international regulatory developments. Forward-looking and prompt response to emerging risks
- Enhanced cooperation with self-regulatory organizations (SROs) to increase the effectiveness of the multilayered market oversight activities

(2) Outreach activities for enhanced market integrity

- Contributing to the rule-making processes at the Financial Services Agency (FSA) and other relevant authorities by raising relevant regulatory issues identified through our market oversight activities
- Outreach to market participants, through SROs and other channels, to encourage their self-discipline for market integrity
- Closer communications with market participants, and more effective dissemination of information

(3) Response to the globalization of markets

- Closer cooperation with overseas regulators to conduct market oversight activities on a global basis, in response to growing cross-border transactions and international activities by investment funds and other market participants in today's highly-globalized markets
- More effective inspections of globally active and large-scale securities firms, utilizing the international supervisory frameworks
- Further developments of human resources and organizational structures at the SESC

The SESC believes that our efforts towards fair, transparent and quality capital markets should contribute to vitalizing the Japanese capital markets and their international competitiveness by implementing comprehensive and effective market oversight activities based on the policy directions set out above.

---

* *SESC Chairman Kenichi Sado and Commissioners Shinya Fukuda and Masayuki Yoshida were appointed and started their new 3-year term on December 13, 2010*

3. Policy Priorities

The SESC is determined to strategically mobilize its regulatory tools and resources with particular emphases on the followings in order to conduct effective and efficient market oversight.

(1) Comprehensive and proactive market surveillance

- Comprehensive and enhanced surveillance on both primary and secondary markets as well as on cross-border transactions in order to preclude any regulatory loopholes in market surveillance
- Extensive surveillance on suspicious transactions which, at first sight, do not appear to contravene rules and regulations
- Proactive market surveillance through collection of a wide range of information with analysis of backgrounds behind individual cases or market developments
- Taking appropriate actions against cross-border market abuse, through exchange-of-information frameworks amongst securities regulators, including investigation requests and enforcement action based upon information provided by overseas regulators

(2) Strict actions to market misconduct and false disclosure statements

- Taking strict actions against market abuse such as insider dealing, market manipulation, fraudulent means including abuse of financing in primary market, and false disclosure statements
- Contribution to the regulatory system related to market misconduct based upon surveillance results

(3) Timely and efficient inspections and investigations in response to disclosure violations

- Implementation of timely and efficient disclosure inspections and investigations in order to ensure that the market participants are fairly and equally provided with accurate corporate information without delay
- Encouraging a listed company or any other issuer, if it has made false disclosure statements, to exercise its initiatives for autonomous and timely disclosure of the accurate financial information to the market as well as encouraging the related parties to achieve such appropriate disclosure
- Taking appropriate actions against public offering of securities such as stocks and corporate bonds without filing securities registration statements, with enhancing cooperation with the FSA and the Local Finance Bureaus and, if necessary, seeking petitions for court injunctions (Article 192 of the FIEA)

(4) Enhanced use of administrative monetary penalty system

- Implementation of timely and efficient inspections and investigations, taking advantage of administrative monetary penalty system, for fraudulent trading, false disclosure statements and other violations
- Exercising initiatives in order to prevent market participants from committing violations by taking various measures such as proactive provision of information regarding case precedents of administrative monetary penalties

(5) Efficient and effective inspections corresponding to the characteristics of firms to be inspected

- Implementation of efficient and effective inspections through developments of knowledge and inspection techniques corresponding to the characteristics of firms to be inspected
- Implementation of inspections of globally active securities firms, verifying the appropriateness of their internal control and risk management systems from a forward-looking perspective, in response to the introduction of consolidated financial regulations
- Taking appropriate actions against malicious financial firms such as fund dealers and investment advisors, verifying their operations and compliance from the perspective of investor protection
- Taking appropriate actions against unregistered entities selling unlisted stocks or other securities, in close cooperation with the FSA, the Local Finance Bureaus and investigative authorities through petitions for court injunctions (Article 192 of the FIEA)

(6) Enhanced cooperation with SROs

- Further cooperation with SROs in areas including oversight of member firms, rule-making, as well as outreach to market participants and investors

2. Market Surveillance

1) Outline

1. Purpose of Market Surveillance

Market surveillance operation plays a role as the entrance for information at the Securities and Exchange Surveillance Commission (SESC). Specifically, the SESC receives a wide range of information from the public, such as ordinary investors, on a daily basis, and promptly circulates this information to the relevant divisions within the SESC (or to the relevant division within the Financial Services Agency (FSA), etc. if the information relates to affairs under the jurisdiction of the FSA, etc.). The SESC also works cooperatively with self-regulatory organizations (SROs) and financial instruments business operators to gather a variety of information related to financial and capital markets. Based on the information, the SESC analyzes the backgrounds to individual transactions and market trends, examines transactions for possible market misconduct, and reports to the SESC's relevant divisions if any suspicious transactions are revealed. The SESC also exchanges information with overseas securities regulators through information exchange frameworks (the Multilateral MOU, etc.) as necessary.

2. Activities in FY2011

Financial and capital markets have been facing challenges, such as the growth of electronic trading and high-speed transactions, the growing cross-border transactions and international activities by investment funds and other market participants, and the occurrence of unfair financing cases in primary markets, etc. In facing those challenges, with a view to achieving comprehensive and timely market surveillance, the SESC has, in FY2011, continued its efforts to enhance its various activities, such as receiving information from the public, conducting surveillance covering both primary and secondary markets, catching up with newly innovated financial instruments, conducting examinations on suspicious transactions (such as market manipulation, insider trading, and fraudulent means, etc.), and cooperating with overseas securities regulators on cross-border transactions.

2) Reception of Information from the Public

1. Outline

The SESC receives a wide range of information from the public, including ordinary investors and other market participants as part of its information gathering from financial and capital markets.

Such information is very useful because it reflects the candid opinions of investors in the markets, so that it may lead the SESC to launch its off-site market surveillance examination, inspections of financial instruments business operators, investigations of administrative monetary penalties, inspections of disclosure documents, and investigations of criminal cases.

Therefore, the SESC receives information by a variety of means, such as telephone, letters, visits and the internet, to hear from as many people as possible. To attract more information, the SESC has proactively called for information through various means, including public seminars.

For cases when information is provided on a dispute between a financial instruments business operator and an investor, and when the information provider seeks individual

settlement of the dispute, while it might be effectively utilized in inspections or others activities by the SESC, the SESC basically refers the providers to the "Financial Instruments Mediation Assistance Center," which provides a service on consulting for complaint / dispute resolution for customers of financial instruments business operators. In addition, the SESC also refers to appropriate consultation services for people who have complaints on commodity futures trading or other products that do not fall under the jurisdiction of the SESC.

2. Reception of Information

In FY2011, the SESC received 6,179 reports of information from the public. The breakdown of the means used by the public in providing the information were 3,543 referrals via the internet, 2,033 by telephone, 385 in writing, 54 visits, and 164 referrals from the local finance bureaus, showing that referrals via the internet accounted for approximately 60% of the total.

In terms of the contents, there were reports on individual stocks (3,227), such as price manipulation, insider trading, or spreading of rumors, on issuers (440), such as suspicious financing or false statements with annual securities reports, etc., on financial instruments business operators for their sales practices or other issues (878), and on others (1,634), such as opinions, etc.

Among the reports related to individual stocks, suspicions of market manipulation (1,995) are most common, followed by suspicions of spreading of rumors / use of fraudulent means (813), and insider trading (327).

The reports on issuers were on false statements with annual securities reports, etc. (136), on suspicious financing (20), and on timely disclosure (22), etc.

Diverse information was also provided on financial instruments business operators for their sales practices or other issues, such as trouble in trading systems (76), inappropriate solicitations in light of the customer's knowledge (55), etc. (Please refer to the attached figure for details.)

〈Contact Address〉
SESC Information Reception Desk
Securities and Exchange Surveillance Commission
Address: 3-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100-8922, Japan
Telephone: +81-3-3581-7868
Facsimile: +81-3-5251-2151
Internet: https://www/fsa.go.jp/sesc/english/watch

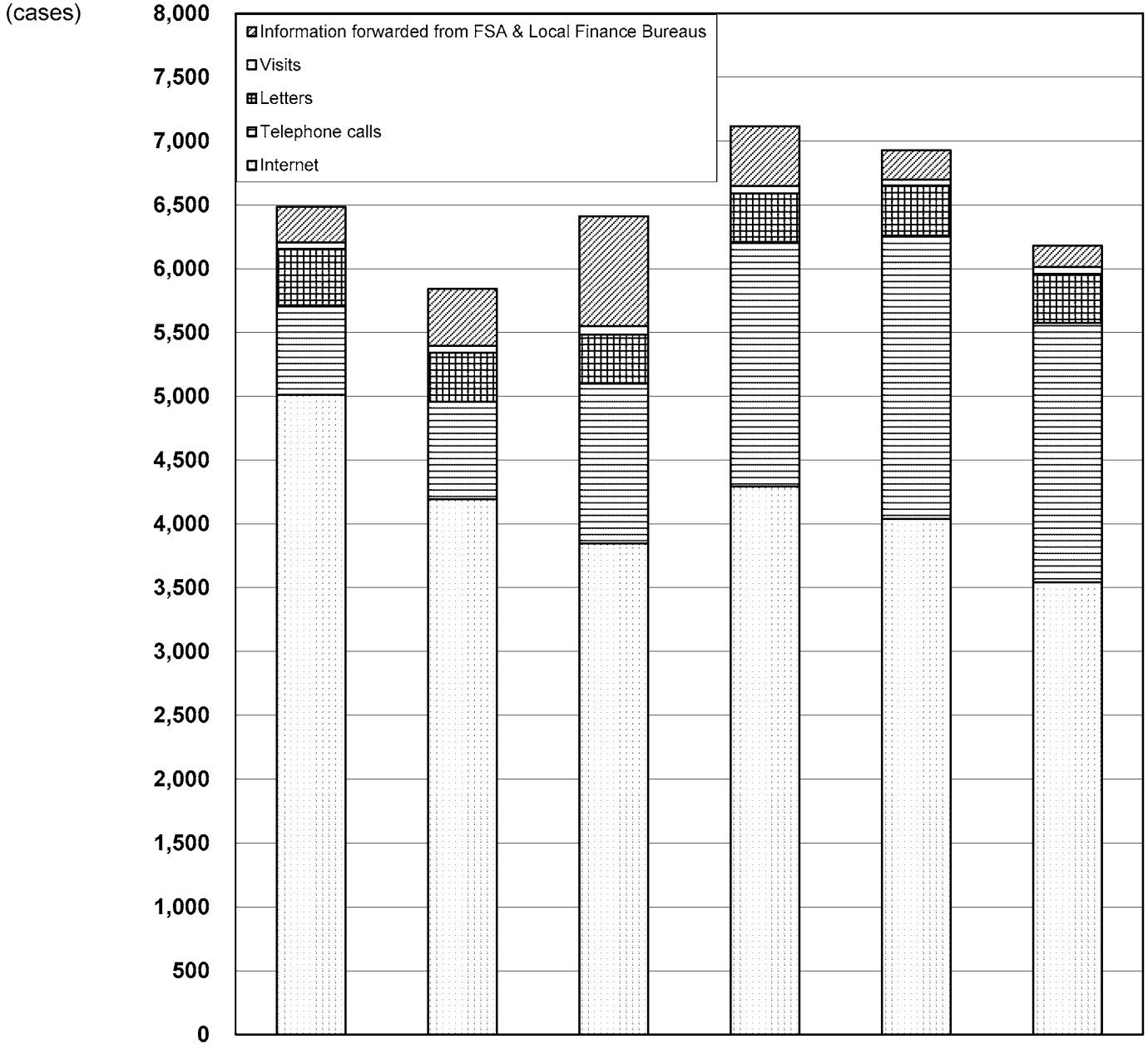
The SESC receives information through its website, after making clear that it has thorough confidentiality controls in place for any personal information and detailed information that is provided by the information provider. This is for two reasons: (i) While in many instances information provided by a person directly involved in a case is of high importance and usefulness for market surveillance (see 3. below), an environment is needed whereby people can provide information with a sense of security, without any risk of the information provider being identified by a third party obtaining this useful information; and (ii) Revealing to a third party that information has been provided on a specific individual, issuer or financial instruments business operator, etc. has the potential to infringe upon the privacy of the individual, etc. or upon the rights, competitive position or other legitimate interest of the issuer or financial instruments business operator, etc.

Furthermore, pursuant to the Whistleblower Protection Act (enforced in April 2006), internal workers are protected from dismissal and other forms of disadvantageousness treatment which are administered on the grounds that the person has, for the sake of public interest, reported a violation of a law or regulation committed by that person's employer. Additionally, administrative agencies that receive whistleblowing information, are obliged to carry out necessary investigations and take appropriate measures. In addition to establishing a dedicated contact point for receiving such whistleblowing information, the SESC also provides advice services over the phone. Confidentiality for reports is also maintained for whistleblowing.

〈Contact Address〉
SESC Whistle Blowing & Advice
Telephone: +81-3-3581-9854
Facsimile : +81-3-5251-2198
Email:koueki-tsuho.sesc@fsa.go.jp

Information Received

(Attached figure)



(# of cases)

Business year / Fiscal year / Category	2006	2007	2008	2009	2010	2011
Internet	5,011	4,193	3,847	4,293	4,040	3,543
Telephone calls	702	766	1,253	1,917	2,219	2,033
Letters	443	381	384	380	393	385
Visits	50	58	67	60	45	54
Information forwarded from FSA & Local Finance Bureaus	279	443	861	468	230	164
Total	6,485	5,841	6,412	7,118	6,927	6,179

Note 1: Until BY2008, "business year basis" July-June. Starting FY2009, "fiscal year basis" April-March

Note 2: ( ) in BY2008 are the cases in the period overlapping with FY2009 (April-June 2009), due to change to "fiscal year basis"

Received Information, Classified by Content

1. Old classifications

(Unit: cases)

Classification \ Year	2006	2007	2008
[Individual stocks, etc.]			
A. Profit guarantee and loss compensation	4	5	3
			(1)
B. Insider trading	471	558	510
			(108)
C-1. Annual securities reports, etc. containing false statements	217	189	239
			(64)
C-2. Unreported offering	15	27	44
			(24)
D. Market manipulation	2,678	2,126	1,975
			(539)
E-1. Spreading rumors	1,124	995	814
			(185)
E-2. Other	512	712	1,204
			(303)
(Subtotal)	5,021	4,612	4,789
			(1,224)
[Sales practices of financial instruments business operators]			
F. Solicitation with decisive predictions	14	10	16
			(2)
G. Conclusion of discretionary account contracts	16	8	9
			(3)
H. Excessive solicitation to a large number of nonspecific customers	2	3	4
			(1)
I. Inappropriate solicitations in light of the customer's knowledge	8	7	32
			(14)
J. Unauthorized transactions	40	41	47
			(15)
K. Other	997	778	930
			(253)
K-1. Bucketing	-	-	-
			(-)
K-2. Irregularities in legal account books	9	6	0
			(0)
K-3. Trading in executive's or employee's own account	7	15	5
			(1)
K-4. Other legal violations	130	245	160
			(31)
K-5. Violation of self-regulatory rules	334	75	28
			(4)
K-6. Other item concerning sales stance	517	437	737
			(217)
(Subtotal)	1,077	847	1,038
			(288)
[Other]			
L. Opinion on SESC, etc.	52	35	29
			(8)
M. Opinion on securities administration or policy	38	36	120
			(46)
N. Other	297	311	436
			(186)
(Subtotal)	387	382	585
			(240)
Total	6,485	5,841	6,412
			(1,752)

2. New classifications

(Unit: cases)

Classification \ Year	2009	2010	2011
A. Individual stocks			
a. Transaction constraints			
1. Spreading rumors or use of fraudulent means	627	608	813
2. Market manipulation	2,753	2,468	1,995
3. Insider trading	385	463	327
0. Other	50	58	80
b. Disclosure			
1. False statement in large holdings report	11	5	6
2. Not submitting large holdings reports	54	34	6
0. Other	9	4	0
(Subtotal)	3,889	3,640	3,227
B. Issuers			
a. Legal disclosure			
1. Unreported offering	45	29	19
2. Financing	143	64	20
3. Annual securities reports, etc. containing false statements	152	141	136
4. Not submitting annual securities reports, etc.	109	25	27
5. Internal controls report	2	5	10
6. Takeover bid without prior notice	14	3	1
0. Other	65	38	32
b. Association or securities exchange rules			
1. Timely disclosure	53	62	22
0. Other	2	3	5
c. Other			
1. Governance, etc.	27	17	19
0. Other	223	210	149
(Subtotal)	835	597	440
C. Financial instruments business operators			
a. Prohibited acts, etc.			
1. Solicitation with decisive predictions	20	16	18
2. Unauthorized transactions	57	17	19
3. Profit guarantee and loss compensation	4	3	6
0. Other legal violation	153	101	135
b. Business administration			
1. Inappropriate solicitations in light of the customer's knowledge	122	79	55
2. System related	141	219	76
0. Other item concerning sales practices	752	626	443
c. Accounting			
1. Irregularities in legal account books	20	22	32
2. Financial health, risk management	25	21	5
d. Association or securities exchange rule			
1. Violation of self-regulatory rules	12	3	19
e. Other			
0. Other	43	35	70
(Subtotal)	1,349	1,142	878
D. Other			
a. Opinion, request, etc.			
1. Opinion on SESC, etc.	34	77	362
2. Opinion on securities administration or policy	107	97	79
b. Other			
1. Unregistered business operators	208	258	277
2. Unlisted stock	471	732	559
3. Funds	29	70	46
0. Other	196	314	311
(Subtotal)	1,045	1,548	1,634
Total	7,118	6,927	6,179

(Note 1) Up to BY 2008 "Accounting period basis" was from July to June next year. From FY 2009, "Fiscal year basis" is from April to March next year.
(Note 2) Number of cases in the overlapping period of FY 2009 (April 2009 - June 2009) that were shifted to the "Fiscal Year basis" are shown in ( ) in FY 2008 .
(Note 3) Dual trading and bucketing prohibition regulations were eliminated in April 1, 2005.

3. Use of Information Received

As mentioned above, in recent years, the SESC has been receiving between about 6,000 and 7,000 reports of information each year, such as reports about individual stocks and issuers (market manipulation, insider trading, suspicious disclosure, etc.), and reports on financial instruments business operators, etc. The information is circulated to the relevant divisions where it is examined in detail, and then depending on how important and useful it is, it is used as reference material in the market surveillance examination, inspections of securities companies and other entities, investigations of administrative monetary penalties, disclosure statement inspection, investigations and formal complaints in criminal cases, etc. conducted by the SESC.

Specifically, based on the perspective of utilizing limited human resources effectively and conducting inspections, investigations and other relevant activities efficiently and effectively, the SESC has been collecting and analyzing information received from the FSA and other relevant ministries and agencies, as well as from overseas authorities, SROs and financial instruments business operators, etc., before determining the priority of the inspections and investigations, etc. Information received through the Information Reception Desk is utilized alongside the above reports of information.

The content of the information received varies widely, as does its degree of importance and usefulness when it comes to determining the priority of inspections and investigations, etc. For example, in cases where information of extremely high importance and usefulness is received at the Information Reception Desk—once all other determining factors have been taken into consideration—an inspection or investigation, etc. might be promptly initiated, leading to a recommendation for an administrative disciplinary action. In addition, the SESC also continuously collates and follows up on this information received, and it may be used when determining the priority of inspections and investigations in the future, or it may be used as reference when verifying matters during an actual inspection or investigation, etc.

Note: While it is impossible to describe the degree of importance and usefulness of information received with absolute certainty, the following types of information, for example, can be generally regarded as of high importance and usefulness:

(i) Information that indicates a suspicion of misconduct, with concrete evidentiary material attached; or

(ii) Information where the information provider is a person directly involved in the case (a customer or insider who has actually conducted the transactions) and which could only be known to that person.

For example, in the case of (i) above, there have been examples where, after providing an outline of the case via the internet or phone, the person has separately mailed supporting documents to the Information Reception Desk, and these have been used effectively.

3) Market Trend Analysis

1. Outline

The SESC has broadly analyzed the background to individual transactions and market trends based on gathered information on financial and capital markets' trends, for conducting timely market surveillance.

Specifically, for the purpose of dealing with so-called "unfair financing," in addition to conducting market surveillance targeting primary and secondary markets, the SESC has also been engaged in comprehensive and timely market surveillance, including responding to new financial instruments, etc.

2. Market Surveillance Targeting Primary and Secondary Markets

(1) Responding to unfair financing

In primary markets, there have been found improper cases in third-party allotments or other types of financing, where the allottees' identities were unclear, where the involvement of anti-social forces was a concern, or where the existing shareholders' rights were heavily diluted. Among such inappropriate financing in the primary market, compounded cases have emerged (unfair financing cases) which entail market misconduct in secondary markets, such as price manipulation, insider trading, spreading of rumors and fraudulent means, or false statements in annual securities reports.

To detect such unfair financing cases, the SESC collects and analyzes information which covers both the primary and secondary markets, while cooperating with senior securities inspectors and securities transactions surveillance officers in the Finance Departments of local finance bureaus as well as with the listing management / review divisions or trading review divisions at financial instruments exchanges. Specifically, in monitoring unfair financing cases, the SESC collects and analyzes disclosed information on listed companies, information from financial instruments exchanges, and information from ordinary investors and market participants, etc.

From the viewpoint of monitoring and preventing unfair financing, the SESC also cooperates and follows up with individual exchanges as well as with the FSA and local finance bureaus with respect to action taken based on the results of preliminary consultation with the local finance bureaus and the individual exchanges when a listed company makes a capital increase through the allocation of new shares to a third party.

(2) Analysis of issues underlying market trends

In tandem with the aforementioned collection and analysis of information on individual stocks or individual transactions, the SESC also collects and analyzes a wide range of information in order to grasp the context of market trends.

Focused areas of activities in FY2011 are as follow.

(i) Trends in business turnaround proceedings for listed companies

In recent years, there has been an upward trend in instances of listed companies—when attempting to turnaround their business—using turnaround ADR (alternative dispute resolution) proceedings based on the Act on Promotion of Use of Alternative Dispute Resolution (ADR Act) and on the Act on Special Measures for Industrial Revitalization and Innovation of Industrial Activities (Industrial Revitalization Act). In cases of legal liquidation (bankruptcy, corporate reorganization, and civil rehabilitation), in principle, the company is required to delist, but in cases where the company uses turnaround ADR proceedings and the proceedings have come into effect, in principle, the company is able to remain listed. In addition, sometimes during turnaround ADR proceedings, the company will increase its capital through the

allocation of new shares to a third party, and in these cases, surveillance from the same perspectives as conventional market misconduct is needed, such as having a grasp of the actual conditions of the allottee and managing insider information. With these points in mind, the SESC collected and analyzed information such as on the actual usage of turnaround ADR proceedings, and also exchanged opinions with market participants.

In addition, with respect to listed companies that have fallen into a business slump, in recent years, there has been a noticeable upward trend in examples of companies having their debt forgiven as a form of financial assistance, and because there have even been some that have had their debt forgiven on multiple occasions within a single accounting period, the SESC also collected and analyzed information with a focus on the actual state of debt forgiven.

(ii) Tendency for listed companies to change audit firms

In recent years, many cases have been seen in which a listed company is suspected of changing or appointing and dismissing an audit firm with which it has a difference in accounting policy, for the purpose of obtaining an "unqualified opinion" from the audit firm (so-called "opinion shopping"). In some instances, there have been cases where the listed company changed its audit firm during the accounting period, or changed audit firms several times over a period of several years. Therefore, based on disclosed documents, in addition to collecting and analyzing information on the reasons for this, the SESC also exchanged opinions with the Japanese Institute of Certified Public Accountants (JICPA) and other market participants concerning the problem areas with regard to changing audit firms.

(iii) Other

There has been report after report in the media of so-called management buyouts (MBOs) of listed companies, where the senior management of a company, or an investment fund together with the senior management, uses a takeover bid (TOB) in an effort to delist the company. Given this, the SESC investigated this trend, and exchanged opinions with relevant persons. Furthermore, cases have also been seen where a company issuing over-the-counter securities conducts a public offering for a new issue of shares itself, rather than commissioning a securities company as is usual. Therefore, the SESC also investigated this trend.

3. Surveys Aimed at Comprehensive and Timely Market Surveillance, Including catch-up with New Financial Instruments, etc.

The SESC conducts a wide range of timely surveys on new financial instruments and transaction techniques that are increasing in market size and importance in recent years, as well as on the trends that have become topical in the market. Any information acquired is promptly shared within the SESC.

<Examples of analyzed cases in FY2011>

(1) Survey on new transactions in the market

In recent years, attention has been drawn to the accelerated speed of transactions through so-called High Frequency Trading (HFT). In addition to conducting an investigation into HFT, the SESC also conducted follow-up surveys on the state of

after-hours trading and stock index futures trading on financial instruments exchanges, and on the latest trends concerning the proprietary trading system (PTS) and credit default swap (CDS) transactions.

(2) Survey on recent investor and issuer trends in the market

In addition to the above, in terms of investor trends, the SESC also conducted surveys to confirm the changes in the trading patterns and trading strategies of investors, as well as the investment patterns and features of hedge funds and institutional investors in the current market environment. Similarly, in terms of movements by listed companies, the SESC conducted surveys to confirm the latest conditions for merger and acquisition (M&A) and TOB trends as well as timely disclosure trends in financial instruments exchanges.

The results of these surveys have been shared within the SESC and have proven useful in comprehensive and timely market surveillance, including in responding to new financial instruments. Furthermore, the SESC has also exchanged information with the relevant FSA Departments and with SROs, etc., in an effort to share its awareness of market surveillance issues and problems.

4) Market Surveillance Examination

1. Outline

In market surveillance examination, which is conducted off-site to detect suspicious transactions, the SESC first extracts the following kinds of stocks based on its routine surveillance of market trends and on information obtained from various sources. The SESC then requests financial instruments business operators to provide detailed reports or submit materials related to the securities transactions.

(1) Stocks showing sharp rises or declines in price or other suspicious movements
(2) Stocks for which "material facts" were published which might have a significant influence on investors' investment decisions
(3) Stocks that are topical in newspapers, magazines or on internet bulletin boards
(4) Stocks mentioned in information obtained from the general public

Next, based on these reports and materials, the SESC examines transactions with suspected market manipulation, insider trading or fraudulent means, that impair market fairness. At the same time, the SESC examines whether the financial instruments business operators involved in these transactions have committed any misconduct, such as violating regulatory rules of conduct.

If these examinations reveal any suspicious transactions, they are reported to the SESC's relevant divisions for further investigation, etc.

2. Legal Basis

In market surveillance, when the SESC finds it necessary and appropriate for ensuring the fairness of financial instruments trading and protecting investors, it requests financial instruments business operators and other related persons to submit reports and materials on securities transactions. The authority delegated to the SESC is stipulated in the Financial Instruments and Exchange Act (FIEA).

3. Results of Market Surveillance Examination

(1) Results

The number of transaction surveillance examinations conducted by the SESC and the local finance bureaus in FY2011 are as follows.

The number of transactions examined		FY2011 (April 2011 - March 2012)	FY2010 (April 2010 - March 2011)
Total		913	691
	SESC	396	224
	Local Finance Bureaus	517	467
(Below, breakdown by examination item)			
Price Formation		73	54
Insider trading		819	613
Other matters (fraudulent means, etc.)		21	24

The SESC and the local finance bureaus conduct day-to-day surveillance of trading in the markets based on overall market movements, and, as part of the surveillance, examine particular transactions as necessary. Along with collecting information related to market surveillance, at the stage of market surveillance examination, the SESC strives to conduct swift and appropriate analyses of actual individual market transactions that are suspected of violating market fairness.

In addition, as a result of collection and analysis of information related to financing trends in the primary market, the SESC also examines suspected unfair financing cases with fraudulent means, etc.

(2) Cases Examined

Following are some of the common examples of market surveillance examination .

(i) Examples of reasons for conducting examination related to price formation:

(a) The price and trading volume of Company A shares rose sharply without any particular reason for the rise in the price.

(b) As a result of reviewing the price formation for shares of Company B, a report was received from a financial instruments exchange that a specific client is suspected of manipulating the market using the technique of "*Misegyoku*" sham order transactions.

(c) With specific information on "*Misegyoku*" concerning the shares of Company C reported by an ordinary investor, the SESC confirmed orders placed with a financial instruments exchange, and found that limits of several orders had been changed all at once.

(d) The SESC received a report on the fact that a specific person was conducting market manipulation concerning the shares of Company D.

(ii) Examples of reasons for conducting examination related to insider trading of shares:

(a) After the announcement of Company E's takeover bid (TOB) for the shares of Company F, the share price of Company F rose significantly, so an examination

was conducted into the transactions of Company F stock prior to the TOB. Moreover, a securities company informed the SESC of suspicious transactions using borrowed name accounts. Examination was carried out based on such information.

(b) When Company G announced a downward revision of its results forecast, its share price fell sharply. Then, transactions made prior to the announcement were examined.

(c) When Company H announced a share issuance by third-party allotment, its share price fell sharply. Then, transactions prior to the announcement were examined.

(d) When the SESC received information that "someone gained large profit through insider trading" in the shares of Company I, the SESC began to examine if there was insider trading involving a concerned contractor.

(e) Prior to the announcement of a public offering of new shares in Company J, the turnover of Company J stock increased, and the share price appeared to trend downward. Consequently, the SESC conducted a review into whether there had been insider trading.

(iii) Examples of reasons for conducting surveillance related to other aspects:

(a) The financial position of Company K did not improve even after repeated financing, and there was information about an unusually large sum of cash withdrawals. As such, an examination was carried out to check for fraudulent means, etc.

(b) With regard to Company L's announcement of financing with real estate contributed in kind, appropriateness of the appraisal value of the real estate contributed for the financing was found to be doubtful. As such, an examination was carried out to check for fraudulent means.

(c) After Company M had raised funds, information was received from a financial instruments business operator, etc. that the shares of Company N were being sold in large quantities on the market. Consequently, the SESC conducted a review for fraudulent means, etc.

(d) Specific information was received that messages on several stocks, which were clearly contrary to fact, had been posted on internet bulletin boards, and that the share prices had fluctuated. Consequently, the SESC conducted a review from the perspective of the spreading of rumors, etc.

(3) Cooperation with overseas securities regulators

As seen in Japanese stock markets where the trading value of brokerage trading by foreign investors accounted for over 60% of overall brokerage trading in 2011, cross-border transactions in financial and capital markets are becoming commonplace. Under such circumstances, cooperation with overseas securities regulators has become essential. Therefore, the SESC has been making efforts to preclude any loopholes in market surveillance by collecting information on cross-border transactions, if necessary, from financial instruments business operators and overseas securities regulators, even at the stage of market surveillance examination (see Chapter 8 for further details) for further details.

4. Close Cooperation with Self-Regulatory Organizations (SROs)

Day-to-day market surveillance activities are also conducted by SROs, such as Financial

Instruments Exchanges, associated self-regulation organizations and Financial Instruments Firms Associations. Their surveillance activities have a function of checking whether the market participants, etc. are carrying out their business operations in an appropriate manner. Through the market surveillance activities such as market surveillance examinations, the SESC cooperates closely with these SROs.

(1) Cooperation with Financial Instruments Exchanges and Financial Instruments Firms Associations

In addition to monitoring the price movements and orders instigated by investors in secondary markets in real time, financial instruments exchanges also conduct ex-post trade reviews of orders and transactions suspected of being in violation of a law or regulation. The results of these trade reviews are reported to the SESC as required, and views are exchanged. A system is also in place for financial instruments exchanges to share information promptly with the SESC, especially in cases where unusual transactions are recognized that have a high possibility of constituting market misconduct. In primary markets as well, cooperation between the SESC and the listing review and management divisions of financial instruments exchanges is also promoted with regard to movements of listed companies.

At the Japan Securities Dealers Association (JSDA), in October 2008, the *Regulations Concerning Establishing a Sale and Purchase Management System for the Prevention of Market Misconduct* were partially amended (came into effect in April 2009), requiring JSDA members to report to the SESC and to the JSDA if they became aware of possible insider trading. Based on this, since April 2009, the SESC has utilized the Trading Examination Results Reports received from JSDA members as initial information in its transaction reviews pertaining to insider trading, and as reference information in transaction reviews that are already in progress. The JSDA also examines the sales and purchases of over-the-counter securities, and reports the results of these examinations to the SESC.

Furthermore, the JSDA also operates the Japan-Insider Registration & Identification Support System (J-IRISS), a system for registering and managing information on the executive officers of listed companies in order to prevent insider trading. SROs as well as the FSA and the SESC are making cooperative efforts designed to expand the number of listed companies participating in J-IRISS.

Specifically, in January 2011, Review Teams for the Prevention of Insider Trading were established at the JSDA and securities exchanges nationwide to conduct in-depth examinations on more effective measures for preventing insider trading. In June 2011, the results of this initiative were published in the *Report on the Review into the Use of J-IRISS for Preventing Insider Trading*. The FSA and the SESC participated in the Review Teams as observers.

In light of these developments, in June 2011, the Director-General of the Planning and Coordination Bureau and the Director-General of the Supervisory Bureau at the FSA, together with the Secretary-General of the Executive Bureau at the SESC, sent a joint letter to the Chairman of the JSDA and to the presidents and the chairpersons of the boards of directors at each exchange. The letter was entitled *Efforts for the Prevention of Insider Trading through the Use of J-IRISS and Other Means (Requests)*, and it called for cooperation to further promote action for the prevention of insider trading, such as through the utilizing the J-IRISS. In addition, the SESC has also supported various initiatives aimed

at preventing insider trading, such as introducing its significance through various types of publicity activities.

(2) Use of "Compliance WAN"

The "Compliance WAN" system uses a dedicated line connecting the network of nationwide securities companies with national securities exchanges, the JSDA, the SESC and with the local finance bureaus, and electronically transfers the transaction data. Before the use of "Compliance WAN", transaction data was submitted by floppy disks, email and various other means; but by unifying these means into a single method utilizing a highly secure dedicated network, Compliance WAN has the following advantages:

(i) A reduction of risk of the leakage of personal information and the loss of storage media in the transfer of transaction data;

(ii) A reduction in the amount of time needed to request submissions and in the process to receive transaction data, leading to more efficient market surveillance activities; and

(iii) For securities companies, a possible reduction in costs for the submission of transaction data.

(3) Hotline for the surveillance of market misconduct

With regard to responses to the Great East Japan Earthquake, based on a statement made by the Minister of State for Financial Services, Shozaburo Jimi, on March 13, 2011 (excerpt below), the SESC established a system on March 14 for close cooperation with the relevant trading review divisions of all financial instruments exchanges, called, "Hotline for surveillance of market misconduct." Since then, in close cooperation with the FSA and with Financial Instruments Exchanges, the SESC has strived for strict market surveillance, exchanging information with relevant persons in a timely fashion.

(Reference) Statement by Shozaburo Jimi, Minister for Financial Services (excerpt)

… In order to ensure that economic activities proceed smoothly, the financial and securities markets will operate as usual on and after 14th March.

On this occasion, the FSA will rigidly monitor the markets to prevent any unfair transactions that take advantage of the disaster. Namely, the FSA, in close cooperation with the Securities and Exchange Surveillance Commission, stock exchanges and other related parties, will monitor thoroughly any misconduct such as market manipulation, and respond firmly to misconduct. This includes the strict implementation of the ban on naked short selling.

http://www.fsa.go.jp/common/conference/danwa/20110313-1.html

5) Future Challenges

The market surveillance operations collect and analyze a broad range of information on the overall financial and capital markets, and also examines transactions if necessary, thereby functioning as the entrance for information for the SESC. The success of the ensuing investigations of market misconduct, investigations of criminal cases, inspections of securities companies, disclosure statements inspection and so forth depends on the outcomes of market surveillance. Therefore, not only will it be necessary to respond timely to market changes, but there is also a need to aim for effective and efficient market surveillance by prompt and

appropriate responses against emerging risks.

Looking at current market trends, cross-border transactions have already become a part of everyday trading. For instance, in recent years, the majority of trading on Japanese stock markets has been conducted from overseas, and similarly, the majority of trading is being performed by professional investors in Japan and overseas. The SESC has strengthened its global market surveillance and its monitoring of market misconduct and misconduct carried out by professional investors in Japan and overseas. In FY2011, a disposition was rendered by the authorities in Hong Kong against an investment advisor located in Hong Kong which had conducted unfair cross-border transactions on the Japanese stock markets, and a recommendation was made for an administrative monetary penalty payment order in a case of insider trading by an institutional investor. Moreover, the SESC's securities inspections resulted in a recommendation being made for administrative disciplinary action against the formation of an artificial market by the dealer of a financial instruments business operator. Normally, professional investors would be expected to have a high level of professional ethics and treat client confidence as an asset; and so a series of misconduct by professional investors in Japan and overseas could undermine general confidence in financial and capital markets.

In view of these circumstances, through market analysis and review operations, the SESC needs to address the following issues and fulfill its mission as an entrance for information while cooperating with a wider range of market participants.

(1) Strengthening of response to cross-border transactions and professional investors in Japan and overseas

Even at the stage of market surveillance, the SESC will actively cooperate with overseas securities regulators with respect to cross-border transactions, such as via information exchange frameworks (multilateral MOU, etc.). In addition, the SESC will actively strive to grasp the market misconduct and misconduct carried out by professional investors in Japan and overseas who are well versed in investment techniques and who have ample funds.

(2) Strengthening of response to shift to electronic trading and high-speed transactions

The SESC will continue to pay close attention to new transaction patterns, etc. that are based on the trend for faster transaction techniques such as through the Tokyo Stock Exchange's "arrowhead" and HFT.

Furthermore, given that cases of market misconduct conducted via non-face-to-face internet transactions ("*Misegyoku*" sham order transactions, etc.) continue to be seen, the SESC will continue to strive to grasp these kinds of acts of market manipulation, and will work to cooperate and share its awareness of problems with SROs and other organizations.

(3) Response to new types of misconduct

Given the possibility that some new form of serious misconduct, such as the seemingly unending stream of unfair financing cases, could always be committed, the SESC will also pay close attention to the emergence of any new types of misconduct.

(4) Establishment of more highly effective methods for collecting and utilizing information

In light of the inspections of DIM business operators, etc. who had been entrusted with the management of corporate pension funds, the SESC has worked closely with relevant ministries and agencies, including looking at how information is being collected and used,

and has strived to prevent the recurrence of such cases. However, more highly effective methods for collecting and utilizing information needed to be urgently established.

Based on such a perspective, a policy was indicated in the FY2012 Basic Inspection Policy (April 27, 2012) to establish a dedicated point of contact (Pension Investment Hotline) for conducting intensive verifications of how DIM business operators are actually conducting their business, and for collecting information of high importance and usefulness in order to strengthen the system for collecting and analyzing information on pension investment. The Pension Investment Hotline was established within the SESC on the same date.

Based on information received through the Pension Investment Hotline and from other sources, by getting specialists to conduct active, high-quality analyses of the information, and reflecting this in the inspections of DIM business operators, the SESC will establish more highly effective methods for collecting and utilizing information.

〈Contact Address〉
SESC Pension Investment Hotline
Telephone: +81-3-3581-6627
Email:pension-hotline@fsa.go.jp

3. Inspections of Securities Companies and Other Entities

1) Outline

1. Purpose of Inspections of Securities Companies and Other Entities

The Securities and Exchange Surveillance Commission (SESC) conducts on-site inspections of financial instruments business operators and other entities based on the authority delegated by the Prime Minister and the Commissioner of the Financial Services Agency (FSA) under the Financial Instruments and Exchange Act (FIEA) and other relevant laws, to check, among other things, their compliance with rules and regulations for ensuring fairness in financial instruments transactions and their financial soundness.

2. Authority of Inspections of Securities Companies and Other Entities

(1) Since its inception in 1992, the SESC has conducted inspections to ensure fairness in financial transactions. Furthermore, in July 2005, when the revised Securities and Exchange Act (SEA, the predecessor of FIEA), etc. came into force to reinforce market surveillance functions, the authority to inspect financial soundness of securities companies, financial futures dealers and others, and the authority to inspect investment trust companies and others, formerly conducted by the Inspection Bureau of the FSA were delegated to the SESC. At the same time, under the revised Financial Futures Trading Act (FFTA), companies dealing with foreign exchange margin trading (FX) were classified as financial futures dealers subject to the SESC inspection.

Since the FIEA came fully into effect in September 2007, regulated entities subject to the SESC inspection have been expanded to those engaged in sales or solicitation of equity units of collective investment schemes ("funds") and those engaged in the management of these funds that primarily invest in securities or financial derivatives transactions. Furthermore, the SESC has been authorized to inspect those who provide services commissioned by financial instruments business operators, Financial Instruments Firms Associations and Financial Instruments Exchanges and others. Moreover, with the passage of the Act for the Amendment of the FIEA in June 2009, in April 2010, the authority to inspect credit rating agencies and designated grievance machinery, etc. was granted to the SESC. In addition, since April 2011, regulation and oversight on the consolidation of type I financial instruments business operators of a certain size or greater were introduced. Thus, the scope of inspections by the SESC has been expanded in recent years.

As for contents of inspections of securities companies and other entities, Article 51 of the FIEA was newly established when the FIEA came fully into effect in 2007. The Article had enabled the FSA to order a financial instruments business operator to improve its way of business conduct, when deemed necessary and appropriate for the public interest or for the protection of investors. Consequently, the SESC has conducted inspections focusing on internal controls, in addition to individual violations of laws and regulations.

(2) Based on the results of these inspections, the SESC may recommend to the Prime Minister and the Commissioner of the FSA that administrative disciplinary actions should be taken for ensuring the fairness of transactions, protecting investors and securing other public interests.

In response to such a recommendation, etc., if appropriate, the Prime Minster, the Commissioner of the FSA, the Director-General of the Local Finance Bureau or any other

competent authorities may take administrative action, etc. against the inspected entity, such as an order for rescission of registration, an order for suspension of business, or an order to take business improvements, upon a formal hearing with the entity.

In addition, when the SESC recommendation is made against a sales representative of a financial instruments business operator, a registered financial institution, or a financial instruments intermediary service provider, a relevant Financial Instruments Firms Association to which the registration affairs of the relevant sales representative are delegated from the Prime Minister, if appropriate, may take disciplinary action, either rescinding such sales representative's registration or suspending such sales representative's licenses, if appropriate, upon hearings with the association member to which such sales representative belongs.

3. Activities in FY2011

The circumstances surrounding SESC securities inspections have undergone considerable changes. For example: (i) There has been a significant expansion and increase in the number of business operators subject to inspection; (ii) From the experience of the global financial crisis, there has been a greater need to prevent a securities group that engages in large and complex business operations as a group from falling into management crisis; and (iii) The use of IT systems in financial transactions (internet transactions, algorithmic trading, etc.)has grown.

Therefore, during FY2011, from the viewpoint of performing efficient and effective inspections, the SESC has been trying to make more risk-based inspection plans, introduce inspections with prior notice, and strengthen coordination with the monitoring operated by supervisory departments, while also taking into consideration the effects of the Great East Japan Earthquake.

As part of this, given that the consolidated regulation and supervision of securities companies were introduced in April 2011, in cooperation with the FSA, overseas authorities and other organizations, the SESC has worked to improve the verification of financial soundness as well as internal control systems and risk management systems (hereinafter referred to as "internal control systems, etc.") of a securities group that engages in large and complex business operations as a group. In addition, given that a registration system and other regulations on credit rating agencies were introduced in April 2010, the SESC has started the inspection of credit rating agencies and verified their business management systems, etc.

The inspection of an investment management business operator, which was conducting a discretionary investment management business and entrusted with the management of corporate pension funds' assets, revealed a case in which the business operator had, for many years, been operating its business while using false reports to conceal massive losses. The case became a significantly important issue, not only because it harmed the interests of the corporate pensions and had a significant impact on the relevant companies and their employees, but also from the perspective of ensuring the fairness and transparency of capital markets and protecting investors, which is the mission of the SESC.

Recently, damages caused by sales of unlisted stocks by unregistered business operators have been spreading and become a social problem. Under such circumstances, in the Consumer Basic Plan decided by the Cabinet in March 2010, the filing of a petition for court injunctions against persons who have been conducting an act violating the FIEA (Article 192 of the FIEA) and investigations for such a petition (Article 187 of the FIEA) have been listed as counter measures against this problem. Accordingly, from the viewpoint of protection of investors,

the SESC has taken actions against unregistered business operators, using such authority in cooperation with the relevant authorities (see part 6) in this chapter).

2) Basic Inspection Policy and Basic Inspection Plan

From 2009 onwards, an “inspection year” corresponds to a fiscal year, from April 1 and ending on March 31 of the followiong year.

In order to conduct securities inspections systematically, the SESC and the Directors-General of the Local Finance Bureaus develop a Basic Inspection Policy and a Basic Inspection Plan for every inspection year.

The Basic Inspection Policy stipulates inspection priorities and other fundamental inspection policies for the relevant inspection year. The Basic Inspection Plan specifies the scope of inspections, such as the types and the number of entities to be inspected in that inspection year among entities subject to inspections.

The Basic Inspection Policy and the Basic Inspection Plan for FY2011 were published on April 8, 2011.

April 8, 2011
Securities and Exchange Surveillance Commission

Basic Securities Inspection Policy and Program for 2011[1]

I. Basic Securities Inspection Policy

1. Basic Concept

The mission of the Securities and Exchange Surveillance Commission (SESC) is to ensure the fairness and transparency of the Japanese markets and to protect investors. Securities inspection plays an important role to achieve this mission by on-site examinations of the business operations and financial soundness of financial instruments firms who act as market intermediaries.

In recent years, the regulatory environment surrounding the SESC's inspection has been changing dramatically.

As a result of a series of regulatory reforms, including the effectuation of the Financial Instruments and Exchange Act (FIEA), the scope of financial firms subject to the SESC's inspection has been expanded to include those engaging in the management and sale of interests of collective investment schemes (funds) (hereinafter referred to as "fund business operators") and credit rating agencies, leading to a sharp increase in the number of firms subject to inspection to around some 8,000. In addition, financial instruments and transactions with which financial firms deal have become more diverse and complex, as innovation is advancing and cross-border transactions and international activities of market participants such as investment funds have become common.

In order for the SESC's inspection to achieve its mission under these circumstances, it is essential to conduct efficient and effective inspection. From this perspective, it is appropriate to collect and analyze a variety of information concerning the firms subject to the SESC's inspection while taking account of their business types, sizes and other characteristics and of the market conditions at the time, and then decide which firms to inspect with a risk-based approach. It is also important that the SESC sharpens the

[1] Corresponds to government's Fiscal Year 2011 (from April 1, 2011, to March 31, 2012).

focus of inspection and develops inspection techniques accordingly.

Based on the experience in the recent global financial crisis, where the bankruptcy of a large U.S. investment bank resulted in cross-border impacts on the financial systems, there has been progress in initiatives, under cooperation among securities regulators around the world, to capture businesses and risks that globally active and large-scale investment banks have as an entire group. In addition, consolidated regulation and supervision of securities companies was introduced in Japan in April 2011. Considering these developments, it is necessary to place more weight in inspection on verifying the appropriateness of the internal control and risk management systems of securities company groups that engage in large-scale and complex businesses as a group from the viewpoints of financial soundness of the entire group and of prevention of bankruptcy.

The advance of IT systems in recent years has enabled investors to have access to systems that process a large volume of diverse orders at high speed through the Internet and other means, and to transact various financial instruments. As a result, the participation of personal investors in financial transactions has increased remarkably, and the execution of massive and complex transactions by institutional investors has also been spreading, thereby making it more important than ever to ensure the reliability of IT systems as the financial infrastructure. Therefore, the SESC inspection needs to focus on the verification of the IT system risk management.

Securities inspections have strived to ensure investor protection through inspections of financial firms that have made registration based on the FIEA and thus are under the regulator's supervision. On top of that, however, recent years have seen increasing damages due to sales of unlisted stocks by non-registered firms and this phenomenon has become a social problem. In this context, the Consumer Basic Plan approved by the Cabinet in March 2010 raised the specific policy measure of utilizing applications for emergency court injunctions against FIEA violators (Article 192 of the FIEA) and associated investigations (Article 187 of the FIEA). From the viewpoint of investor protection it is appropriate that the SESC employs the authority for these applications and investigations to act against non-registered firms, in

close cooperation with relevant authorities.

Due to the impacts of the Great East Japan Earthquake and the subsequent electric power shortages, some securities companies have been forced to shrink or close their businesses. Also, based on the appeals in "Financial Measures in Response to Damage from the Tohoku-Pacific Ocean Earthquake 2011" published March 11, 2011, by the Minister of State for Financial Services and the Governor of the Bank of Japan, they are expected to take appropriate actions for victims and damaged companies. Given these unprecedented circumstances, it seems appropriate that securities inspections give due consideration to the impacts of the disaster on financial firms to be inspected. On the other hand, strict actions, in collaboration with relevant organizations, are required against any unfair transactions and misconducts that take advantage of the disaster, based on the March 13 "Statement by Shozaburo Jimi, Minister for Financial Services."

Securities inspection needs to adapt to the changes in the environment, including the regulatory reforms in recent years, as described above. At the same time, it is essential to continue to enhance the examination of violations of laws and regulations, as well as the verification of the appropriateness of the internal control system behind individual problems, so as to ensure its ultimate objective: the fairness and transparency of capital markets and the protection of investors. Financial firms, as gatekeepers, are expected to do business in accordance with laws and regulations, as well as market rules standing on self-discipline, to ensure investor confidence in the markets. The SESC, through securities inspection, shall continue to take firm actions against illegal activities that undermine the confidence in market fairness and transparency or damage investors' interests, and thus play a role to alert the markets.

2. Inspection Implementation Policy

(1) Towards efficient and effective inspection

1) Risk-based inspection

When deciding which firms to inspect, the SESC shall actively make use of and analyze information from supervisory departments and external information, and take due account of changes in the market environment

and the impacts of disasters, as well as individual firms' positions in the market and their inherent problems. In addition, when cross-cutting issues in the market have been identified, the SESC shall flexibly conduct special inspection, as necessary, against firms that face the issues in common.
The SESC shall identify, prior to inspection of individual firms, issues to be verified, and shall focus on them during its visits.

2) Implementation of effective inspection

A. Inspection with prior notice

In principle, the SESC continues to initiate inspections without prior notice. The SESC, however, shall give prior notice to the firms to be inspected on a case-by-case basis, taking comprehensive account of the characteristics of their businesses, the focuses and the efficiency of inspection, and the reduction of burdens on the firms to be inspected.

B. Verification of the appropriateness of the internal control systems

When any problems in firms' business operations have been identified, the SESC shall examine the appropriateness and effectiveness of their internal control systems and risk management systems (hereinafter referred to as the "internal control systems") behind them. The SESC shall also pay attention to whether the senior management has been appropriately involved in the development of the systems.

Especially, as far as securities company groups that engage in large-scale and complex businesses as a group are concerned, the SESC shall, from a forward-looking perspective, focus on the appropriateness of their internal control systems, whose importance is deemed very high given their positions in the market and the characteristics of their businesses, based on the "Inspection Manual for Financial Instruments Business Operators" revised in April 2011. It shall also perform appropriate inspections in response to the introduction of consolidated regulation and supervision of securities firms.

C. Enhancement of interactive dialogue

The SESC shall strive to share the recognition of deficiencies in business operations with the firms under inspection through

interactive dialogue. In particular, the SESC shall affirm the senior management's recognition of the problems identified through dialogue as they are responsible for the development of the internal control systems, and encourage them to make improvement efforts.

3) Enhancement of cooperation with relevant departments/organizations

- Regarding supervisory departments of the Financial Services Agency (FSA) and Local Finance Bureaus, the SESC shall continue to cooperate with them by sharing concerns and information by exchanging information useful for inspection obtained in the course of supervision and vice versa. In particular, for securities company groups which engage in large-scale and complex businesses as a group, the SESC shall seek seamless cooperation between its on-site inspections and the supervisory departments' off-site monitoring.

- With respect to the Inspection Bureau of the FSA, the SESC shall initiate inspections of financial firms that constitute a financial conglomerate in collaboration with them, if deemed necessary, and shall exchange information, in the light of the smooth inspections of the financial firms within the same group and of sharing regulatory concerns.

- As to Self-Regulatory Organizations (SROs), the SESC shall further strengthen coordination between its inspection and their examinations of their member firms so as to increase the effectiveness of the multilayered oversight activities over the financial firms. From this perspective, the SESC shall promote cooperation with the SROs through the coordination of inspection programs, exchange of information, and the training of inspectors.

- With regards to overseas securities regulators, the SESC shall strengthen cooperation on inspections of foreign financial firms operating in Japan and Japanese financial firms that have overseas offices through the exchange of necessary information. In addition, the SESC shall enhance collaboration with the major overseas securities regulators through active involvement in the "Supervisory

Colleges" for globally active and large-scale securities firms.

- Concerning the supervisory departments and disclosure oversight departments of the FSA and the Local Finance Bureaus, as well as investigative authorities, the SESC shall further promote cooperation with them, in response to fraudulent practices by fund business operators, sales and solicitation of unlisted stocks by non-registered firms, and solicitation without necessary filing by the issuers of those stocks.

4) Revision of the inspection manual

In April 2011, the SESC revised the "Inspection Manual for Financial Instruments Business Operators," which took effect thereafter. The revisions include additions of examination items in relation to the consolidated capital adequacy regulation ratios in response to the introduction of consolidated regulation and supervision of securities companies, as well as internal control systems of securities company groups that engage in large-scale and complex businesses as a group. Furthermore, with the development of self-regulations on sales and solicitation of OTC derivatives for personal investors, compliance with their rules has been included in the Manual.

The SESC shall continue to revise the Manual in accordance with regulatory changes so as to improve the transparency and predictability of its inspections.

(2) Focuses of inspection

1) Verification of the exercise of gatekeeper functions

A. Market intermediary functions of financial instruments firms

To develop and maintain fair, transparent and high-quality financial and capital markets, it is extremely important for financial instruments firms to fully exercise their functions of preventing persons and entities that intend to abuse and misuse the markets from participating in them, through customer management, surveillance of transactions, and underwriting examination. The SESC therefore shall focus on whether financial instruments firms are properly playing these roles.

As part of these, the SESC shall review how inspected firms are developing their systems to prevent anti-social forces from making transactions with them through information gathering. The SESC shall examine whether the firms conduct customer identification properly when a new account is opened or when identity theft is suspected and whether systems are established for adequate reporting of suspicious transactions, considering the importance of appropriate implementation of these duties from the perspective of anti-money laundering and combating terrorist financing promoted under international cooperation.

Furthermore, to encourage the smooth functioning and sound development of capital markets, the SESC shall examine whether underwriting business, including underwriting examination, information control, surveillance of transactions, and distribution, are appropriately executed from the viewpoint of ensuring the fairness and transparency of capital markets and protecting investors. Especially, given the recent situations regarding new listings, the SESC shall verify whether examination systems for underwriting IPOs are functioning appropriately. In addition, as for financial instruments firms that also arrange and distribute securitized instruments and high-risk derivatives products, the SESC shall review their risk management and sales management systems.

B. Management of undisclosed corporate information (Prevention of unfair insider trading)

In order to prevent unfair insider trading, the SESC shall focus on whether financial instruments firms strictly control undisclosed corporate information. Specifically, the SESC shall verify whether the firms have developed effective management systems with regard to the registration of undisclosed corporate information such as public stock offerings by listed companies, information firewalls, and the surveillance of transactions by insiders and the financial firms' senior management and employees.

C. Conduct that may hinder fair price formation

Fair price formation is the foundation for the fairness and

transparency of the market and serves as the basis of investor confidence in the market. The SESC shall not only verify whether practices that may hinder fair price formation are being employed but will also examine the transaction surveillance systems of financial instruments firms to prevent such practices. In doing so, the SESC shall examine whether effective transaction surveillance from the viewpoint of preventing market misconduct is being done. Especially, surveillance focusing on specific dates, such as a pricing date for a public stock offering or a specific trading time such as just before closing, and customers who repeatedly place large orders that could affect price formation, as well as whether measures are taken to identify the original customers for orders consigned from foreign related entities. The SESC shall also examine management systems (including the management of delivery failures) for short selling regulations, such as checking the indication of short selling, price regulations, and prohibition of naked short selling.

In particular, as far as financial instruments firms operating online trading or providing electronic facilities for DMA (direct market access) are concerned, the SESC shall continue to examine whether they have established effective trade surveillance systems that take account of the electronic transactions' nature that customer orders feed directly into the market, considering the recent market manipulation cases with "misegyoku" (false orders to manipulate prices) using Internet transactions.

2) Examination of internal control systems

A. Internal control systems

While conducting the examination to detect illegal conduct, the SESC shall also focus on the appropriateness of the internal control system and the risk management system, including financial soundness, in light of the characteristics of the inspected firms. In particular, regarding securities company groups that engage in large-scale and complex businesses as a group, the SESC shall examine the appropriateness of the internal control systems for the entire group from a forward-looking perspective so as to prevent risks related to their business operations and financial positions from materializing.

B. Management of IT system risk

In recent years, financial instruments firms have become increasingly dependent on IT systems in their business operations, while personal investors' participation in securities transactions and FX trading on the Internet has been spreading. Thus, IT systems have become an important infrastructure of financial transactions.

Under these circumstances, it is very important to secure the stability of IT systems from the viewpoint of protecting investors and ensuring public trust in the market and in financial instruments firms. The SESC shall verify the appropriateness and effectiveness of the management of IT system risk to prevent it from crystallizing, including the prevention of erroneous order placements, IT system troubleshooting, information security management, and oversight of outsourcing. The SESC shall also examine the involvement of senior management in the development of the IT system risk management.

3) Examination from the viewpoint of investor protection

A. Solicitation for investment

To protect investors and secure genuine and fair sales and solicitation operations, the SESC shall focus on whether financial instruments firms are soliciting customers for investment in an appropriate manner and are taking good care of them.

Regarding the status of solicitation for investment, the SESC shall examine, from the viewpoint of the suitability rule, whether financial instruments firms are appropriately soliciting for investment in light of customers' knowledge, experience, and holding assets, as well as investment purpose, and whether they are fully accountable for their solicitation in accordance with the characteristics of individual customers.

The SESC shall also examine whether, upon sales and cancellations of investment trusts (including switching), appropriate explanations are being provided regarding important information that affects customers' investment decisions, such as profits/losses, commissions and investment trust fees and other costs. For OTC derivatives transactions and complex structured bonds similar to OTC derivatives

transactions, the SESC shall examine whether appropriate explanations are being provided regarding important risks and other factors that affect decisions for investment in such products.

In addition, the SESC shall verify whether advertisements that are widely exposed to investors do not include misleading indications regarding investment returns, market factors, and the situations of transactions. The SESC shall also examine the complaint handling system, which is important for investor protection.

B. Appropriateness of asset management business

While asset management firms are commissioned by investors to manage their assets for their interests, it is very difficult for the investors to know the actual situation of the assets managed. Therefore, from the viewpoint of investor protection, the SESC shall examine asset management firms' compliance with the relevant laws and regulations, including the fiduciary duty and due care of a prudent manager, and the effectiveness of their systems for managing conflicts of interest in relation to transactions with interested parties and the due diligence function.

C. Compliance with laws and regulations by fund business operators

For fund business operators (including Specially Permitted Business Notifying Firms for Qualified Institutional Investors), recent inspections have found many legal violations, such as inappropriate account separation between fund's own money and investors' (diversion of investors' money and unexplained expenditure), false explanations and notices, misleading displays, name-lending to non-registered firms, and Specially Permitted Business Notifying Firms selling and managing funds without satisfying the requirements of Specially Permitted Businesses for Qualified Institutional Investors. The SESC, therefore, shall continue to select firms to be inspected on a risk basis, and examine their legal compliance, including the appropriateness of business operations and account separation.

D. Compliance with laws and regulations by investment advisories/agencies

Regarding investment advisories/agencies, many legal violations have been identified in recent inspections, including engagement in non-registered businesses, name-lending to non-registered firms and inappropriate provision of information to customers, due to the remarkable lack of basic legal knowledge and perception of the need for legal compliance among their officers and employees. The SESC, therefore, shall continue to select firms or persons to be inspected on a risk basis, and focus on their legal compliance.

E. Response to non-registered firms

In response to serious FIEA violations, such as sales and solicitation of unlisted stocks and funds by non-registered firms, the SESC shall strengthen cooperation with supervisory departments, disclosure oversight departments, and investigative authorities, and take appropriate action as needed, employing applications for emergency court injunctions and associated investigations.

4) Others

A. Functions of SROs

As for SROs, the SESC shall examine whether self-regulatory operations are effective and functioning appropriately, as well as whether they have systems necessary for exercising their functions properly. Specifically, the SESC shall conduct verification with regard to the establishment of their self-regulatory rules for their members and their regulatory enforcement, such as on-site and off-site reviews, penalties, and listing examination, as well as transaction surveillance. In the verification of listing examination, the SESC shall focus on SROs' measures to prevent anti-social forces from intervening in the financial and capital markets, including the collection of information on the involvement of anti-social forces in the issuing and listed companies. Furthermore, in light of the significance of financial instruments exchanges as the market infrastructure, the SESC shall focus on their systems for ensuring smooth and appropriate management of the financial instruments markets, such as IT system

risk management.

B. Business management of credit rating agencies

Regarding credit rating agencies, which became subject to securities inspection in April 2010, the SESC shall examine the appropriateness of their business management systems with reference to the Inspection Manual for Credit Rating Agencies published in March 2010.

C. Response to inappropriate transactions and legal violations taking advantage of disasters

To prevent inappropriate transactions and legal violations taking advantage of disasters, the SESC shall perform thorough surveillance and take strict action under close cooperation with relevant authorities.

II. Basic Securities Inspection Program

1. Basic Concept

(1) The SESC shall formulate an inspection program based on the following principles, while taking account of the characteristics of financial instruments firms' businesses. It should be noted that there can be some exceptions to these principles in response to a change in market environment, impacts of disasters, and factors related to specific firms.

1) Regarding firms that underwrite, trade or solicit liquid financial instruments, such as listed securities and firms that manage assets on commission from investors for their interests, the SESC shall in principle examine their business operations and financial soundness on an ongoing basis in light of the importance of their roles in the market. In addition, for credit rating agencies that assign credit ratings that greatly affect investment decisions of investors and that publish and provide them to users, the SESC shall in principle examine their business operations on an on-going basis in light of their roles as information infrastructure in the financial and capital markets.

2) Regarding firms other than those specified in 1) above (e.g., firms that deal with illiquid financial instruments or firms that only conduct

investment advisory business (excluding firms that fall into 3) below)), the SESC shall judge inspection priority based on information from supervisory departments and external sources in light of the huge number of firms subject to inspection.

3) In response to serious violations of the FIEA by non-registered firms, the SESC shall appropriately execute investigations for applications for emergency court injunctions, based on information from supervisory departments and external sources.

(2) The SESC shall work with securities and exchange surveillance departments of the Local Finance Bureaus to conduct efficient and effective inspection through active use of joint inspections and the exchange of inspectors. The SESC shall also support the securities and exchange surveillance departments through sharing inspection techniques and information, and thereby shall conduct inspections in an integrated manner.

2. Basic Securities Inspection Program

Type I Financial Instruments Businesses Operators (including Registered Financial Institutions), Asset Management Firms, and Credit Rating Agencies	To be inspected on an on-going basis (Note)
Type II Financial Instruments Businesses Operators, Investment Advisories/Agencies, Specially Permitted Business Notifying Firms for Qualified Institutional Investors, and Financial Instruments Intermediaries	To be inspected on an on-going basis
SROs	To be inspected as necessary
Non-registered firms	To be inspected on an on-going basis

Note: The number of firms to be inspected is shown in normal years, but due to the impacts of the Great East Japan Earthquake, it is difficult to show it at the current moment.

3) Record of Inspections

In FY2011, the SESC commenced inspections on 85 type I financial instruments business operators, 32 registered financial institutions, 11 investment management business operators, 4 credit rating agencies, 14 type II financial instruments business operators, 40 investment advisory and agency business operators, 6 persons making notification for business specially permitted for qualified institutional investors (hereinafter referred to as "QII business operators"), and 9 financial instruments intermediaries (see the Table below).

(Table) Inspections conducted during FY2011

Type of business	Basic Inspection Plan	FY2011		(Reference 1)	(Reference 2)
		Commenced	Concluded	Concluded (commenced in FY2010)	Number subject to inspection
Type I financial instruments business operators	Inspected as needed (*)	85	70	20	315
Registered financial institutions		32	24	3	1,135
Investment management business operators		9	6	1	321
Investment corporations		2	1	1	48
Credit rating agencies		4	2	-	7
Type II financial instruments business operators	Inspected as needed	14	11	1	1,294
Investment advisory and agency business operators		40	24	8	1,108
QII business operators		6	4	1	3,218
Financial instruments intermediaries		9	9	0	705
Self-regulatory organizations	Inspected as necessary	0	0	0	12

* Usually, the planned number of inspections is decided. However, due to the impact of the Great East Japan Earthquake, the planned number of inspections has not been decided for FY2011.

Notes: 1. The "Concluded" column shows the number of inspections which were commenced and completed during FY2011. The (Reference 1) "Concluded" column shows the number of inspections which were commenced in FY2010 but concluded during FY2011.

2. Business operators subject to inspection, which have registered for multiple business types, have been classified according to their respective main businesses.
3. The number of business operators subject to inspection is as of March 31, 2012. Business operators that have registered for multiple business types have been included in each business type.
4. In addition to the above, in FY2011, in conjunction with the inspection of a type I financial instruments business operator, an inspection of the designated parent company was also commenced (but was not completed during FY2011).

4) Summary of Inspection Results

1. Inspections of Type I Financial Instruments Business Operators

In FY2011, inspections on 117 Type I financial instruments business operators (including registered financial institutions; the same shall apply hereinafter in this chapter) were completed, and problems were found in 47 of them. Of these, 7 business operators had problems related to market misconduct, 15 had problems related to investor protection, 15 had problems related to financial soundness or accounting, and 29 had problems related to other business operations.

2. Inspections of Type II Financial Instruments Business Operators

In FY2011, inspections on 12 Type II financial instruments business operators were completed and problems were found in nine business operators (including business operators which mainly do other than Type II financial instruments business and in which problems were found related to Type II financial instruments business). Of these, eight business operators had problems related to investor protection, four had problems related to financial soundness or accounting, and eight had problems related to other business operations.

3. Inspections of Investment Management Business Operators, etc.

In FY2011, inspections were completed for seven investment management business operators, and problems were found in three business operators (including the business operators which mainly engaged in business other than investment management business, in which problems related to investment management business were found). Of these, one business operator had problems related to investor protection, two had problems related to financial soundness or accounting, and two had problems related to other business operations.

4. Inspections of Investment Advisory and Agency Business Operators

In FY2011, inspections on 32 investment advisory and agency business operators, and problems were found in 21 business operators (including the business operators mainly engaged in business other than investment advisory and agency business, in which problems related to investment advisory and agency business were found). Of these, 20 business operators had problems related to investor protection, 9 had problems related to financial soundness or accounting, and 13 had problems related to other business operations.

5. Inspections of QII Business Operators

In FY2011, inspections on five QII business operators were completed, and problems related to investor protection were recognized in two of them (including business operators whose main business is not business specially permitted for qualified institutional investors, but for whom a problem related to business specially permitted for qualified institutional investors was recognized).

6. Inspections of Financial Instruments Intermediaries

In FY2011, inspections on nine financial instruments intermediaries were completed, and problems were found in two of them. Of these, one had problems related to investor protection, one had problems related to financial soundness or accounting, and they both had problems related to other business operations.

5) Recommendations Based on the Results of Inspections

1. Recommendations Based on the Results of Inspections of Type I Financial Instruments Business Operators

(1) Serious problems concerning business operations and financial soundness

(Application of Article 52(1)(iii) and Article 53(2) of the FIEA; violation of Article 46-6(1) and (3))

(i) Business operator falsifying financial soundness, such as by keeping unpaid expenses, etc. off the books

As of the base date of inspection (June 2, 2011), **Shin Tokyo City Securities Co., Ltd.** (hereinafter referred to as the "Company" in this section) had confirmed that some expenses, etc. were expenses to be paid by the company, but despite this, they remained unpaid, and they had not been recorded as an accrued expenses liability on the Company's books.

It was evident that, if the Company had recorded the abovementioned unpaid expenses, etc., it would have been unable to maintain the statutory levels of net assets and capital-to-risk ratio. In view of this and despite knowing that it was factually incorrect, the Company kept the said expenses, etc. off the books, thereby calculating a false net assets and capital-to-risk ratio. In addition to reporting this to the Director-General of the Kanto Local Finance Bureau, the Company had also made available for public inspection a document which contained the false capital-to-risk ratio as a measure of financial soundness as of March 31, 2011.

(ii) Problem concerning internal control systems

(a) Absence of full-time executives

With the President and Chief Executive Officer of the Company (hereinafter referred to as the "Company President") and the other full-time executives in charge of the overall running of the Company were continuously absent from mid-March 2011, it was recognized that the Company was not in a position to be able to comply with laws and regulations as a financial instruments business operator or to conduct appropriate business operations.

(b) Lack of the management of business operations by executives

In February 2011, the Company concluded a consignment agreement with two limited liability companies concerning the membership rights of both limited liability companies. Regarding the sale of the membership rights of both limited liability companies, the Company had reported to the Director-General of the Kanto Local Finance Bureau on March 28, 2011, stating that business was being done by salespersons of both limited liability companies using envelopes bearing the Company's name, and accounts in the name of the Company were being used for customers to make deposits.

During the inspection, the Company President and others were interviewed about all the facts at the time and about the management of business operations. They were, however, unable to provide a detailed explanation about all the facts, such as the management of the accounts in the name of the Company, and the business at the limited liability companies using the name of the Company.

Furthermore, the Company President had absolutely no grasp of the movement of funds, which were recognized as being large compared to the financial soundness of the Company, and the management of business operations by the Company executives was dysfunctional.

- Date of recommendation
  July 8, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Rescission of registration
  Registration No. 96 (Kinsho) issued by the Director-General of the Kanto Local Finance Bureau to be rescinded.
  (ii) Order for business improvement
  (a) Quickly comprehend the situation of customers and the management of customer assets, formulate a plan for returning these assets to customers, and properly implement this plan.
  (b) Adequately explain to the customers (a) above and the details of these administrative disciplinary actions.
  (c) Do not misappropriate company assets.
  (d) Submit a written report by August 26, 2011, describing the actions taken and the implementation status regarding (a) to (c) above.

(2) Net assets and capital-to-risk ratio below the legal standards (Application of Article 52(1)(iii) and (vi), and Article 53(2) of the FIEA; violation of Article 46-6(1) and Article 50(1)(viii))

Billwell Securities Co., Ltd (hereinafter referred to as the "Company" in this section) claimed that, from April 12, 2011 (hereinafter referred to as the "recorded date"), it had recorded 40 million yen, which accounts for the majority of net assets, in the cash account, and that this was being kept as cash by the previous representative director (hereinafter referred to as the "previous President") from the recorded date until July 15, 2011, when a new representative director was appointed, and by the current representative director (hereinafter referred to as the "current President") from that date onward.

However: (a) Since the recorded date, the Company has not conducted an examination of the 40 million yen based on internal regulations; (b) The current President claims that the 40 million yen in cash was not handed over to him from the previous President at the time of his appointment; and (c) The 40 million yen in cash could not be confirmed during the inspection.

Based on such a situation, it was found that, since the time of the current President's appointment at the latest, the 40 million yen recorded in the Company's cash account had not been present at the Company.

Consequently, from a date no later than July 15, 2011, until the base date of inspection (September 16, 2011), the Company's net assets were of an amount less than the amount specified by Article 15-9(1) of the FIEA Enforcement Order based on Article 29-4(1)(v)(b) of the FIEA as being necessary and appropriate for public interest or investor protection (50 million yen; hereinafter referred to as the "legal net assets"), and the Company's capital-to-risk ratio was significantly less than 100%.

Nevertheless, the Company reported a false capital-to-risk ratio and false net assets, which had been calculated on the assumption that 40 million yen in cash existed as a Company asset, in the month-end notification prescribed in Article 46-6(1) of the FIEA and in the monitoring survey pursuant to Article 56-2(1). As a consequence, the Company did not make

notification as prescribed in Article 179(1)(i) of the Cabinet Office Ordinance on Financial Instruments Business, etc. based on Article 46-6(1) of the FIEA (cases where the capital-to-risk ratio has fallen below 140%) and in Article 199(xi)(a) of the Cabinet Office Ordinance based on Article 50(1)(viii) of the FIEA (cases where net assets are no longer 50 million yen or more).

- Date of recommendation
  October 18, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Rescission of registration
  Registration No. 200 (Kinsho) issued by the Director-General of the Kanto Local Finance Bureau to be rescinded.
  (ii) Order for business improvement
  (a) Promptly complete customer transactions, and return the security deposits, etc. deposited by customers without delay.
  (b) Do not misappropriate company assets.
  (c) Adequately explain to the customers about details of these administrative disciplinary actions.
  (d) Submit a written report by October 28, 2011, describing the actions taken and the implementation status regarding (a) to (c) above.

(3) An employee's act to conduct securities transactions by taking advantage of his/her professional position, etc. (Application of Article 117(1)(ii) and (xii) of the Cabinet Office Ordinance on Financial Instruments Business, etc., based on Article 38(vii) of the FIEA)

An employee of **Central Tanshi Securities Co., Ltd.** (hereinafter referred to as the "Company" in this section) —based on trade information acquired in the course of his/her duties (including trends in the orders of Company A, which was a client of the Company) regarding bonds issued by Company B (hereinafter referred to as "Company B bonds"; face value of 600 million yen) which the Company had bought from Company A on June 15, 2010—purchased Company B bonds (face value of 600 million yen) on the employee's own account on that date by taking advantage of his/her professional position and by using an account which had been opened at Securities Company C in the name of the employee's spouse.

In addition, during the process leading up to the purchase of Company B bonds on the employee's own account, on June 15, 2010, at the time of purchasing Company B bonds from Company A as part of the Company's business, the employee conveyed to Company A, being the counterparty to the transaction, ask quotes as if based on the trading intent of customers despite the fact that it was not actually based on that intent.

- Date of recommendation
  November 25, 2011

- Target of recommendation
  One sales representative

- Details of the disciplinary action against the sales representative
  Undecided

(4) Inappropriate actions related to Euro-Yen TIBOR, etc. (Application of Article 52(1)(ix) of the FIEA)

A yen rates trader in the Rates Department of the Fixed Income, Currencies and Commodities Division (at that time; hereinafter referred to as "Trader A") at **UBS Securities Japan Ltd.** (hereinafter referred to as the "Company" in this section) had—for the purpose of making Euro-Yen TIBOR (hereinafter referred to as "TIBOR") fluctuate so as to give advantages to the derivative transactions related to yen rates which Trader A was conducting—continuously made approaches, from no later than around March 2007, to the person in charge of submitting TIBOR rates at the Tokyo Branch of UBS AG (hereinafter referred to as the "Submitting Personnel"), and from no later than around February 2007, to persons in charge of submitting TIBOR rates at other banks (hereinafter, combined with the Submitting Personnel, collectively referred to as "Submitting Personnel, etc."), such as requesting that they change their rates.

Considering that the three-month TIBOR is the underlying asset of Three-month Euro-Yen Futures listed on Tokyo Financial Exchange Inc., that Trader A had conducted transactions of Three-month Euro-Yen Futures on Tokyo Financial Exchange Inc., and that TIBOR is a significantly important financial index as a basic interest rate when banks raise or lend money, the actions conducted by Trader A are acknowledged to be seriously unjust and malicious, and could undermine the fairness of the markets. Therefore, the aforementioned actions of Trader A are acknowledged to have a serious problem from the viewpoints of public interest and investor protection.

Furthermore, from no later than around June 2007, Trader A had also continuously made inappropriate approaches regarding the Yen-LIBOR rates submitted by the UBS group, such as requesting that the rates be changed.

The Company's internal control system was also acknowledged to have serious deficiencies, since these approaches had been overlooked for a long period, the actions had been ignored, and no appropriate measures had been taken.

- Date of recommendation
  December 9, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Order for suspension of business
  Suspension of TIBOR and LIBOR-related derivative transactions (excluding transactions resulting from the fulfillment of past contracts, etc.) for the period from January 10 to January 16, 2012.

(ii) Order for business improvement

(a) Clarify the responsibility for this case.

(b) Thorough legal compliance of officers and employees

(c) Develop fundamental preventive measures against recurrence, including improvement and enhancement of the business management and operations management systems

(d) Submit a written report by January 16, 2012, describing the implementation status regarding (a) to (c) above, and by March 30, 2012, and once every three months after that, and whenever necessary, describing the subsequent progress regarding (b) and (c).

(5) Inadequate response to an order for a report to be filed (Application of Article 52(1)(vi) of the FIEA)

In response to an order by the FSA pursuant to Article 56-2(1) of the FIEA, **Citigroup Global Markets Japan Inc.** (hereinafter referred to as the "Company" in this section and the following two sections) submitted a report to the FSA regarding the involvement of its officers and employees in TIBOR and Yen-LIBOR.

The SESC, through its inspection, verified the accuracy and sufficiency of the content of the report, and revealed that the report lacked a description of important matters regarding inappropriate approaches made with respect to submitted rates and contained untruthful statements, that the conclusion of the report was derived from these untruthful statements, and therefore the contents of the report were inappropriate.

(6) Inappropriate actions related to Euro-Yen TIBOR, etc. (Application of Article 52(1)(ix) of the FIEA)

The Head of G10 Rates in the Company (at that time; hereinafter referred to as "Director A" in this section and the following section) had continuously made approaches, from no later than around April 2010, to the person in charge of submitting TIBOR rates at Citibank Japan Ltd. (hereinafter referred to as the "Submitting Personnel"), and a Japanese Yen rates trader at G10 Rates (hereinafter referred to as "Trader B") had continuously made approaches, from December 2009 when Trader B joined the Company, to persons in charge of submitting TIBOR rates at other banks (or securities firms belonging to their financial conglomerates; hereinafter, combined with the Submitting Personnel, collectively referred to as "Submitting Personnel, etc.")—for the purpose of making TIBOR fluctuate so as to give advantages to the derivative transactions related to yen rates which Director A and Trader B were conducting—such as requesting that the Submitting Personnel, etc. change their rates.

The actions conducted by Director A and Trader B are acknowledged to be seriously unjust and malicious, and could undermine the fairness of the markets, considering that the three-month TIBOR is the underlying asset of Three-month Euro-Yen Futures listed on Tokyo Financial Exchange Inc., Director A and Trader B had conducted transactions of Three-month Euro-Yen Futures on Tokyo Financial Exchange Inc., and TIBOR is a significantly important financial index as a basic interest rate when banks raise or lend money. Therefore, the aforementioned actions of Director A and Trader B are acknowledged to have a serious problem from the viewpoints of public interest and investor protection.

Furthermore, from December 2009, Trader B had also continuously made inappropriate approaches regarding the Yen-LIBOR rates submitted by the Citibank group, such as

requesting that the rates be changed.

In spite of being aware of these actions, the President and Chief Executive Officer of the Company, who was also responsible for the G10 Rates, overlooked them and the Company did not take appropriate measures. Therefore, the Company's internal control system was acknowledged to have a serious problem.

(7) Sales by senior executives not registered as a sales representative (Violation of Article 64(2) of the FIEA)

Director A had conducted market transactions of derivatives since November 12, 2009.

However, up until June 16, 2010, the Company had not registered Director A as a Class-1 Sales Representative with the Japan Securities Dealers Association (JSDA), which is necessary in order to conduct market transactions of derivatives.

Furthermore, even after becoming aware that Director A was conducting sales activities without necessary registration, the President and Chief Executive Officer of the Company had not taken appropriate measures, such as directing the Compliance Division and other related sections to address this issue. Therefore, the Company's internal control system was acknowledged to have a serious problem.

(For items (5) to (7))

- Date of recommendation
  December 9, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Order for suspension of business
  Suspension of TIBOR and LIBOR-related derivative transactions (excluding transactions resulting from the fulfillment of past contracts, etc.) for the period from January 10 to January 23, 2012.
  (ii) Order for business improvement
  (a) Clarify the managerial responsibility for the above violations
  (b) Thorough legal compliance of officers and employees
  (c) Develop fundamental preventive measures against recurrence, including the fundamental improvement and enhancement of the business management and operations management systems
  (d) Submit a written report by January 16, 2012, describing the implementation status regarding (a) to (c) above, and by March 30, 2012, and once every three months after that, and whenever necessary, describing the subsequent progress regarding (b) and (c).

(8) Failure to explain important matters related to switching investment trusts to customers (application of Article 123(1)(ix) of the Cabinet Office Ordinance on Financial Instruments Business, etc., based on Article 40(ii) of the FIEA)

At **Phillip Securities Japan, Ltd.**, the Security Sales Headquarters, the Compliance Division, the managers of each branch, and the persons responsible for internal control at

each branch had not provided salespersons with appropriate guidance. In addition, the internal audits by its Compliance Division were not functioning effectively. Thereby it was found that salespersons had either not provided customers with explanations or had provided them with explanations that differed from the actual facts by using written confirmations that did not state or that misstated a rough estimate of profit or loss for the investment trust being cancelled and the fees and charges for the investment trust being acquired in 184 of the 234 cases between April 1, 2009, and the base date of inspection (August 30, 2011) where customers were encouraged to switch investment trusts. Of these, in 181 cases, the rough estimate of profit or loss had been either misstated or not stated, and a considerable number of examples were found where the monetary difference reached large amounts, or where profits and losses had been reversed.

- Date of recommendation
  February 17, 2012

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  Order for business improvement
  (i) Provide correct explanations to any customers who have not received explanations on important matters regarding switching investment trusts, and confirm the intentions of customers before taking appropriate action.
  (ii) Explain to all customers the details of these disciplinary actions.
  (iii) With regard to securities other than those which were related to these disciplinary actions, verify whether there are any similar problems, and respond appropriately.
  (iv) Clarify the responsibility and build a business management system and internal control system from the perspective of ensuring appropriate business operations.
  (v) Implement measures for raising the awareness of officers and employees for legal compliance, such as by providing training.
  (vi) Submit a written report by March 23, 2012, describing the actions taken and the implementation status regarding (i) to (v) above.

(9) Purchase of listed shares and other acts for the purpose of fluctuating the market prices of those shares (Application of Article 117(1)(xix) of the Cabinet Office Ordinance on Financial Instruments Business, etc., based on Article 38(vii) of the FIEA)

One dealer in the Products Division of **Sanko Securities Co., Ltd.**, made purchases or made applications to purchase in the course of the dealer's business with the aim of fluctuating the market prices of multiple listed stocks related to the dealer's proprietary trading during a period from no later than April 1 to April 30, 2011. In order to steer those transactions in an advantageous direction, the dealer used ways such as inducing orders from other market participants.

- Date of recommendation
  February 24, 2012

- Target of recommendation
  The Company and one sales representative

- Details of administrative disciplinary actions
  (i) Order for suspension of business
  Suspend the business of buying and selling share certificates on its own account (excluding those transactions individually approved by the authorities) for the period from March 27 to April 9, 2012.
  (ii) Order for business improvement
  (a) Fundamentally review the transaction surveillance system to ensure fairness in trading, and take preventive measures against recurrence to eliminate violations of laws and regulations.
  (b) Implement measures for the improvement and enhancement of the audit system.
  (c) Implement measures for making all officers and employees thoroughly aware of legal compliance, such as by providing training.
  (d) Clarify the responsibility of senior management and the persons in charge of trading management and proprietary trading in relation to this case.
  (e) Submit a written report by April 20, 2012, describing the actions taken and the implementation status regarding (a) to (d) above.

(10) Fraudulent diversion of trusts for the separate management of customer funds
(Violation of Article 43-2(2) of the FIEA; application of Article 52(1)(vii))

Since January 2011, **Marudai Securities Co., Ltd.** (hereinafter referred to as the "Company" in this section) understated the equivalent amount to be returned to customers in the event the Company no longer conducting a financial instruments business (hereinafter referred to as "trust requirement") by fraudulently under-recording deposits received from customers, and appropriated the difference between the amount recorded and the amount that should have been entrusted as trusts for the separate management of customer funds as the Company's working capital.

As a consequence, as of the base date of inspection (February 21, 2012), the trust property in the Company's trusts for the separate management of customer funds was an amount far less than the trust requirement.

Furthermore, during the inspection, even though the situation described above had already been exposed, the Company had still not resolved the considerable shortage in cash to be segregated as deposits for customers as of the next base date for recalculating trust property (March 6, 2012).

Moreover, even though, in the course of the inspection, it had become aware of the need to raise funds, the Company claimed that, as of March 6, 2012, it was unable to immediately make up for the shortage given it was unsure of its cash flow.

- Date of recommendation
  March 13, 2012

- Target of recommendation
  The Company
- Details of administrative disciplinary actions
  (i) Rescission of registration
  Registration No. 168 (Kinsho) issued by the Director-General of the Kanto Local Finance Bureau to be rescinded.

  (ii) Order for business improvement
  (a) Until the customers assets are completely returned, cooperate with the Japan Investor Protection Fund (JIPF) in all aspects, and follow the instructions of the JIPF.
  (b) Do not improperly misappropriate company assets.
  (c) Adequately explain to the customers the details of these administrative disciplinary actions, and return customer assets appropriately.
  (d) Submit a written report by March 27, 2012, describing the actions taken and the implementation status regarding (a) to (c) above.

(11) Selling beneficiary certificates of foreign investment trusts and providing the net asset values, etc. thereof, while recognizing that the net asset values, etc. are or are likely to be false (Application of Article 38(i) of the FIEA and Article 4(i) of the Cabinet Office Ordinance on Regulation of Acts of Securities Companies based on Article 42(1)(x) of the former Securities and Exchange Act)

It was recognized that, with regard to the beneficiary certificates of foreign investment trusts sold by **ITM Securities Co., Ltd.** (hereinafter referred to as the "Company" in this section), the Company—while recognizing that the net asset values, etc. provided by the management company of the foreign investment trusts and by the investment management business operator which substantially controlled the Company were, or were likely to be, false and incongruous with actual conditions—had sold the beneficiary certificates from no later than around September 2003, without carrying out any effective verification, and had provided false net asset values and reported investment income, etc. based thereon to its customers.

- Date of recommendation
  March 22, 2012

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Order for suspension of business
  Suspend all business related to the financial instruments business at all branches (excluding that business individually approved by the authorities) for the period from March 23 to September 22, 2012.
  (ii) Order for business improvement
  (a) Adequately explain to the customers the details of these administrative disciplinary actions, and take appropriate measures in line with the customer's intentions.

(b) Considering that the Company is in a position of responsibility—selling investment trusts to customers who have concluded discretionary investment contracts with AIJ Investment Advisors Co., Ltd. and receiving deposits of beneficiary certificates and other property from the customers (hereinafter referred to as "the deposited property")—in line with the intentions of customers, provide swift and appropriate cooperation that is needed for management and preservation measures for the deposited property.

(c) Promptly and appropriately disclose and provide customers with information needed for taking the management and preservation measures in (b).

(d) While being mindful of fairness among customers, take management and preservation measures that are necessary and appropriate so that the deposited property can be properly returned to customers.

(e) In addition to the deposited property, thoroughly manage and preserve any other property, such as securities, which has been deposited by customers.

(f) Do not improperly misappropriate company assets.

(g) Take any other actions that are necessary and appropriate for customer property and customer protection.

(h) Submit a written report by April 6, 2012, describing the actions taken regarding (a) to (e) above, and make a written report describing the implementation status as needed until they are all complete.

2. Recommendations Based on the Results of Inspections of Type II Financial Instruments Business Operators

(1) Promising provision of special profits to customers with respect to the handling of private placements of equities in a collective investment scheme (Application of Article 117(1)(iii) of the Cabinet Office Ordinance on Financial Instruments Business, etc. based on Article 38(vii) of the FIEA)

With respect to the handling of private placements of equities in a collective investment scheme (hereinafter referred to as the "the Fund"), it was found that **Wesco Japan, Inc.** (hereinafter referred to as the "Company" in this section) was, from no later than October 2010, soliciting customers either by itself or under the name of a third party to purchase the Fund, promising to provide special profits which are considered greater than ordinary services, such as, "If you invest in the Fund handled by us, you can buy unlisted stocks we hold," or, "If you invest in the Fund handled by us, we'll buy it back at a later date for ten times the price."

- Date of recommendation
  April 12, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Order for suspension of business
  Suspend all services of financial instruments business (excluding processes for

completing customer transactions) for the period from April 19 to July 18, 2011.

(ii) Order for business improvement

(a) Immediately correct the situation in which the Company is soliciting for the Fund in its own name or under the name of a third party, promising the provision of special profits.

(b) Investigate the causes for (a) above, and formulate fundamental preventive measures against recurrence.

(c) Adequately explain to the customers details of these administrative disciplinary actions, and take appropriate measures in line with the customers' intentions.

(d) Clarify the responsibility for these actions.

(e) Build a business management system, an internal control system and a legal compliance system for conducting financial instruments business appropriately.

(f) Get an accurate understanding of the financial conditions of the company assets (assets and liabilities, profit and loss, cash flow), and take all possible measures for investor protection.

(g) As a result of (c) above, in cases where an amount of money is to be repaid to a customer, make a report on financial conditions by means of updated financial statements.

(h) Submit the status on responses for (a) to (g) above in writing by May 18, 2011. Furthermore, until their implementation status is complete, report in writing as necessary according to the state of customer measures.

(2) Involvement of Sowa Jisho Co., Ltd. in extremely inappropriate actions being conducted in an office at the company (Application of Article 51 of the FIEA)

From February 1, 2011, **Sowa Jisho Co., Ltd.** (hereinafter referred to as the "Company" in this section and the following two sections), at the request of a person (hereinafter referred to as "Mr. A") who had been introduced by an acquaintance of a former representative director of the Company (hereinafter referred to as the "former President"), gave approval for the use of the Company's offices and office equipment to several people brought by Mr. A (hereinafter referred to as "the Sales Group"), and had conducted work such as the payment confirmation of cash transferred as payment pertaining to sales of the Company's shares, which was being performed by the Sales Group, by individual investors (hereinafter referred to as the "customers") who had purchased shares of the Company.

Following is a detailed description of the work that the Company was conducting for Mr. A and the Sales Group:

(i) Payment confirmation

With regard to the bank account in the Company's name (hereinafter referred to as the "Company account") which was being used as the payee account pertaining to the sales of the Company's shares by the Sales Group, former employees of the Company (hereinafter referred to as the "former employees") made entries in the deposit passbook to confirm the cash that had been paid by customers, and then reported the amounts paid and the names of the customers to the Sales Group.

(ii) Shareholder registry transfers

The former employees prepared Certificates of Matters Recorded in the Shareholder

Registry to be issued to customers whose payments had been confirmed, and once these had been signed and sealed by the former President, handed them over to the Sales Group. In addition, they also recorded transfers in the shareholder registry which had been prepared and managed in-house.

(iii) Delivery of payments

On the same day as any cash payments were received from customers into the Company account, the former employees would withdraw the cash in full, and after keeping it in bundles of envelopes at the Company, handed them to Mr. A as frequently as once a week.

(iv) Answering phone calls, handling complaints and processing refunds, etc.

The former employees answered phone calls made by customers for the Sales Group, and transferred them to the person in charge of the Sales Group via an internal phone system.

Furthermore, in cases where a request had been received from a customer for the refund of the purchase amount of the Company's shares, in accordance with the instructions from the Sales Group or the former President, the former employees would prepare a document of settlement or agreement or a contract note with the former President as purchaser, and process the refund based on this. It should be noted that requests for refunds received from customers were fulfilled by receiving funds from Mr. A.

From no later than April 2011, large numbers of notices of content certification and written complaints began to be received from customers addressed to the Company. Even after this and up until January 18, 2012 (hereinafter referred to as "base date of inspection") ,when the Company confirmed the complaints and was fully aware that some kind of extremely inappropriate actions were being conducted by Mr. A and the Sales Group, such as processing the refunds to complaining customers by way of funds provided by Mr. A, the Company had conducted payment confirmation work, etc. based on the request of Mr. A and others, and had allowed the Sales Group to use the Company's offices and office equipment. Therefore the business administration at the Company, which had been involved in extremely inappropriate actions being conducted at the Company office, could be recognized as being extremely inappropriate.

(3) Insufficient personnel structure to conduct type II financial instruments business

(Application of Article 52(1)(i) of the FIEA)

(i) Absence of full-time executives

Since the resignation of the former President in August 2011, none of the officers of the Company, including the representative director, have been present at work or involved at all in the business operations of the Company.

(ii) Insufficient employee assignment

It was recognized that there was only one employee at the company as of the base date of inspection, and this person was engaged full-time in nothing more than real estate brokerage.

As described above, it can be recognized that, as of the base date of inspection, the Company was not staffed with officers and employees having knowledge of and experience with the FIEA and other relevant regulations, and had not built a system for the business execution of a company engaged in financial instruments business.

(4) Failure of submitting notifications for change of registered matters, etc. (Violation of Article 31(1) and Article 50(1) of the FIEA)

As described below, the Company had not made any statutory notifications to the Director-General of the Kanto Local Finance Bureau since May 2010, which made it difficult for the supervisory authorities to monitor the actual conditions of the Company as well as placed the Company in an extremely inappropriate situation as a registered business operator.

(i) Changes in the amount of stated capital

While the Company had changed its amount of stated capital several times between July 9, 2010, and February 16, 2011, it had not made any notifications as stipulated in Article 31(1) of the FIEA.

(ii) Changes in officers

While a total of ten changes were made to officers at the Company between May 28, 2010, and September 15, 2011, including two replacements of the representative director, it had not made any notification as stipulated in Article 31(1) of the FIEA.

(iii) Changes in the articles of incorporation

While the company made a change to its articles of incorporation in respect to the total number of authorized shares on February 15, 2011, it had not made a notification as stipulated in Article 50(1) of the FIEA.

(For items (2) to (4))

- Date of recommendation
  March 9, 2012

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Rescission of registration
  Registration No. 1352 (Kinsho) issued by the Director-General of the Kanto Local Finance Bureau to be rescinded.
  (ii) Order for business improvement
  (a) Provide an explanation on the facts of the administrative disciplinary actions and the grounds for the disciplinary action to all the investors who acquired shares of the Company through the series of actions in this case, and take appropriate action in line with their intentions.
  (b) Submit written reports as needed until implementation is complete.

3. Recommendations Based on the Results of Inspections of Investment Management Business Operators, etc.

(1) Insufficient amount of net assets—less than the amount specified by Cabinet Order for a financial instruments business operator engaged in investment management business (50 million yen) (Application of Article 52(1)(iii) of the FIEA)

(i) Net assets less than 50 million yen

The majority of the assets of **PBA Asset Management Co., Ltd.** (hereinafter referred to as

the "Company" in this section) were composed of loans to Company A, the following facts were recognized in verifying the details of those loans.

In June 2005, the Company concluded a quasi-loan agreement (principal: 180 million yen; term of repayment: June 30, 2010; joint surety: Mr. B, who was the representative director of Company A at the time; hereinafter referred to as "the agreement") with Company A, but during the period up until the base date of inspection (April 15, 2011), which was after the term of repayment, none of the principal or interest pertaining to the agreement had been repaid.

With regard to the conditions of Company A, the problems pertaining to the agreement had been pointed out by company auditors, etc. at the Company's shareholders meeting and board of directors meeting around the autumn of 2009. However, the senior management of the Company had learned indirectly that Company A was already in a dormant state, and also they had been briefed by Employee C that there was little possibility of being repaid the loans, and that if they became nonperforming loans then the Company's net assets would fall below 50 million yen, which is the minimum value of net assets prescribed in Article 15-9 of the FIEA Enforcement Order based on Article 29-4(1)(v)(b) of the FIEA (hereinafter referred to as "minimum net assets"). The senior management, therefore, neither confirmed the capacity of Company A to repay the loan, nor encouraged repayment.

During the term of the inspection, the Company met with Mr. B, and confirmed that Company A was carrying massive debts and that, without even an office, it was in a dormant state. It also confirmed that Mr. B had massive debts and that, without any regular income or assets in his name, Mr. B would find it difficult to offer security for the agreement or to make part repayments.

As described above, given that recovery of the principal and interest pertaining to the agreement would be extremely difficult, the principal and interest based on the agreement have been deducted from the Company's assets, and on calculation, as of March 31, 2011, the Company's net assets had fallen below the minimum net assets.

(ii) Insufficient business management systems, etc.

Although the Company's net assets have fallen below the minimum net assets prescribed in the FIEA, the following facts were recognized with regard to the Company's actions.

The president of the Company had not held a full-time position since about October 2008, and similar to the other part-time officers, at the time only attended meetings of the board of directors which were held once every two months. Furthermore, the part-time director who also served as the head of compliance was not conducting any substantial compliance operations.

Under such circumstances, although two employees were conducting effective business operations at the Company, extremely inappropriate actions were recognized as described below:

(a) At a meeting of the board of directors in October 2010, the Company decided to send a written demand via contents-certified mail to Company A and Mr. B. However, in order to prevent the Company's net assets falling below the minimum net assets, Employee C, at his/her own discretion and without reporting to senior management, did not send the written demand.

(b) In December 2010, Employee C made a report at the board of directors meeting to deal with the agreement by extending the term of the agreement, but following this, it was not placed on the official agenda.

(c) In January 2011, Employee C, without consulting with senior management in advance, made a deliberately false report to the FSA (the supervisory authority) that "the term of repayment is December 30, 2011," and attempted to falsify the term of repayment in the

agreement. This was because Employee C considered that the Company's registration as a financial instruments business would be rescinded inevitably if its net assets fell below the minimum net assets, and tried to avoid it.

In this way, given that the Company has not actively comprehended or improved a situation in which rescission of registration as a financial instruments business could apply, and also given that it has not managed the inappropriate actions of its employee, it can be recognized that there are serious deficiencies in the Company's business management system and legal compliance system.

- Date of recommendation
  July 5, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Rescission of registration
  Registration No. 455 (Kinsho) issued by the Director-General of the Kanto Local Finance Bureau to be rescinded.
  (ii) Order for business improvement
  (a) Thoroughly publicize to customers the rescission of registration, the details of this order and the grounds of the disciplinary action in a prompt and proper manner, and post the relevant matters on the Company's website.
  (b) Promptly complete all operations pertaining to the financial instruments business, such as terminating the asset management contract.
  (c) Take all possible measures for the protection of managed assets and customers.
  (d) Do not act to improperly misappropriate company assets.
  (e) Take any other actions that are necessary for managed assets and customer protection.
  (f) Submit a written report by July 22, 2011, describing the actions taken regarding (a) to (e) above, and make reports as needed in accordance with requests from the authorities.

(2) Disclosure of false information when soliciting for conclusion of a discretionary investment contract (Application of Article 38(i) of the FIEA)

(i) Whereas **AIJ Investment Advisors Co., Ltd.** (hereinafter referred to as the "Company" in this section and the following three sections) has instructed its customers, such as pension funds, with which it has concluded discretionary investment contracts (such customers are hereinafter referred to as the "Customers") to purchase the AIM Global Fund (hereinafter referred to as the "AIM Fund"), which is a foreign investment trust managed by the Company as assets to be invested in under said discretionary investment contracts, the Company was acknowledged to have calculated and reported to the Customers false net asset values of the sub-funds of the AIM Fund (hereinafter referred to as the "False NAV").

(ii) When calculating the False NAV, the President of the Company calculated specific figures based on his market outlook as the False NAV.

(iii) The False NAV calculated by the President of the Company was reported to ITM Securities Co., Ltd. (hereinafter referred to as "ITM"), which is the securities firm selling the units of the AIM Fund, by a director of the Company who was also a director of the administrator of the AIM Fund

(iv) With regard to solicitation of conclusion of discretionary investment contracts, the Company was acknowledged to have solicited 66 customers (pension funds) to conclude a discretionary investment contract, by distributing leaflets containing the False NAV and investment status based on the False NAV in conjunction with ITM from no later than October 2007.

(3) Delivering investment reports with false contents to the Customers (Violation of Article 42-7(1) of the FIEA)

With regard to the matters to be described in investment reports under Article 42-7(1) of the FIEA and Article 134(1)(ii)(b) of the Cabinet Office Ordinance on Financial Instruments Business, etc., the Company was acknowledged to have described the securities values by using the False NAV, and to have delivered those reports to the Customers.

(4) Preparing a business report with false contents, and filing it with the Director-General of the Kanto Local Finance Bureau (Violation of Article 47-2 of the FIEA)

(i) In its business report for the 22nd period (the business year starting from January 1, 2010, and ending on December 31, 2010), the Company stated 183,210 million yen (total amount of domestic assets under management) and 206,997 million yen (total amount of overseas assets under management) as the total amount of its assets under management as of December 31, 2010, and the Company filed the report with the Director-General of the Kanto Local Finance Bureau.

(ii) However, since these figures were false figures that were not based on the net asset values, etc. of the sub-funds calculated by the agent of the trustee bank of the AIM Fund, the SESC recognizes that the Company described false information in the business report.

(5) Violation of the duty of loyalty (Violation of Article 42(1) of the FIEA)

(i) In connection with the investment of the assets of the pension funds, etc. that are its Customers, the Company, knowing that the value of the AIM Fund has been considerably impaired, has given instructions to purchase the AIM Fund at the False NAV that the Company has forged.

(ii) Also, the Company has caused improper outflows of the assets of the AIM Fund, such as having investment partnerships in which the AIM Fund invests (which are in effect controlled by the President of the Company) purchase at the False NAV the beneficiary certificates of foreign investment trusts pertaining to a cancellation request.

(iii) In this manner, the SESC recognizes that the Company has not engaged in business with loyalty to the rightful Customers as an investment management business operator.

(For items (2) to (5))

- Date of recommendation
  March 22, 2012

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Cancellation of registration
  Registration No. 429 (Kinsho) issued by the Director-General of the Kanto Local Finance Bureau to be rescinded.
  (ii) Order for business improvement
  (a)Provide customers with a full explanation, including the details of these administrative disciplinary actions, and take appropriate action according to customer requests.
  (b) In line with the intentions of customers, provide prompt and appropriate cooperation that is needed for management and preservation measures for all of the investment property that is managed by the Company based on discretionary investment contracts concluded with customers (hereinafter referred to as "the investment property").
  (c) Promptly and appropriately disclose and provide customers with information needed for taking the management and preservation measures in (b).
  (d) While taking into consideration fairness among customers, take management and preservation measures for the investment property which are necessary and appropriate.
  (e) Do not misappropriate company assets.
  (f) Take any other actions that are necessary and appropriate for the investment property and customer protection.
  (g) Submit a written report by April 6, 2012, describing the actions taken regarding the above, and make a written report describing the implementation status regarding (a) to (f) above, as needed until they are all complete.

Note: On February 17, 2012, during the on-site inspection of AIJ Investment Advisors Co., Ltd., the SESC communicated to the FSA that uncertainty had arisen as to the status of the management of customer assets being conducted based on discretionary investment contracts at the Company.

In response to this, on the same date (February 17, 2012), the FSA issued the Company with an order for the submission of reports, and as a result of requesting the report, on February 24, 2012, the FSA issued the Company with an order for a one-month suspension of business as well as orders for business improvement, including "to cooperate with the inspection; to quickly comprehend the status of the management of property; to provide the Customers with explanations and to fully address their inquiries, etc.; to not improperly misappropriate company assets; and to take all possible measures such as the thorough management of investment property."

4. Recommendations Based on the Results of Inspections of Investment Advisory and Agency Business Operators

(1) Unregistered handling of offerings of foreign investment securities (Violation of Article 29 of the FIEA, Article 28 of the former Securities and Exchange Act)

From June 2005 until the base date of inspection (April 11, 2011), **Tahara Securities Co., Ltd.** (hereinafter referred to as the "Company" in this section) engaged in the handling of public offerings or private placements of foreign investment securities (hereinafter referred to as the "handling of offerings") for a large number of customers, including customers who had not concluded an investment advisory contract with the Company (hereinafter referred to as "investment advisory customers"). It was found that, as a result of this, no less than 12 investment advisory customers had made as many as a total of 21 acquisitions.

- Date of recommendation
  September 30, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Order for suspension of business
  Suspend all services of financial instruments business for the period from October 11, 2011, to January 10, 2012 (excluding, however, operations for the cancellation of investment advisory contracts with customers).
  (ii) Order for business improvement
  (a) Quickly comprehend and report on the handling of all funds in which the Company was involved (attributes of customers, product names, investment amounts, and current fair values, etc.).
  (b) Take all possible measures to protect investors, for example, explaining about this case and responding to customers in an appropriate manner.
  (c) Cease unregistered financial instruments business immediately, and take appropriate actions to prevent recurrence.
  (d) Develop the business management system, operations management system and legal compliance system to conduct financial instruments business (investment advisory business) appropriately.
  (e) Clarify the responsibility for these actions
  (f) Submit a written report within one month describing the specific improvement measures regarding (a) to (e) above.

(2) Avoidance of inspection (Application of Article 198-6(xi) of the FIEA)

At about 9:00 AM on October 19, 2011, inspectors at the Kanto Local Finance Bureau visited **KBC Co., Ltd.** (hereinafter referred to as the "Company" in this section and the following section) for the purpose of conducting an inspection. On explaining the inspection to Representative Director B of the Company (hereinafter referred to as "the President"), the President refused entry into the offices where the business duties of the Company are executed (hereinafter referred to as simply the "Office"), stating that he could not allow entry

into the Office until the consent of all personnel, including those who were currently out of the office, could be obtained. More than once again on that day, the inspectors asked the President for entry into the Office, but the President continued to refuse entry.

In this way, on the first day of visits, the Company denied entry to the Office without good reason, and moreover, refused the inspection.

Inspections did commence on the following day, and the inspectors asked the President for all employees to come to the Office for interviews in order to monitor the actual conditions surrounding the solicitation for investment advisory contracts. However, the employees did not come to the Office, and the President claimed not to maintain the contact details of personnel, so the inspectors were unable to interview employees.

(3) Using fraudulent means for the conclusion of investment advisory contracts, etc.

(Application of Article 38-2(i), Article 47, Article 37-3(1) and Article 37-4(1) of the FIEA)

(i) Using fraudulent means for the conclusion of investment advisory contracts

From about November 2010, employees of the Company were offering customers investment schemes called "foreign currency investment," "investment in foreign companies" and others, and in addition to being made to remit money overseas, customers were also being made to go through procedures for the conclusion of investment advisory contracts. During the solicitation, employees of the Company would: (a) with regard to the above investment schemes, solicit customers for investments which strongly emphasized such benefits, saying, "Would you like to give it a go? It's a definite earner," and "If you invest now, you can buy the dollar cheap, and with a half-year contract, it'll definitely go up." For customers that decided to accept, the Company would give the unfounded explanation that they needed to conclude an investment advisory contract as a condition for making the investment, or would (b) give customers the false explanation that they needed to pay 100,000 yen to the Company to cover commissions and referral fees, etc. for the investment, before making them go through procedures for the conclusion of an investment advisory contract and making them pay a remuneration of 100,000 yen.

(ii) Failure to keep documents provided before execution of contract, etc.

The Company has not kept any copies of documents provided before execution of contract or of documents provided at the time of contract.

Furthermore, the company had not provided some customers with either of these documents.

(For (2) and (3) above)

- Date of recommendation
  December 20, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions
  (i) Rescission of registration
  Registration No. 2263 (Kinsho) issued by the Director-General of the Kanto Local Finance Bureau to be rescinded.

(ii) Order for business improvement

(a) Quickly comprehend and report on the handling of all overseas investments in which the Company was involved (attributes of customers, investment details, investment amounts, and current fair values, etc.).

(b) Adequately explain to the customers about the details of these administrative disciplinary actions, and take appropriate measures in line with the customers' intentions.

(c) Submit (a) and (b) above within one month, in writing, to the Director-General of the Kanto Local Finance Bureau via the Tokyo Local Finance Office.

5. Recommendations Based on the Results of Inspections of QII Business Operators

Unregistered business operations related to private placements and management of equities in collective investment schemes (Violation of Article 29 of the FIEA)

Future Stock Co., Ltd. (hereinafter referred to as the "Company" in this section) filed a notification of business specially permitted for qualified institutional investors (hereinafter referred to as "specially permitted business") with the Director-General of the Kinki Local Finance Bureau in March 2008. As a specially permitted business, and with itself as an unlimited liability partner, the Company privately offered (hereinafter referred to as "Self-Offering") and managed (hereinafter referred to as "Self-Investment") equities of Investment Limited Liability Partnership A, and also conducted a Self-Offering for Investment Limited Liability Partnership B, but there were no contributions from qualified institutional investors for these funds.

Consequently, it can be recognized that the Self-Offering and Self-Investment business conducted by the Company were being conducted without satisfying the requirements for specially permitted business.

- Date of recommendation
  June 21, 2011

- Target of recommendation
  The Company

- Details of administrative disciplinary actions

(i) Order for suspension of business

Suspend all services of financial instruments business for the period from June 28 to September 27, 2011 (excluding, however, operations for the cancellation of investment advisory contracts with customers).

(ii) Order for business improvement

(a) Cease unregistered financial instruments business immediately.

(b) Get an accurate understanding of the handling of all funds in which the Company was involved (attributes of customers, fund names, investment amounts, and current fair values, etc.).

(c) Take all possible measures to protect investors, for example, explaining about this case and responding to customers in an appropriate manner.

(d) Develop the operations management system and legal compliance system to conduct financial instruments business appropriately.

(e) Submit a written report by July 27, 2011, describing the specific improvement measures regarding (a) to (d) above.

6) Petitions for Court Injunctions against Unregistered Business Operators.

With regard to unregistered business operators involved in fraudulent businesses, the FSA and the SESC have taken actions such as provision of information to police agencies, etc., issuance of warning letters to unregistered business operators, and announcement of names of such business operators, followed by actions of investigating authorities, because of the difficulty of applying the FSA / SESC's usual administrative actions such as supervision and inspection against them, unlike business operators that have registered under the FIEA.

However, as damage to investors in recent years due to illegal sales of unlisted stocks is expanding and fund equities by unregistered business operators have been recognized as a social problem, the FSA and SESC have been expected to make use of petitions to the court for injunctions against unregistered business operators under Article 192 of the FIEA (hereinafter referred to as "Article 192 petition" in this section) and investigations therefor under Article 187 of the FIEA (hereinafter referred to as "Article 187 investigation" in this section).

Upon the filing of a petition from the SESC, when a court finds that there is an urgent necessity and that it is appropriate and necessary for the public interest and investor protection, the court may enjoin a person who has conducted or will conduct an act in violation of the FIEA, from the acts stated above. (See the figure below)

Articles similar to Articles 192 and 187 of the FIEA have existed from the time when the Securities and Exchange Act was enacted in 1948, referring to U.S. securities legislation, but they had not been utilized for a substantial amount of time. An amendment of the FIEA in 2008, however, delegated the authority for the Article 192 Petition and the Article 187 Investigation to the SESC, which is routinely monitoring illegal financial activities through market surveillance and inspections. In addition, an amendment of the FIEA in 2010 introduced severe fines of up to 300 million yen against corporations that violate a court injunction, in order to ensure the effectiveness of the injunction. From the viewpoint of prompt and flexible responses, the SESC has also become able to delegate the authority for the Article 192 Petition and the Article 187 Investigation to the Director-General of a Local Finance Bureau, etc.

Furthermore, an amendment of the FIEA in FY2011 has expanded regulations concerning unregistered business operators as follows:

- Nullification, in principle, of a sales and purchase contract, etc. in cases where an unregistered business operator has made a sale or other type of transfer of unlisted securities;
- Prohibition of acts for solicitation and advertisement by unregistered business operators (imprisonment with work for not more than one year, a fine of not more than one million yen);
- Increased penal provisions for unregistered business operators
  Before revision: Imprisonment with work for not more than three years, a fine of not more than three million yen
  After revision: imprisonment with work for not more than five years, a fine of not more than five million yen;
- Penal provisions against corporations conducting business without registration or without license made heavier than provisions for persons
  ⇒ For a corporation conducting financial instruments business without registration: a fine of

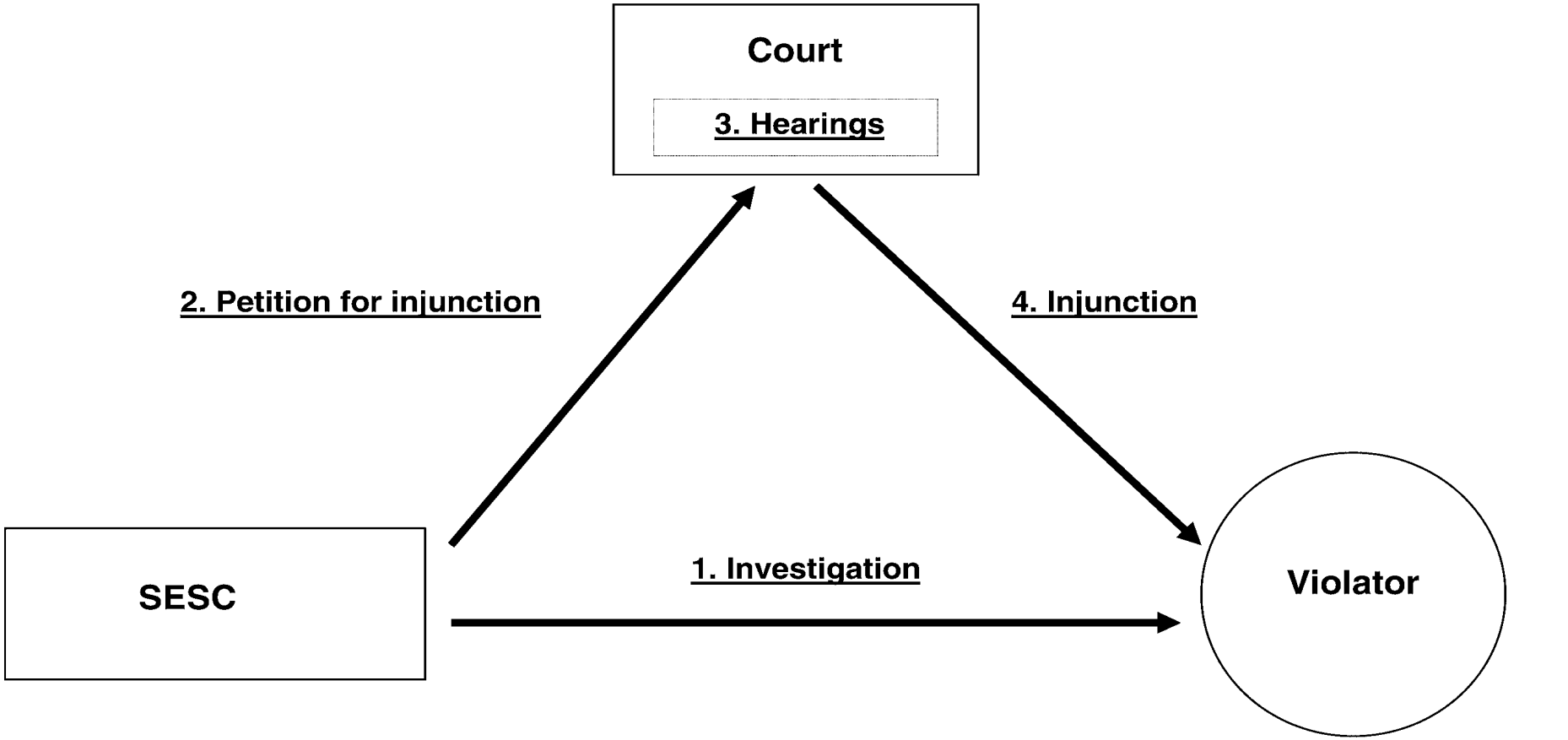
not more than 500 million yen; and

- Previously, an Article 192 petition was only possible at the district court governing the domicile of the respondent. Now, an Article 192 petition can also be filed with the district court governing the place where the offense is committed (expansion of jurisdiction for Article 192 petitions).

In response to these institutional developments, the SESC worked vigorously to collect and analyze information on unregistered business operators, in cooperation with the supervisory departments of the FSA and local finance bureaus as well as investigative authorities. Then, in FY2010, the SESC filed an Article 192 petition, for the first time since the introduction of the system, against a company and its officers who had been in the business of soliciting unlisted stocks without registration, and this resulted in an order being issued by the court.

Following is a list of cases from FY2011 where an Article 192 petition was filed and a court injunction was issued.

Filing of petitions with courts for violations of the FIEA



<Article 192 of the FIEA>

When a court finds that there is an urgent necessity and that it is necessary and appropriate for the public interest and protection of investors, it may give an order to a person who has conducted or will conduct any act in violation of this Act or orders issued under this Act for prohibition or suspension of such act, subject to the filing of a petition by the prime minister or by both the prime minister and the minister of finance.

1. Japan Realize Co., Ltd.

For the period from around November 2008 to April 2011, **Japan Realize Co., Ltd.** (hereinafter referred to as "Company J"), and Representative Director A and Employee B of Company J (hereinafter referred to as "Company J et al.") privately offered interests of a total of 20 partnership agreements (hereinafter referred to as "JR Funds") and were managing the contributions paid. Company J et al. invested the collected contributions by way of foreign exchange margin trading, and the business targeted for investment was the same for all JR Funds.

However, one of the requirements for a private offering in a business specially permitted for qualified institutional investors (hereinafter referred to as "specially permitted business") is that the number of persons other than qualified institutional investors (hereinafter referred to as "ordinary investors") who are allowed to acquire interests within a period of six months must be no more than an aggregate of 49. As such, none of the private offerings for JR Funds conducted from no later than April 2010 satisfied this requirement. Furthermore, one of the requirements for investment in a specially permitted business is that contributions must be from at least one qualified institutional investor and from no more than 49 ordinary investors. As such, from no later than the end of August 2009, the JR Funds did not satisfy this requirement because the number of ordinary investors in the JR Funds exceeded 49, and as of March 31, 2011, numbered approximately 100.

With respect to the private placements, the above actions of Company J et al. fall under the category of "type II financial instruments business" as prescribed in Article 28(2) of the FIEA, and with respect to the investment, they fall under the category of "investment management business" as prescribed in Article 28(4). Both of these violate Article 29 of the FIEA.

Furthermore, under the partnership agreement, Company J et al. was to obtain only that portion of investment profit that exceeded the maximum dividend, as a performance fee of the investment. However, even though substantially sufficient investment profit was not being generated, the maximum dividend was being paid, and some of the contributions were being appropriated for the remuneration, etc. of officers and employees. Moreover, there were plans to solicit for new JR Funds with a solicitation start date of May 2, 2011.

Therefore, on April 28, 2011, the SESC filed an Article 192 petition with the Sapporo District Court for an injunction against Company J et al. for violations of the FIEA (while unregistered, making public offerings or private placements of the rights listed in Article 2(2)(v) and (vi) of the FIEA in the course of trade, and conducting investments of money, etc. invested or contributed from persons holding the above rights, as an investment mainly in securities, etc. conducted based on analysis of values, etc. of financial instruments, in the course of trade (excluding, however, acts conducted to the extent necessary for the purpose of completing the transactions pertaining to investment of the contributions)).

In response to this petition, the Sapporo District Court issued an injunction against Company J et al. on May 13, 2011, as per the content of the petition.

2. Benefit Arrow Co., Ltd.

From about November 2010, **Benefit Arrow Co., Ltd.** (hereinafter referred to as "Company B"), entrusted by Frontier LLC (QII business operator located in Chuo-ku, Tokyo; hereinafter referred to as "Frontier" in this section 2.), solicited a large number of individual investors for applications to acquire rights based on a partnership agreement in which Frontier was an operating partner, and allowed a large number of individual investors to acquire the rights. Representative Director A of Company B and Mr. B, who is a shareholder of Company B, instructed the employees of Company B and let them engage in the above actions.

From about June 2010, entrusted by Company B, Consulting Firm, Inc. (Chuo-ku, Tokyo), R Research Co., Ltd. (Chuo-ku, Tokyo), Second Million Co., Ltd. (Minato-ku, Tokyo), Remix Management Co., Ltd. (Taito-ku, Tokyo), Frontier Target Co., Ltd. (Taito-ku, Tokyo) and Tour Consultant Co., Ltd. (Taito-ku, Tokyo) (hereinafter collectively referred to as the "entrusting companies"; all of the entrusting companies are QII business operators), Mr. C, who is involved in Company B, instructed several groups specializing in solicitation, and solicited a large number of individual investors for applications to acquire rights based on an anonymous partnership agreement in which the entrusting companies were operators, or on a partnership agreement in which the entrusting companies were operating partners, and allowed a large number of individual investors to acquire the rights.

In each case, the above actions fall under the category of "type II financial instruments business" as prescribed in Article 28(2) of the FIEA, and they violate Article 29 of the FIEA.

In April 2011, the Kanto Local Finance Bureau had issued Company B with a written warning claiming that it was conducting financial instruments business without registration, but even after that, Company B had conducted financial instruments business without registration, and Mr. C had solicited for applications to acquire rights based on partnership agreements pertaining to the entrusting companies apart from Company B.

Therefore, on June 24, 2011, the SESC filed an Article 192 petition with the Tokyo District Court for an injunction against Company B and Representative Director A of Company B and against Mr. B and Mr. C (hereinafter referred to as "Company B, et al.") for violations of the FIEA (while unregistered, dealing in public offerings or private placements of the rights listed in Article 2(2)(v) or (vi) of the FIEA deemed to be securities pursuant to the provisions of Article 2(2)).

In response to this petition, the Tokyo District Court issued an injunction against Company B, et al. on July 5 and 15, 2011, as per the content of the petition.

3. E-Factory Co., Ltd. and Excellent Co., Ltd.

During the period from January to November, 2011, **E-Factory Co., Ltd.** (hereinafter referred to as "E-Factory") and **Excellent Co., Ltd.** (hereinafter referred to as "Excellent"; also "E-Factory" and "Excellent" collectively referred to as the "two companies"), under instruction from Mr. A, who was the representative director of E-Factory and a director of Excellent (hereinafter the "two companies" and "Mr. A" collectively referred to as the "two companies, et al."), solicited a large number of

ordinary investors to conclude an investment limited liability partnership agreement pertaining to several funds in which the two companies were unlimited liability partners. The explanation pertaining to the payment of commissions and dividends, and to the business conditions of the main investment targets, which had been disclosed in the basic contract, pamphlet and prospectus, etc. delivered to customers at the time of the solicitation (hereinafter referred to as the "pamphlets, etc."), differed significantly from the actual facts, as described below.

(1) Even though the two companies were recording a uniform amount equivalent to 50% of the contributions made by customers as sales immediately after payment, and were using this for their own expenses, etc., it was indicated in the pamphlets, etc. that commissions or remuneration were of an amount significantly less than this.

(2) Regarding the payment of dividends, the two companies had indicated in the pamphlets, etc. that they would pay a maximum dividend at an annual rate of between 3% and 8% if income was generated by the investment (the annual rate varied between each fund). However, although the investment had not actually generated any profit, the two companies had routinely calculated a dividend based on the said maximum, and had paid this to customers using the contributions.

(3) Regarding the main investment targets, the two companies had indicated in the pamphlets, etc. that investments would principally be in venture companies with high growth potential and sound financial conditions, and that the targets could be expected to be listed on the stock markets. However, in reality, the business conditions of the main investment targets were significantly different.

The above actions can be acknowledged as falling under "an act of providing a customer with false information concerning the conclusion of a contract for financial instruments transaction or solicitation thereof" as prescribed in Article 38(i) of the FIEA, which can be applied by regarding the QII business operator as a financial instruments business operator pursuant to the provisions of Article 63(4) of the FIEA.

In December 2010, the Kanto Local Finance Bureau had issued the two companies with a written warning that they were conducting financial instruments business without registration. Then, E-Factory opened a sales office in Nagoya in October 2011, and Excellent established a new fund in November 2011. Thus it was recognized that the two companies intended to continue to conduct solicitations for purchases of funds involving the false disclosure described above.

Therefore, on December 22, 2011, the SESC filed an Article 192 petition with the Tokyo District Court for an injunction against the two companies, et al. for violations of the FIEA (in conducting business pertaining to the private placements specified in Article 63(1)(i) of the FIEA, conducting acts of providing a customer with false information concerning the conclusion of a contract for financial instruments transaction or solicitation thereof).

In response to this petition, the Tokyo District Court issued an injunction against the two companies, et al. on February 3, 2012, as per the content of the petition.

In order to protect the public interest and investors, the SESC intends to continue to take strict actions against violations of the FIEA, such as unregistered sales, in cooperation with relevant organizations including the FSA, local finance bureaus, the

Consumer Affairs Agency, and investigative authorities.

Investors are encouraged to be careful not to engage in any transactions with unregistered business operators, since solicitation by such operators constitutes a violation of laws and regulations, and has caused various troubles.

7) Future Challenges

As the business operators subject to securities inspections diversify and increase in number, and as the areas of verification expand, the SESC's system of inspection has improved and strengthened. However, amid severe administrative and fiscal constraints, as things stand, the overall ratio of business operators inspected to business operators subject to inspection (coverage) remains low. Taking these circumstances into account, in determining the inspection priority in the future, the SESC will need to further increase its risk sensitivity for the diverse business types of financial instruments business operators, etc., for the characteristics of customers, and for financial instruments and transactions which are becoming increasingly complex and diverse. In addition, it also needs to strengthen its capacity for collecting and analyzing such information.

Based on these ideas, the SESC intends to work on the following policies incorporated in the FY2012 Basic Inspection Policy (see attachment).

(1) As priority matters for verification corresponding to the characteristics of business operators subject to inspection, the SESC will focus on verifications of the following items:
   (i) Verifications focused on business type and other characteristics (market intermediary functions of financial instruments business operators, etc.; management of corporate information (prevention of unfair insider trading); conduct that may hinder fair price formation; solicitation for investment; appropriateness of business and legal compliance of investment management business operators, etc.; business management systems of credit rating agencies; compliance with laws and regulations by fund business operators; compliance with laws and regulations by investment advisory and agency business operators; functions of self-regulatory organizations (SROs); response to unregistered business operators); and
   (ii) Verification of internal control systems, IT system risk management, and financial soundness.

(2) Furthermore, the SESC will implement the following activities, aimed at efficient, effective and viable inspections:
   (i) Determining the inspection priority based on risks, taking business type and other characteristics into account (in principle, determine the inspection priority based on the respective approaches for coverage of regular verification, inspections conducted as needed, and unregistered business operators);
   (ii) Implementing effective inspections (inspections with prior notice, enhancement of interactive dialogue, and firm action against conduct which hinders the efficacy of inspections);

(iii) Enhancement of cooperation with the FSA and local finance bureaus (departments in charge of supervision and inspection, SROs, overseas authorities, etc.); and
(iv) Revision and publication of the basic inspection guidelines and inspection manuals.

With respect to (1) above, securities inspections conducted in FY2011 revealed a case in which a DIM business operator, who had been entrusted with the management of corporate pension funds, disclosed false details with regard to solicitation for conclusion of a discretionary investment contract, and delivered customers with investment reports containing false details, thereby violating its fiduciary duty and harming the interests of the corporate pensions.

Following the revelation of the state of affairs surrounding the management of corporate pension funds, with regard to DIM business operators, in consideration of their business types and customer characteristics, it is recognized that the precise picture of their business and their compliance with laws and regulations need to be verified. Given this, based on the results of comprehensive surveys conducted by the FSA, the SESC will conduct intensive inspections of these DIM business operators.

With respect to (2) above, as the importance of interactive dialogue in inspections has been better understood, some acts which hinder the efficacy of inspections, including evasion of inspections and the online posting of documents considered to have relevance with securities inspections, have been observed. The SESC will take firm action against such acts in order to completely fulfill its mission.

April 27, 2012
Securities and Exchange Surveillance Commission

Basic Securities Inspection Policy and Program for 2012 (Summary)

I. Basic Securities Inspection Policy

1. Basic Concept

(1) Role of securities inspections

- The Securities and Exchange Surveillance Commission (SESC) is required to continue to take firm actions against illegal activities that undermine the confidence in market fairness and transparency or damage investors' interests, by exercising its authority, human resources and abilities, and is thus required to play a role to alert the markets.

(2) Diversification and increase in the number of business operators subject to inspection

- The scope of securities inspections has diversified and the number of business operators subject to inspection has sharply increased. The financial instruments and transactions with which financial instruments business operators deal have become more diverse and complex. The introduction and strengthening of the public regulation of credit rating agencies brought them under the scope of inspections in April 2010. Action has also been taken against unregistered business operators.

(3) Expansion of the areas of verification

- With respect to inspections of securities groups, the SESC will verify the financial soundness of the entire group and the appropriateness of its internal control systems and risk management systems from the perspective of preventing management crises.
- Inspections conducted last fiscal year revealed a case in which an investment management business operator who had been conducting a discretionary investment business (hereinafter referred to as "DIM business operators"), entrusted with the management of corporate pension funds, had, for many years, been operating its business while using false reports to conceal massive losses. In light of this case, the SESC will conduct intensive inspections of DIM business operators based in part on the results of comprehensive surveys by the Financial Services Agency (FSA).
- With regard to persons making notification for business specially permitted for qualified institutional investors (hereinafter referred to as "QII business operators"), given that malicious cases leading to petitions for court injunctions were confirmed, the SESC will make proper use of its authority to conduct securities inspections, to file petitions for court injunctions and to conduct associated investigations.

(4) Efficient, effective and viable securities inspections corresponding to the characteristics of the business operators subject to inspection

- Business operators subject to inspection have diversified and increased in number, and the areas of verification have expanded. The system of inspection has improved and strengthened, but still, amid severe administrative and fiscal constraints, the number of

business operators inspected (coverage) remains low.

- When determining the inspection priority for individual business operators, the SESC's policy is to collect and analyze a variety of information concerning the business operators subject to inspection corresponding to their business types, sizes, other characteristics and the market conditions at the time, and then to decide which business operators to inspect with a risk-based approach, considering the market positions and inherent problems of the individual business operators in a comprehensive manner.
- In order to determine the inspection priority in the future, the SESC will need to further increase its risk sensitivity for the diverse business types of financial instruments business operators, for the characteristics of customers and for financial instruments and transactions which are becoming increasingly complex and diverse. It will also need to strengthen its capacity for collecting and analyzing information accordingly.

2. Inspection Implementation Policy

(1) Focus of inspection for verification corresponding to the characteristics of business operators subject to inspection

1) Verifications focused on business type and other characteristics

A. Verification of the market intermediary functions of financial instruments business operators

B. Verification of the management of undisclosed corporate information (prevention of unfair insider trading)

C. Verification of the conduct that may hinder fair price formation

D. Verification of the solicitation for investment

E. Verification of the appropriateness of business and legal compliance of investment management business operators

- Based in part on the results of comprehensive surveys conducted by the FSA against DIM business operators, the SESC will conduct intensive inspections in cooperation with supervisory departments.

  The SESC will also strengthen its systems for collecting and analyzing information on pension fund management. Specifically, it will set up a dedicated channel for collecting information of high importance and usefulness from external sources (Pension Investment Hotline), and will assign specialists in pension fund management. Moreover, the SESC will conduct active, high-quality analysis of the information, and will reflect analysis in determining the inspection priority and in the focus of inspections.

F. Verification of the business management systems of credit rating agencies

G. Verification of the compliance with laws and regulations by fund business operators

H. Verification of the compliance with laws and regulations by investment advisors/agencies

I. Verification of the functions of self-regulatory organizations (SROs)

J. Response to unregistered business operators

2) Verification of internal control systems and financial soundness

A. Verification of internal control systems

B. Verification of IT system risk management

C. Verification of financial soundness

- Based on past inspection cases, the SESC will focus its verification on the segregated management of customer assets and on net assets and capital adequacy ratios.

(2) Towards efficient, effective and viable inspection

1) Determining the inspection priority based on risks, taking business type and other characteristics into account

A. Coverage of regular inspections

Type I financial instruments business operators (including registered financial institutions), investment management business operators and credit rating agencies

B. Inspections conducted as needed

Type II financial instruments business operators, investment advisors/agencies, QII business operators, financial instruments intermediaries, etc.

C. Unregistered business operators

2) Implementation of effective inspection

A. Inspection with prior notice

B. Enhancement of interactive dialogue

C. Firm action against conduct which hinders the efficacy of inspections

- The SESC will take firm action against any refusal of inspection or other acts which hinder the efficacy of inspections

3) Enhancement of cooperation with the FSA and local finance bureaus

II. Basic Securities Inspection Program

Type I financial instruments business operators (including registered financial institutions), investment management business operators, and credit rating agencies	150 companies (including 110 to be inspected by local finance bureaus) (including intensive inspections of DIM business operators)
Type II financial instruments business operators, investment advisories/agencies, QII business operators, and financial instruments intermediaries, etc.	To be inspected as needed
SROs	To be inspected as necessary
Non-registered business operators	To be inspected as necessary

Note: The figures above are subject to change due to the revision of the Inspection Program during this business year and/or the implementation of special inspections.

4. Investigation of Market Misconduct

1) Outline

1. Purpose of Investigation of Market Misconduct

Investigation of market misconduct is conducted based on the FIEA, of which acts are subject to administrative monetary penalties, such as insider trading, market manipulation, spreading of rumors and fraudulent means, for the purpose of ensuring the fairness of transactions in securities markets.

[Administrative monetary penalty system]

The administrative monetary penalty system provides administrative measures to impose administrative monetary penalties on violators, in order to achieve the administrative objectives of deterring unlawful acts so as to ensure the effectiveness of regulations.

In addition to criminal charges, the administrative monetary penalty system was introduced in April 2005 through amendment to the Securities and Exchange Act (SEA) in 2004, on certain acts stipulated under the FIEA, such as insider trading, market manipulation, spreading of rumors and fraudulent means, as well as disclosure documents containing false statements.

The SESC is working to implement prompt and efficient investigation utilizing features of the administrative monetary penalty system in order to achieve highly flexible and strategic market surveillance which responds to environmental changes surrounding markets, thereby ensuring market fairness and transparency and protecting investors.

If violations are revealed as a result of market misconduct investigations, the SESC makes a recommendation to the prime minister and the commissioner of the Financial Services Agency (FSA) for the issuance of an order to pay an administrative monetary penalty (Article 20 of the Act for Establishment of the FSA)(hereinafter referred to as “Recommendation”). In the event a Recommendation is made to seek the issuance of an order to pay an administrative monetary penalty, the commissioner of the FSA (delegated by the prime minister) determines the commencement of trial procedures. After trial examiners conduct trial procedures, they prepare a draft decision on the case. Based on this draft decision, the commissioner of the FSA (delegated by the prime minister) makes the decision on whether to issue an order to pay an administrative monetary penalty.

2. Authority of Investigation of Market Misconduct

The authority to conduct administrative monetary penalty investigations in relation to market misconduct has been prescribed in Article 177 of the FIEA, under which the SESC has been authorized to:

(1) question persons concerned with a case or witnesses, or to have any of these persons submit their opinions or reports; and

(2) enter any business office of the persons concerned with a case and other necessary sites to inspect books, documents, and other items.

3. Acts Subject to Administrative Monetary Penalties, and Amounts of Administrative Monetary Penalties (Related to Market Misconduct)

After the introduction of the Administrative Monetary Penalty System, the amendments to the SEA and the FIEA have expanded the scope of market misconduct subject to administrative monetary penalties and have raised the amounts of administrative monetary penalties.

Currently the scope of the acts subject to administrative monetary penalties and the amounts of those penalties are as follows:

(1) Spreading of rumors and fraudulent means (Article 173 of the FIEA)

Penalty: Difference between the value of sales, etc. (purchases, etc.) related to short (long) position on own account at the end of the violation (i.e. spreading of rumors or fraudulent means), and the value obtained by appraising said position with the lowest (highest) price during the one month after the violation

(2) Fictitious or collusive sales and purchases (Article 174 of the FIEA)

Penalty: Difference between the value of sales, etc. (purchases, etc.) related to short (long) position on own account at the end of the violation (i.e. fictitious or collusive sales and purchase), and the value obtained by appraising said position with the lowest (highest) price during the one month after the violation

(3) Market manipulation (Article 174-2 of the FIEA, Article 174 of the former FIEA)

Penalty: Aggregate of (i) the profit or loss locked in on own account during the period of the violation (i.e. market manipulation through actual transactions), and (ii) the difference between the value of sales, etc. (purchase, etc.) related to short (long) position on own account at the end of the violation, and the value obtained by appraising said position with the lowest (highest) price during the one month after the violation

(4) Illegal stabilizing transactions (Article 174-3 of the FIEA)

Penalty: Aggregate of (i) the profit or loss related to the violation (i.e. illegal stabilizing transactions), and (ii) with regard to a position on own account at the start of the violation, the amount obtained by multiplying d (the difference between the average price during the one month after the violation, and the average price during the period of the violation) by v (the volume of said position)

(5) Insider trading (Article 175 of the FIEA)

Penalty: Difference between the value of sales, etc. (purchases, etc.) related to the violation (insider trading) (limited to those made during six months prior to the publication of material facts), and the product of the lowest (highest) price during the two weeks after the publication of material facts and the volume of the said sales, etc. (purchases, etc.)

Notes: 1. In case where the violator has received an administrative monetary penalty payment order within the past five years, the amount of the administrative monetary penalty shall be multiplied by a factor of 1.5.

2. For cases of insider trading related to the acquisition of treasury stock by a listed company, etc., in case where the violator made a declaration prior to the investigation by the authorities, the amount of the administrative monetary penalty shall be halved.

4. Activities in FY2011

(1) In FY2011, there were 18 cases on market misconduct (on the basis of number of violators) recommended to the commissioner of the FSA (prime minister). The administrative monetary penalty applicable to these cases amounted to 31,690,000 yen.

(2) The SESC is strengthening its cooperation with overseas authorities, by exchanging information based on the framework of the Multilateral MOU (see section 1) in Chapter 8). Accordingly, it has achieved steady results, such as detecting market misconduct using cross-border transactions. In addition, as can be seen from the overseas press coverage regarding the suspected cases of insider trading in connection with large public offerings of new shares in Japanese markets, in recent years, cross-border transactions and international activities of market participants are becoming everyday matter.

In light of such circumstances, the SESC set a "response to the globalization of markets" as one of the new pillars of its policy directions in the *SESC Policy Statement for the 7th Term*, which was formulated in January 2011, thereby laying out its policy of strengthening global market surveillance. Under this initiative, as a response to the globalization of markets, the SESC stepped forward to further develop its human resources and organizational structures, and as part of these efforts, in August 2011, it established the Office of Investigation for International Transactions and Related Issues in the Administrative Monetary Penalty Division, which specializes in investigating any possible violation of market misconduct involving cross-border transactions by professional investors.

During FY2011, the Office of Investigation for International Transactions and Related Issues investigated suspected insider trading executed by professional investors in Japan and overseas prior to large public offerings of new shares. Among these cases, it filed one recommendation for an administrative monetary penalty payment order (see 2) 2. (xvi) below). There was also a case which resulted in a disciplinary action taken by the Securities and Futures Commission of Hong Kong, as a result of a close cooperation with the SESC, on fraudulent cross-border trading occurred in Japanese stock markets (see sections 1) and 2) in Chapter 8).

2) Recommendations for Issuance of Orders to Pay Administrative Monetary Penalties Based on the Results of Investigation of Market Misconduct

1. Overview of Recommendations

(1) In FY2011, there were 18 Recommendations made on market misconduct. Among these, 15 were insider trading cases, and three were market manipulation. The maximum amount of penalty applied to a violator was 8,790,000 yen, and the minimum was 50,000 yen. As a result, since April 2005, when the administrative monetary penalty system was introduced, the total number of Recommendations on insider trading has reached 121 (by 114 individuals and by 7 corporations) amounting to 267,770,000 yen, while the number of Recommendations on market manipulation comes to 15 (all by individuals) amounting to 403,600 yen.

Insider trading cases recommended to the commissioner of FSA (prime minister) in FY2011 included a case in which an advisor at Takagi Securities Co., Ltd., who was in a position to receive material information related to the management of securities companies, committed insider trading based on information obtained during the course of his duties (see 2. (xii) below). In addition, the case of insider trading by a recipient of information from an employee of a company that was in contract negotiations with Inpex Corporation was investigated by the Office of Investigation for International Transactions and Related Issues, which was recently established in the Administrative Monetary Penalty Division. This is a case where an employee in a trust bank, based on the material non-public information he received from a person working in a securities company, traded in the fund managed by himself (see 2. (xvi) below).

(2) Looking at the attributes of violators in the recommendations made related to insider trading, compared to FY2010, there was an increase in the proportion of cases committed by primary recipients of information.

Looking at the attributes of persons who passed on insider information, there was a high proportion of cases where the persons who obtained such information as parties to conclude a contract passed on the insider information. This increasing tendency is the same as that of the previous year.

Looking at the types of material facts involved, they were: issuances of new shares, business alliances, revisions of business results forecast, applications of basket clauses, and tender offers. In addition, recommendations were made for the first time for cases involving dividends of earning surplus, and incurrences of damage. The material facts pertaining to violations were becoming more diversified.

Changes in Number of Recommendation Cases by Attribute of Violator

	FY2010	FY2011
Corporate insider	8	2
Officer, etc. of issuer	3	1
Party to a contract	5	1
Tender offeror or other concerned party	0	1
Officer, etc. of tender offeror	0	0
Tender offeror and party to a contract	0	1
Primary recipient of information	12	12
Corporate material fact	10	6
Tender offer	2	6
No. of cases recommended to prosecutor, by FY	20	15

Changes in Number of Recommendation Cases by Type of Material Fact

	FY2010	FY2011
Issuance of stock, etc.	6	3
Dividends of surplus funds	0	1
Business alliance or dissolution thereof	3	2
Civil rehabilitation or corporate reorganization	2	0
Incurrence of damage	0	1
Information on financial result	1	2
Basket clause	3	1
Other material facts	4	2
Tender offer	2	7
No. of cases recommended to prosecutor, by FY	20	15

Changes in Number of Cases Recommended to prosecutor, by Attribute of Transmitter of Information

	FY2010	FY2011
Transmission of corporate materials facts	10	6
Officer, etc. of issuer	3	2
Party to a contract	7	4
Transmission of information on tender offer	2	6
Officer, etc. of tender offeror	1	2
Tender offeror and party to a contract	1	4
Officer, etc. of target party	1	3

Notes: 1. "FY" is April to March of the following year.

2. No. of cases recommended to prosecutor is recorded on the basis of violators.
3. As for No. *of cases recommended to prosecutor, by type of material fact*, when a violator committed insider trading, being aware of multiple material facts, the case is recorded redundantly in relevant types of material facts. Therefore, the aggregate of the *number of cases in each box may not be consistent with the figure in No. of cases recommended to the prosecutor, by FY.*
4. Tender offer also includes other acts equivalent to a tender offer regarded as being a material fact.

2. Brief Summary of Recommendations Issued in FY2011

With respect to the cases recommended for the issuance of orders to pay administrative monetary penalties on market misconduct in FY2011, the following is a brief summary of those cases:

(i) Recommendation on market manipulation related to the shares of Sakai Heavy Industries, Ltd.

In an attempt to raise the price of Sakai Heavy Industries, Ltd. shares, and for the purpose of inducing sales and purchases of the shares, during the period of 11 trading days from March 16 to April 5, 2010, the violator conducted, on own account, a series of sales and purchases that would cause fluctuations in the market price of the shares, purchasing a total of 587,000 Sakai Heavy Industries, Ltd. shares while selling a total of 587,000 shares of the company, and by doing so, raising the share price from 141 yen to 169 yen, in the following way: raising the share price by matching buy orders placed at market price or at higher prices than the latest contract price with multiple sell orders that it had placed in advance at a higher price than the previous day's closing price; and raising the share price by matching buy orders placed at market price with sell orders placed at higher prices than the latest contract price at around the same time.

[Date of Recommendation] April 12, 2011

[Amount of administrative monetary penalty] 4,380,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: April 12, 2011
Date of 1st trial (conclusion): September 28, 2011
Date of order to pay penalty: December 13, 2011

In this case, the respondent submitted a written reply denying the facts of the violation, and challenged the following points in dispute:

(i) *Can the transactions in this case be described as a series of sales and purchases that would cause fluctuations in the market price?*
(ii) *Did the respondent have an aim of inducing sales and purchases of the shares in this case?*

Following the trial procedures, the commissioner of the Financial Services Agency (FSA) made the decision to order payment of the administrative monetary penalty, arguing as follows regarding the points in dispute:

With regard to (i) above, the transactions in this case can be described as a series of sales and purchases that would cause fluctuations in the market price; and
With regard to (ii) above, it can be acknowledged that the respondent did have an aim of inducing sales and purchases of the shares in this case.

(ii) Recommendation on insider trading related to OX Holdings shares by a person receiving information from a party who has a contractual relationship with a subsidiary of OX Holdings

1. Violator (i) received information from a person who had concluded an outsourcing contract regarding mediation of the sale of shares with OX Capital Inc. (hereinafter referred to as "OX Capital"), which is a subsidiary of OX Holdings Inc. (hereinafter referred to as "OX HD"), and who had become aware of that information in the course of executing that contract. The information concerned facts related to the business, etc. of OX HD, to the effect that the subsidiary OX Capital had incurred a loss in the course of performing its operations (hereinafter referred to as the "material fact in this case")—that is, confirming that OX Capital had incurred a loss on valuation of securities and a loss on sales of securities amounting to a total of 580 million yen and would have to record an equivalent loss on valuation of securities or loss on sales of securities in its financial statements for the period ending August 31, 2006. While in receipt of that information, Violator (i) sold a total of 282 OX HD shares on own account at the amount of 5,556,240 yen on August 11 and 14, 2006, prior to the fact being announced on August 30, 2006.

2. Violator (ii) received information regarding the material fact from a person who had concluded an outsourcing contract regarding mediation of the sale of shares with OX Capital, which is a subsidiary of OX HD, and who had become aware of that information in the course of executing that contract, and, while in receipt of that information regarding the material fact in this case, sold a total of 100 OX HD shares on own account in the amount of 1,955,970 yen on August 10 and 11, 2006, prior to the fact being announced on August 30, 2006.

[Date of Recommendation] June 28, 2011

[Amount of administrative monetary penalty]
Violator (i) 630,000 yen
Violator (ii) 200,000 yen

[Process following Recommendation]
(Same date for Violator (i) and Violator (ii))
Date of decision on commencement of trial procedures: June 28, 2011
Date of order to pay penalty: July 22, 2011

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(iii) Recommendation on insider trading by a person receiving information from an employee of Tsuzuki Denki Co., Ltd.

The violator received information from an employee of Tsuzuki Denki Co., Ltd. (hereinafter referred to as "Tsuzuki Denki"), who was engaged in the business of

planning new business projects for the group companies of Tsuzuki Denki, who had come to know the information in the course of his/her duties. The information related to the fact that Tsuzuki Denki had decided to make a takeover bid for the shares of Tsuzuki Densan Co., Ltd. (hereinafter referred to as "Tsuzuki Densan"). While in receipt of that information, the violator purchased a total of 9,000 Tsuzuki Densan shares on own account and on account of a relative of the violator in the amount of 2,216,700 yen on July 13, 2010, prior to the fact being announced on July 17, 2010.

[Date of Recommendation] July 8, 2011

[Amount of administrative monetary penalty] 1,410,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: July 8, 2011
Date of order to pay penalty: July 29, 2011

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(iv) Recommendation on insider trading related to the shares of Panasonic Electric Works Co., Ltd. by an employee of Panasonic Electric Works and by a person receiving information from that employee

1. Violator (i) is an employee of Panasonic Electric Works Co., Ltd. (hereinafter referred to as "Panasonic Electric Works"), and was engaged in the company's sales planning and advertising. In the course of executing a nondisclosure agreement between Panasonic Electric Works and Panasonic Corporation (hereinafter referred to as "Panasonic"), Violator (i) came to know the fact that Panasonic had decided to make a takeover bid for the shares of Panasonic Electric Works, and with that knowledge, purchased a total of 2,000 Panasonic Electric Works shares on own account in the amount of 1,910,000 yen on July 27, 2010, prior to the fact being announced on July 30, 2010.

2. Violator (ii), while in receipt of information on the above fact from Violator (i), purchased a total of 10,000 Panasonic Electric Works shares on own account in the amount of 9,550,000 yen on July 27, 2010.

[Date of Recommendation] July 8, 2011

[Amount of administrative monetary penalty]
Violator (i) 310,000 yen
Violator (ii) 1,550,000 yen

[Process following Recommendation]

(Same date for Violator (i) and Violator (ii))

Date of decision on commencement of trial procedures: July 8, 2011

Date of order to pay penalty: August 9, 2011

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(v) Recommendation on market manipulation related to the shares of Sei Crest

For the purpose of inducing sales and purchases of the shares of Sei Crest Co., Ltd., the violator:

1. During the period from about 10:58AM to about 12:40PM on October 27, 2010, placed buy orders for a total of 203,362 shares and sell orders for a total of 121,880 shares, and made sales and purchases of a total of 121,880 shares executed at prices advantageous to the violator, in the following way: consecutively placing large buy orders at higher prices than the latest contract price, to make them execute at higher prices, and placing multiple buy orders without any intention of executing them; and
2. During the period from about 1:47PM and 2:09PM on October 27, 2010, placed buy orders for a total of 288,122 shares and sell orders for a total of 148,045 shares, and made sales and purchases of a total of 147,173 shares executed at prices advantageous to the violator, in the following way: consecutively placing large buy orders at higher prices than the latest contract price, to make them execute at higher prices, and placing multiple buy orders without any intention of executing them.

In this way, the violator conducted, on own account, a series of sales and purchases of the shares and entrustment therefor that would cause fluctuations in the market price of the shares.

[Date of Recommendation] August 2, 2011

[Amount of administrative monetary penalty] 580,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: August 2, 2011

Date of order to pay penalty: September 7, 2011

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(vi) Recommendation on insider trading by a person receiving information from an employee of Cyber Communications Inc.

The violator received information from Employee A of Cyber Communications Inc. (hereinafter referred to as "Cyber Communications") concerning the fact that the organ

which was responsible for making decisions on the execution of the operations of Dentsu Inc. (hereinafter referred to as "Dentsu") had decided to make a takeover bid for the shares of Cyber Communications. Officer B of Cyber Communications had come to know the information in the course of negotiations for conclusion of a nondisclosure agreement between Cyber Communications and Dentsu, and subsequently, Employee A had come to know the information in the course of his/her duties. While in receipt of that information, the violator purchased a total of 95 Cyber Communications shares on own account in the amount of 1,675,140 yen during the period from January 15 to 26, 2009, prior to the fact being announced on February 2, 2009.

[Date of Recommendation] September 13, 2011

[Amount of administrative monetary penalty] 2,330,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: September 13, 2011
Date of order to pay penalty: October 11, 2011

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(vii) Recommendation on insider trading related to JAA shares by a person receiving information from a party to a contract with a tender offeror

The violator received information from Officer A of J Twenty One, Co., Ltd. (hereinafter referred to as "J Twenty One") concerning the fact that the organ which was responsible for making decisions on the execution of the operations of Gallop Co., Ltd. (hereinafter referred to as "Gallop") had decided to make a takeover bid for the shares of Japan Automobile Auction Inc. (hereinafter referred to as "JAA"). Officer B of J Twenty One had come to know the information in the course of negotiations for conclusion of a basic agreement between J Twenty One and Gallop pertaining to the application of the takeover bid, and subsequently, Officer A had come to know the information in the course of his/her duties. While in receipt of that information, the violator purchased a total of 176 JAA shares on own account in the amount of 15,863,200 yen during the period from March 17 to April 15, 2010, prior to the fact being announced on April 16, 2010.

[Date of Recommendation] September 13, 2011

[Amount of administrative monetary penalty] 8,790,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: September 13, 2011
Date of order to pay penalty: October 11, 2011

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(viii) Recommendation on insider trading by a party to a contract with Just Systems Corporation

The violator was an officer at a company that had concluded an outsourcing contract with Just Systems Corporation (hereinafter referred to as "Just Systems"), and in the course of executing that contract, had come to know the fact that the organ which was responsible for making decisions on the execution of the operations of Just Systems had decided to make a capital increase through the allocation of new shares to a third party, in which Keyence Corporation (hereinafter referred to as "Keyence") was to be the allottee, and to form a business alliance with Keyence. While in receipt of that information, the violator purchased a total of 1,000 Just Systems shares on own account in the amount of 150,000 yen on February 5 and 6, prior to the above fact being announced on April 3, 2009.

[Date of Recommendation] October 12, 2011

[Amount of administrative monetary penalty] 230,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: October 12, 2011
Date of order to pay penalty: November 14, 2011

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(ix) Recommendation on market manipulation related to the shares of Traveler Corp.

For the purpose of inducing sales and purchases of the shares of Traveler Corp., during the period of six trading days from about 8:59 AM on August 3 to about 1:48 PM on August 17, 2009, the violator purchased a total of 73,000 shares of the company while selling a total of 17,000 shares of the company, and by doing so, raised the share price from 118 yen to 169 yen, in the following way: placing large buy orders at high limit prices and executing them at high prices; and raising the share price by matching buy orders and sell orders placed at high limits at around the same time. In this way, on own account, the violator created misunderstanding that there was active trading in these shares, and conducted a series of sales and purchases that would cause fluctuations in the market price of the shares.

[Date of Recommendation] November 2, 2011

[Amount of administrative monetary penalty] 430,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: November 2, 2011
Date of order to pay penalty: December 26, 2011

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(x) Recommendation on insider trading by a person receiving information from an officer of VSN, Inc.

The violator received information from an officer of VSN, Inc. (hereinafter referred to as "VSN") related to the fact that the organ, which was responsible for making decisions on the execution of the operations of R Holdings K.K. (hereinafter referred to as "R Holdings"), had decided to make a takeover bid for the shares of VSN. The officer had come to know the information in the course of executing a nondisclosure agreement between VSN and R Holdings. While in receipt of that information, the violator purchased a total of 3,900 VSN shares on own account in the amount of 2,332,100 yen during the period from August 2 to 11, 2010, prior to the fact being announced on August 16, 2010.

[Date of Recommendation] December 20, 2011

[Amount of administrative monetary penalty] 980,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: December 20, 2011
Date of order to pay penalty: January 20, 2012

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(xi) Recommendation on insider trading by a person receiving information from an officer of Japan Wind Development Co., Ltd.

The violator received information from an officer of Japan Wind Development Co., Ltd. (hereinafter referred to as "Japan Wind Development") who had come to know the information in the course of his/her duties. The information concerned a material fact that due to the change in accounting auditor personnel at the company, along with the delay of the submission of the annual securities report for the fiscal year ended March 31, 2010, the shares of the company are expected to be designated as securities under supervision. Such material fact is related to the operation, business and property of Japan Wind Development and would have a significant impact on the investment decisions of investors. While in receipt of that information, the violator sold a total of 50 Japan Wind Development shares on own account for the amount of 9,187,900 yen on June 8, 2010, prior to the fact being announced on June 14, 2010.

[Date of Recommendation] February 3, 2012

[Amount of administrative monetary penalty] 6,530,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: February 3, 2012
Date of order to pay penalty: March 2, 2012

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(xii) Recommendation on insider trading by an advisor of Takagi Securities Co., Ltd.

The violator was an advisor of Takagi Securities Co., Ltd. (hereinafter referred to as "Takagi Securities"), and, in the course of his/her duties came to know: (i) the material fact that Takagi Securities had incurred a loss in the course of performing its operations, confirming that the company would record an extraordinary loss of 5,590 million yen as a provision of allowance for loss on litigation in the settlement of account for the 2nd quarter of the fiscal year ending March 2011; (ii) the material fact that the organ which was responsible for making decisions on the execution of the operations of Takagi Securities had decided to suspend payment of an interim dividend during the fiscal year ending March 2011; and (iii) the material fact that, with regard to the company's year-end dividend for the same period, whereas the forecast announced on July 28, 2010, was 3 yen, the new forecast calculated by the company was 0 yen, and so in comparison to the most recent published forecast, a difference had arisen in the new calculated forecast, which is regarded under the criteria specified by a Cabinet Office Ordinance as a difference that may have a material influence on the decisions of investors. While in receipt of that information, the violator sold a total of 42,000 Takagi Securities shares on own account in the amount of 4,508,000 yen during the period from about 9:04 AM on October 22 to about 12:32 PM on October 26, 2010, prior to each of the above facts being announced at about 3:00 PM on October 26, 2010.

[Date of Recommendation] February 3, 2012

[Amount of administrative monetary penalty] 1,310,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: February 3, 2012
Date of order to pay penalty: March 29, 2012

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(xiii) Recommendation on insider trading by a person receiving information from an officer of Asahi Eito Co., Ltd.

The violator received information from an officer of Asahi Eito Co., Ltd. (hereinafter referred to as "Asahi Eito") who had come to know the information in the course of his/her duties. The information concerned the fact that, compared to the most recent forecast for the company's net income for the period ending November 30, 2011, of 5,000,000 yen, which had been announced on January 17, 2011, a difference had arisen in the new calculated forecast, which is regarded under the criteria specified by a Cabinet Office Ordinance as a difference that may have a material influence on the decisions of investors. While in receipt of that information, the violator purchased a total of 2,000 Asahi Eito shares on own account in the amount of 124,000 yen on April 6 and 12, 2011, prior to it being announced on April 14, 2011, that the new calculated forecast was 74,000,000 yen.

[Date of Recommendation] February 28, 2012

[Amount of administrative monetary penalty] 100,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: February 28, 2012
Date of order to pay penalty: March 29, 2012

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(xiv) Recommendation on insider trading by a person receiving information from another person negotiating a conclusion of a contract with SJI Inc.

The violator received information from an officer of Digital China Holdings Ltd. (hereinafter referred to as "Digital China"), who had been negotiating the conclusion of a basic contract for business alliance with SJI Inc. (hereinafter referred to as "SJI"), and who had come to know the information in the course of negotiations for conclusion of the contract. The information concerned the fact that the organ which was responsible for making decisions on the execution of the operations of SJI had decided to solicit an underwriter for the shares to be issued, and to form a business alliance with Digital China. While in receipt of that information, the violator purchased a total of 24 SJI shares on own account in the amount of 464,040 yen on August 28, 2011, prior to the fact being announced on November 4, 2009.

[Date of Recommendation] March 16, 2012

[Amount of administrative monetary penalty] 550,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: March 16, 2012

Trial procedures underway (as of May 31, 2012)

(xv) Recommendation on insider trading by a person receiving information from an employee of Faith, Inc.

The violator received information from an employee of Faith, Inc. (hereinafter referred to as "Faith") who had come to know the information in the course of his/her duties. The information concerned facts related to the organ, which was responsible for making decisions on the execution of the operations of Faith, carrying out acts equivalent to a takeover bid for Columbia Music Entertainment, Inc., in effect that the organ had made a decision on buying up enough shares to gain at least 5% of the number of voting rights held by all the shareholders, etc. of the company. While in receipt of that information, the violator purchased a total of 110,000 shares of Columbia Music Entertainment, Inc. on own account in the amount of 3,730,000 yen on January 20, 2010, prior to the fact being announced on January 22, 2010.

[Date of Recommendation] March 21, 2012

[Amount of administrative monetary penalty] 1,330,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: March 21, 2012
Date of order to pay penalty: April 17, 2012

Since a written reply admitting these facts was submitted by the violator, no trial was conducted.

(xvi) Recommendation on insider trading by a receipient of information from an employee of a company that was in negotiations for a contract with Inpex Corporation

Chuo Mitsui Asset Trust and Banking Co., Ltd. (hereinafter referred to as the "Company") was, based on discretionary investment contracts it had concluded, managing a portfolio of funds in which the counterparty to the contract administers assets. An employee of the Company, who was managing the said portfolio, received information from Employee A of a securities company that was in negotiations for concluding an equity underwriting agreement with Inpex Corporation. Employee B of the same securities company had come to know the information in the course of negotiations, and Employee A in the course of his/her duties. While in receipt of the information that the executive decision-making body of Inpex Corporation had decided to launch a public offering of shares, an employee of the Company sold 210 shares of INPEX on the account of the abovementioned fund for a total of 101,241,498 yen during the period from July 1 to 7, 2008, prior to the announcement of the fact on July 8, 2010.

[Date of Recommendation] March 21, 2012

[Amount of administrative monetary penalty] 50,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: March 21, 2012

Trial procedures underway (as of May 31, 2012)

* It is noted that because a written statement admitting these facts was submitted by the violator, no trial will be held.

3. Other

(1) With regard to one of the five people for whom recommendations were made on August 27, 2010, for administrative monetary penalty payment orders for insider trading by a party to a contract with JO Group Holdings Co Ltd., the respondent submitted a written reply denying the facts of the violation, and challenged the following points in dispute:

(i) *Did the respondent receive information on the material fact from the person communicating the information?*

(ii) *In order to be issued with an administrative monetary penalty payment order, does the respondent need to have known that the provider of information was a corporate insider?*

(iii) *Did the respondent know that the provider of information was a corporate insider?*

Following the trial procedures, on July 20, 2011, the Commissioner of the FSA made the decision to order payment of the administrative monetary penalty, arguing as follows regarding the points in dispute:

With regard to (i) above, the respondent can be described as having received information on the material fact from the person communicating the information;

With regard to (ii) above, in order to issue an order for payment of an administrative monetary penalty, except in cases where the need is particularly explicit, there is no need for awareness, either intentional or equivalent thereto; and

With regard to (iii) above, given that, in issuing an order for payment of an administrative monetary penalty, there is no need for the offender to have awareness, either intentional or equivalent thereto, there is no reason for assertions to be made concerning the respondent's point in this regard.

* In relation to the decision in this case, the person filed an action for revocation of administrative disposition with the Osaka District Court on August 19, 2011.

(2) With regard to the recommendation made on December 21, 2010, for an administrative monetary penalty payment order for market manipulation related to the shares of Inspec Inc., the respondent submitted a written reply denying the facts of the violation, and challenged the following point in dispute: *Did the respondent aim to induce sales and purchases of the shares in this case?*

Following the trial procedures, on December 26, 2011, the Commissioner of the FSA made the decision to order payment of the administrative monetary penalty, arguing as follows regarding the point in dispute:

In conducting the transactions in this case, it can be easily recognized that the respondent did aim to make such inducement.

3) Future Challenges

With regard to violations related to market misconduct such as insider trading, while there are criminal penalties and the administrative monetary penalty system as enforcement measures to ensure the effectiveness of regulations, it is necessary to restrain the application of criminal penalties which would have significant impacts on violators. The administrative monetary penalty system is expected to ensure the effectiveness of regulations by taking actions appropriate for the level and state of violations for which criminal charges are not essential. Furthermore, it can deal with each case more quickly than for criminal penalties. Using such features of the administrative monetary penalty system, the SESC will make efforts for achieving timely and strategic market oversight, by conducting speedy and efficient investigations and addressing the issues shown below:

(1) In order to appropriately respond to changes in the trends of market misconduct cases, such as an increase in the number of cases on insider trading by a primary recipient of information, and market manipulation using online trading and multiple accounts, the SESC will strive to make investigations more speedy and efficient by improving investigation methods, boosting investigation ability through training, etc., and fostering personnel.

(2) Given that some of the cases recommended for administrative monetary penalty payment order include cases where market misconduct has been conducted by residents of rural areas, the SESC will also actively address cases of market misconduct in rural areas, in cooperation with the local finance bureaus in each region.

(3) The SESC will strive to promote swift and efficient investigations, such as by enhancing and enriching the use of operations such as preserving, restoring and analyzing electromagnetic records saved on computers, mobile phones and other electronic devices (digital forensics) in investigations, as well as making such records admissible as evidence.

(4) In order to prevent market misconduct, the SESC will encourage the enhancement of market discipline, for example, by proactively transmitting information on past recommendation cases, etc. through various channels, and promoting voluntary enhancement of discipline by market participants and establishment of internal control systems by listed companies.

(5) Given that most transactions in Japanese stock markets are cross-border transactions carried out by overseas investors and by professional investors in Japan and overseas, in August 2011, the SESC established the Office of the Investigation for International Transactions and Related Issues in the Administrative Monetary Penalty Division, which specializes in investigating possible market misconduct using cross-border transactions by professional investors in Japan and overseas. To date, the SESC has assisted the Hong Kong authorities in taking disciplinary action against an investment management company in Hong Kong, and has also made a recommendation for an administrative monetary penalty payment order for insider trading by a major institutional investor in

Japan in receipt of information from an underwriter prior to the announcement of a large public offering of new shares. Going forward, the SESC will continue to strengthen its monitoring of cross-border transactions and market misconduct by professional investors in Japan and overseas, by actively cooperating with overseas securities regulators through information exchange frameworks (Multilateral MOU, etc.).

5. Disclosure Statements Inspection

1) Outline

1. Purpose of Disclosure Statements Inspection

The disclosure system under the Financial Instruments and Exchange Act (FIEA) provides accurate, fair and timely disclosure of the business contents and financial details, etc. of issuers of securities, by obligating issuers of securities to submit various disclosure documents, including a securities registration statement, and by making the documents available for public inspection in order to provide materials to enable sufficient investment decisions by investors in the primary and secondary markets for securities. By doing so, it aims to protect investors.

To ensure effectiveness of the disclosure system described above, the FIEA prescribes that, when the prime minister finds it necessary and appropriate, he/she may order a person who has filed a securities registration statement or a shelf registration statement, or a tender offeror or a person who has filed a large shareholding report, etc. to submit reports or materials, or may arrange inspection of their books, documents and other articles (hereinafter referred to as the "disclosure statements inspection") (regarding the specific authority, see 2. below).

Disclosure statements inspections have been carried out to contribute to the ensuring of fairness and transparency in markets and investor protection, which is the mission of the Securities and Exchange Surveillance Commission (SESC), by means of (i) ensuring accurate company information provided to the markets quickly and fairly and (ii) suppressing breaches in the disclosure regulations.

If, as a result of disclosure statements inspection, disclosure documents are found to contain false statements, etc. on important matters, the SESC makes a recommendation for issuance of an order to pay administrative monetary penalty. In cases where an amendment report, etc. for such disclosure documents has not been submitted, the SESC makes a recommendation for issuance of an order to submit an amendment report, etc.

Like this, when deemed necessary, the SESC makes a recommendation for the issuance of an order for administrative actions and other measures to the prime minister and the commissioner of the Financial Services Agency (FSA).

In cases where misstatements of financial reports are not recognized as material as a result of inspection, the SESC urges issuers to revise their statements voluntarily, from the viewpoint of requiring appropriate disclosure.

In July, 2011, the SESC made the organization to conduct disclosure statements inspections independent, as the "Disclosure Statements Inspection Division" created from the previous "Civil Penalties Investigation and Disclosure Statements Inspection Division," to further enhance the disclosure statements inspection system.

2. Authority of Disclosure Statements Inspection

In the financial and capital markets in Japan, based on the provisions of the FIEA, disclosure documents are submitted from issuers obliged to submit annual securities reports, etc., including from approximately 3,600 listed companies. Specific authority for disclosure inspection of disclosure documents includes the following:

(1) The authority over requiring reporting from, and inspection with respect to, a person who has filed a securities registration statement, a person who has filed a shelf registration statement, a person who has filed an annual securities report, a person who has filed an internal control report, a person who has filed a quarterly securities report, a person who has filed a semiannual securities report, a person who has filed an extraordinary report, a person who has filed a share buyback report, a person who has filed a status report of parent company, etc., a person who is found to have had an obligation to file any of these documents, an underwriter of securities, or any other related party or witness (Article 26 of the FIEA (including cases where it is applied mutatis mutandis pursuant to Article 27 of the FIEA))

(2) The authority over requiring reporting from, and inspection with respect to, a tender offeror, or a person who is found to have had an obligation to have made a purchase or other type of acceptance of share certificates, etc. by tender offer, a person specially interested in either of these persons, or any other related party or witness (Article 27-22(1) of the FIEA (including cases where it is applied mutatis mutandis pursuant to Article 27-22-2(2) of the FIEA))

(3) The authority over requiring reporting from, and inspection with respect to a person who has filed a Position Statement, a person who is found to have had an obligation to file a subject company's position statement, or any related party or witness (Article 27-22(2) of the FIEA)

(4) The authority over requiring reporting from, and inspection with respect to a person who has filed a Report of Possession of Large Volume, a person who is found to have had an obligation to file a large shareholding report, a joint holder of either of these large shareholdings, or any other related party or witness (Article 27-30(1) of the FIEA)

(5) The authority over requiring reporting from the company that is an issuer of the shares, etc. related to a large shareholding report, or a witness (Article 27-30(2) of the FIEA)

(6) The authority over requiring reporting from, and inspection with respect to, an issuer who provided or publicized specified information, an issuer who is found to have had an obligation to provide or publicize specified information, an underwriter of securities related to specified information, or any other related party or witness (Article 27-35 of the FIEA)

(7) The authority over requiring reporting from a certified public accountant or audit firm that has conducted an audit certification (Article 193-2(6) of the FIEA).

Note 1: The SESC has not been delegated authority for the following, excluding the authority for inspections on cases related to an administrative monetary penalty:

- The authority over requiring reporting from, and inspection with respect to, a person who has filed a securities registration statement, etc. before the effective date of the statement, etc. (Article 38-2(1)(i) and (ii) of the FIEA Enforcement Order)
- The authority over requiring reporting from, and inspection with respect to, a tender

offeror, etc. or a person who has filed a subject company's position statement, etc. during the tender offer period (Article 38-2(1)(iii) of the FIEA Enforcement Order).

Note 2: The commissioner of the FSA may also exercise the abovementioned authority to order the submission of a report and authority to inspect in cases where it is found urgently needed for the sake of ensuring public interest or protecting investors (provisory clause in Article 38-2(1) of the FIEA Enforcement Order); and this authority and the authority described in Note 1 above have been delegated by the commissioner of the FSA to the directors-general of local finance bureaus, etc.

3. Acts Subject to Administrative Monetary Penalties, and Amounts of Administrative Monetary Penalties (Related to Disclosure)

If, as a result of disclosure statements inspections, disclosure documents are found to contain false statements, etc. on important matters, the SESC makes a recommendation for the issuance of an order to pay an administrative monetary penalty to the prime minister and the commissioner of the FSA (Article 20 of the Act for Establishment of the FSA). In the event that a recommendation is made seeking the issuance of an order to pay an administrative monetary penalty, the commissioner of the FSA (delegated by the prime minister) determines the commencement of trial procedures. Then, trial examiners conduct the trial procedures and prepare a draft decision on the case. Based on this draft decision, the commissioner of the FSA (delegated by the prime minister) makes a decision whether the issuance of the order to pay the administrative monetary penalty or not.

Since the introduction of the administrative monetary penalty system, the SESC has expanded the scope of violations subject to administrative monetary penalties, and increased the amounts of those penalties, in accordance with the Act for the Partial Amendment of the Securities and Exchange Act (Act 76 of 2005 law), the Act for the Partial Amendment of the Securities and Exchange Act, etc. (Act 65 of 2006 law) and the Act for the Partial Amendment of the Financial Instruments and Exchange Act, etc. (Act 65 of 2008 law).

Currently, the violations subject to administrative monetary penalties and the amounts of those penalties are as follows:

(1) Act of having securities acquired or selling securities, through a public offering or secondary distribution etc., without submitting a securities registration statement, etc. (offering disclosure for public offering or secondary distribution, etc.) (Article 172 of the FIEA)

Penalty: 2.25% of the total offering amount (4.5% in the case of shares)

(2) Act of having securities acquired or selling securities, through a public offering or secondary distribution etc., using a securities registration statement, etc. (offering disclosure for public offering or secondary distribution, etc.) containing false statements (Article 172-2 of the FIEA, Article 172 of the former FIEA)

Penalty: 2.25% of the total offering amount (4.5% in the case of shares)

(3) Act of not submitting an annual securities report, etc. (continuous disclosure documents for each business year) (Article 172-3 of the FIEA)

Penalty: Amount equivalent to the audit fee for the previous business year (or 4 million yen in the case that an audit was not conducted for the previous business year) (half of these amounts in the case of a quarterly or semiannual securities report)

(4) Act of submitting an annual securities report, etc. (continuous disclosure documents for each business year) containing false statements (Article 172-4 of the FIEA, 172-2 of the former FIEA)

Penalty: 6 million yen or 6/100,000 of the total market value of the issuer, whichever is greater (half of that amount in the case of a quarterly securities report, semiannual securities report or extraordinary report, etc.)

(5) Act of purchasing or accepting share certificates, etc. without issuing a public notice for commencing tender offer (Article 172-5 of the FIEA)

Penalty: 25% of the total purchase amount

(6) Act of issuing a public notice for commencing tender offer containing false statements, or submitting a tender offer notification, etc. containing false statements (Article 172-6 of the FIEA)

Penalty: 25% of the total market value of purchased share certificates, etc.

(7) Act of not submitting a large shareholding report or change report (Article 172-7 of the FIEA)

Penalty: 1/100,000 of the total market value of the issuer of the share certificates, etc.

(8) Act of submitting a large shareholding report or change report, etc. containing false statements (Article 172-8 of the FIEA)

Penalty: 1/100,000 of the total market value of the issuer of the share certificates, etc.

Note 1: If the violator has received an administrative monetary penalty payment order within the past five years, the amount of the administrative monetary penalty shall be increased 1.5 times.

Note 2: For cases of continuous disclosure documents or those for issuance of securities containing false statements, and cases of not submitting a large shareholding report, if the violator made a declaration prior to the investigation by the authorities, the amount of the administrative monetary penalty shall be halved.

4. Activities in FY2011

In FY2011, the SESC completed disclosure statements inspections of 27 disclosing companies, and based on the results of those inspections, there were 11 cases (on a violator bases) subject to the recommendations for issuance of orders to pay administrative monetary penalties, totaling 568,920,000 yen, in relation to violations of disclosure requirements such as disclosure documents containing false statements, etc. on important matters.

In case misstatements of financial reports are not recognized as material as a result of inspection, the SESC urges issuers to revise their statements voluntarily.

* If disclosure documents were found to contain false statements, etc. on important matters and an amendment report, etc. as well as a recommendation as described above (only two cases have been seen since 2005).
A recommendation to order submission of an amendment report, etc. is not given if the company voluntarily has made such amendment.

Total number of inspections completed		27
(of these inspections)	Recommended issuance of an order to pay an administrative monetary penalty	10 (11)
	Did not recommend issuance of an order to pay an administrative monetary penalty, but urged voluntary amendment	1

Note: The number in parentheses for "Recommended issuance of an order to pay an administrative monetary penalty" is the number of payment order recipients.

2) Recommendations for Issuance of Orders to Pay Administrative Monetary Penalties Based on the Results of Disclosure Statements Inspection

1. Overview of Recommendations

The recommendations made in FY2011 in relation to the violations of disclosure requirements included those related to misstatements of securities registration statements, annual securities reports, and unregistered offering (i.e. public offering of securities without filing securities registration statements). Among them, the recommendation made in relation to World Resource Communication Co., Ltd. was the first case for the SESC to order an administrative monetary penalty against an issuer who made public offering without filing securities registration statements (see 2(i) below).

The SESC found various types of misstatements in the process of disclosure statements inspection. For example, the SESC found fictitious sales, sales ahead of schedule, a fictitious gain on debt forgiveness, understating costs, understating allowance for doubtful accounts, failing to record provision for loss on guarantees, overstating software, and overstating goodwill.

In FY2011, the largest amount of administrative monetary penalty in relation to the violation of disclosure requirements was 194,410,000 yen. This penalty was imposed against the World Resource Communication Co., Ltd, which made public offerings of corporate bonds without filing securities registration statements.

2. Brief Summary of Recommendations Issued in FY2011

In FY2011, an outline of the cases subject to the recommendations for issuance of orders to pay administrative monetary penalties is as follows:

* The "former FIEA" before amendment by Act 65 of the 2008 law is hereinafter referred to as the "former FIEA" in this chapter.

(i) Recommendation in relation to public offering of corporate bonds without filing securities registration statements of World Resource Communication Co., Ltd.

(1) World Resource Communication Co., Ltd.
(Former trade name: African Trust Co., Ltd.)

World Resource Communication Co., Ltd. solicited at least 50 persons each time for the purchase of bonds with four different redemption periods (1 year, 2 years, 3 years and 5 years) (with payment dates at the end of every month between January 31, 2009 and July 31, 2010; including those in the name of African Trust Co., Ltd., and those in the name of African Partner Co., Ltd. after the absorption-type merger by the company on November 18, 2009), resulting in the bonds being acquired by a total of 4,122 people for a total of 7,818,000,000 yen during the period from January 31, 2009 to July 31, 2010.

(2) African Partner Co., Ltd.
(Merged into World Resource Communication Co., Ltd. on November 18, 2009)

African Partner Co., Ltd. solicited at least 50 persons each time for the purchase of bonds with four different redemption periods (1 year, 2 years, 3 years and 5 years) (with payment dates at the end of every month between July 31, 2009, and October 31, 2009), resulting in the bonds being acquired by a total of 507 people for a total of 838,800,000 yen during the period from July 31, 2009, to October 31, 2009.

Each issue of the bonds above had only slightly different interest rates, and each time, World Resource Communication Co., Ltd. and African Partner Co., Ltd. had allowed 49 or fewer customers to acquire them. However, as at the time of soliciting for purchase, the exact issue number and the conditions of issuance of the bonds had not been determined, and only an approximate rate of interest was indicated. Therefore, rather than solicitation for purchase being conducted with each issuance of bonds, the solicitations for purchase relating to these bonds were being conducted simultaneously. Furthermore, given that, on each payment date set at the end of each month, the two companies were issuing bonds set with respective maturity dates, at the very least, the solicitations for purchase relating to these bonds issued every month with the same payment dates were being conducted simultaneously. Even though this manner of solicitation by the two companies for purchase of these bonds could not be conducted without first having made a notification pursuant to the provisions of Article 4(1) of the FIEA, the two companies had made no such notification.

[Date of Recommendation] April 15, 2011

[Amount of administrative monetary penalty] 194,680,000 yen*

[Process following Recommendation]
Date of decision on commencement of trial procedures: April 15, 2011
1st trial date (trial conclusion): July 13, 2011
Date of order to pay penalty: September 22, 2011

After the trial procedures, the commissioner of the FSA decided to order pay the administrative monetary penalty. It should be noted that, because the respondent did not appear on the trial date, the trial examiners have concluded the trial procedures based on the provisions of Article 60(2) of the Cabinet Office Ordinance on Administrative Monetary Penalties Provided for in Chapter VI-II of the Financial Instruments and Exchange Act.

*The amount of the administrative monetary penalty at the time of the decision on the administrative monetary penalty payment order had changed to 194,410,000 yen.

(ii) Recommendation in relation to false statements in annual securities reports, etc. of SBI Net Systems Co., Ltd.

1. SBI Net Systems Co., Ltd. submitted to the director-general of the Kanto Local Finance Bureau its annual securities reports, etc. "containing false statements on important matters" by recording fictitious sales, understating provision of allowance for doubtful accounts and overstating software etc., as stipulated in Article 172-2(1) and (2) of the former FIEA, as described in the table below.

No.	Disclosure Document		False Statement			
	Submission date	Document	Accounting period	Statement on Finance and Accounting	Content	Accounting item
1	June 28, 2006	Annual securities report for the 9th business year	Consolidated accounting period from April 1, 2005 to March 31, 2006	Consolidated income statement	Consolidated ordinary loss was found to be 404 million yen, but stated as 38 million yen. Consolidated net loss was found to be 445 million yen, but positive 31 million yen was stated as income.	Recording fictitious sales, etc.
				Consolidated balance sheet	"Total shareholders' equity," corresponding to consolidated net assets was found to be 1,121 million yen, but stated as 1,598 million yen.	
2	December 28, 2006	Semiannual report for the 10th business year	Interim consolidated accounting period from April 1, 2006, to September 30, 2006	Interim consolidated balance sheet	Consolidated net assets were found to be 541 million yen, but stated as 947 million yen.	Overstating investment securities, etc.
3	June 28, 2007	Annual securities report for the 10th business year	Consolidated accounting period from April 1, 2006, to March 31, 2007	Consolidated balance sheet	Consolidated net assets were found to be negative 566 million yen, but stated as negative 146 million yen.	· Overstating software · Overstating investment securities, etc.
4	December 20, 2007	Semiannual report for the 11th business year	Interim consolidated accounting period from April 1, 2007 to September 30, 2007	Interim consolidated income statement	Consolidated interim net loss was found to be 246 million yen, but stated as 116 million yen.	· Understating provision of allowance for doubtful accounts · Overstating software, etc.
				Interim consolidated balance sheet	Consolidated net assets were found to be negative 845 million yen, but stated as negative 294 million yen.	

5	June 25, 2008	Annual securities report for the 11th business year	Consolidated accounting period from April 1, 2007 to March 31, 2008	Consolidated balance sheet	Consolidated net assets were found to be negative 20 million yen, but stated as positive 70 million yen.	Overstating software, etc.
6	August 7, 2008	1st quarterly report for the 12th business year	1st quarter consolidated accounting period from April 1, 2008, to June 30, 2008	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 39 million yen, but stated as positive 39 million yen.	Overstating software, etc.

2. SBI Net Systems Co., Ltd. submitted to the director-general of the Kanto Local Finance Bureau:

(1) its securities registration statement incorporating the annual securities report for the fiscal year ended March 2007 (see 3. of the table shown above) and the semiannual securities report for interim period ended September 2007 (see 4. of the table shown above), both of which contained false statements on important matters on February 15, 2008, and had others acquire its 131,500 shares in the amount of 1,709,500,000 yen, through the public offering based on said securities registration statement on March 3, 2008.

(2) its securities registration statement incorporating the annual securities report for the fiscal year ended March 2008 (see 5. of the table shown above) and the quarterly securities report for the 1st quarter ended June 2008 (see 6. of the table shown above), both of which contained false statements on important matters on August 8, 2008, and had others acquire its 227,585 shares in the amount of 3,299,982,500 yen, through the public offering based on said securities registration statement on August 26, 2008.

The above actions of the company correspond to the act of having securities acquired through public offering based on offering disclosure documents "containing false statements on important matters," as stipulated in Article 172(1)(i) of the former FIEA.

[Date of Recommendation] April 26, 2011

[Amount of administrative monetary penalty] 110,680,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: April 26, 2011
Date of order to pay penalty: May 31, 2011

Since the respondent submitted a written answer admitting the facts, no trial was held.

(iii) Recommendation in relation to false statements in annual securities reports, etc. of DPG Holdings, Inc.

DPG Holdings, Inc. submitted to the director-general of the Kanto Local Finance Bureau its annual securities reports, etc. "containing false statements on important matters" by understating provision of allowance for doubtful accounts and recording a fictitious gain on forgiveness of debts etc., as stipulated in Article 172-4(1) and (2) of the FIEA, as described in the table below.

No.	Disclosure document		False statement			
	Submission date	Document	Accounting period	Statement on Finance and Accounting	Content	Accounting item
1	March 26, 2010	Annual securities report for the 12th business year	Consolidated accounting period from January 1, 2009, to December 31, 2009	Consolidated income statement	Consolidated net loss was found to be 444 million yen, but stated as 254 million yen.	· Understating provision of allowance for doubtful accounts · Recording a fictitious gain on forgiveness of debts
				Consolidated balance sheet	Consolidated net assets were found to be negative 122 million yen, but stated as positive 64 million yen.	
2	May 14, 2010	1st quarterly report for the 13th business year	1st quarter consolidated accounting period from January 1, 2010, to March 31, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 226 million yen, but stated as negative 41 million yen.	Understating provision of allowance for doubtful accounts
3	August 13, 2010	2nd quarterly report for the 13th business year	2nd quarter consolidated accounting period from April 1, 2010, to June 30, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 503 million yen, but stated as negative 353 million yen.	Understating provision of allowance for doubtful accounts
4	November 15, 2010	3rd quarterly report for the 13th business year	3rd quarter consolidated accounting period from July 1, 2010, to September 30, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 678 million yen, but stated as negative 528 million yen.	Understating provision of allowance for doubtful accounts

[Date of Recommendation] May 27, 2011

[Amount of administrative monetary penalty] 12,000,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: May 27, 2011
Date of order to pay penalty: June 23, 2011

Since the respondent submitted a written answer admitting the facts, no trial was held.

(iv) Recommendation for an administrative monetary penalty payment order for solicitation of bonds without notice by Toa Energy Co., Ltd.

Toa Energy Co., Ltd. solicited at least 50 persons each time for the purchase of bonds with two different redemption periods (3 years and 5 years) (with payment dates between May 31, 2010, and May 31, 2011), resulting in the bonds being acquired by a total of 1,422 people for a total of 2,713,100,000 yen.

Each issue of the bonds above had only slightly different interest rates, and each time, Toa Energy Co., Ltd. had allowed 49 or fewer customers to acquire them. However, as at the time of soliciting for purchase, the exact issue number and the conditions of issuance of the bonds had not been determined, and only an approximate rate of interest was indicated. Therefore, rather than solicitation for purchase being conducted with each issuance of bonds, the solicitations for purchase relating to these bonds were being conducted simultaneously. Furthermore, given that, on each payment date set at around the end of each month, the company was issuing bonds set with respective maturity dates, at the very least, the solicitations for purchase relating to these bonds issued every month with the same payment dates were being conducted simultaneously. Even though this manner of solicitation by the company for purchase of these bonds could not be conducted without first having made a notification pursuant to the provisions of Article 4(1) of the FIEA, the company had made no such notification.

[Date of Recommendation] June 28, 2011

[Amount of administrative monetary penalty] 60,980,000 yen*

[Process following Recommendation]
Date of decision on commencement of trial procedures: June 28, 2011
Date of order to pay penalty: August 24, 2011

Since the respondent submitted a written answer admitting the facts, no trial was held.

* The amount of the administrative monetary penalty at the time of the decision on the administrative monetary penalty payment order had changed to 60,920,000 yen.

(v) Recommendation in relation to false statements in annual securities reports, etc. of Tohken Co., Ltd.

1. Tohken Co., Ltd. submitted to the director-general of the Kanto Local Finance Bureau its annual securities reports, etc. "containing false statements on important matters" by recording sales ahead of schedule etc., as stipulated in Article 172-2 (1) and (2) of the former FIEA and Article 172-4 (1) and (2) of the FIEA, as described in the table below.

No.	Disclosure document		False statement			
	Submission date	Document	Accounting period	Statement on Finance and Accounting	Content	Accounting item
1	January 30, 2007	Semiannual report for the 37th business year	Interim consolidated accounting period from May 1, 2006, to October 31, 2006	Interim consolidated income statement	Consolidated interim net loss was found to be 122 million yen, but positive 7 million yen was stated as income.	Recording sales ahead of schedule
2	July 31, 2007	Annual securities report for the 37th business year	Consolidated accounting period from May 1, 2006, to April 30, 2007	Consolidated income statement	Consolidated net loss was found to be 179 million yen, but stated as 80 million yen.	Recording sales ahead of schedule
3	September 12, 2008	1st quarterly report for the 39th business year	1st quarter consolidated accounting period from May 1, 2008, to July 31, 2008	Quarterly consolidated balance sheet	Consolidated net assets were found to be 1,555 million yen, but stated as 1,961 million yen.	Overstating accounts receivable-trade, etc.
4	July 30, 2009	Annual securities report for the 39th business year	Consolidated accounting period from May 1, 2008, to April 30, 2009	Consolidated balance sheet	Consolidated net assets were found to be 1,113 million yen, but stated as 1,436 million yen.	Overstating accounts receivable-trade, etc.
5	September 11, 2009	1st quarterly report for the 40th business year	1st quarter consolidated accounting period from May 1, 2009, to July 31, 2009	Quarterly consolidated balance sheet	Consolidated net assets were found to be 976 million yen, but stated as 1,317 million yen.	Overstating accounts receivable-trade, etc.

6	December 4, 2009	2nd quarterly report for the 40th business year	2nd quarter consolidated accounting period from August 1, 2009, to October 31, 2009	Quarterly consolidated balance sheet	Consolidated net assets were found to be 1,011 million yen, but stated as 1,366 million yen.	Overstating accounts receivable-trade, etc.
7	March 12, 2010	3rd quarterly report for the 40th business year	3rd quarter consolidated accounting period from November 1, 2009, to January 31, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be 1,247 million yen, but stated as 1,598 million yen.	Overstating accounts receivable-trade, etc.
8	July 27, 2010	Annual securities report for the 40th business year	Consolidated accounting period from May 1, 2009, to April 30, 2010	Consolidated Income statement	Consolidated net loss was found to be 103 million yen, but stated as 34 million yen.	Recording sales ahead of schedule, etc.
				Consolidated balance sheet	Consolidated net assets were found to be 1,365 million yen, but stated as 1,758 million yen.	
9	September 13, 2010	1st quarterly report for the 41st business year	1st quarter consolidated accounting period from May 1, 2010, to July 31, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be 1,370 million yen, but stated as 1,765 million yen.	Overstating accounts receivable-trade, etc.

2. Tohken Co., Ltd. submitted to the director-general of the Kanto Local Finance Bureau its securities registration statement incorporating the annual securities report for fiscal year ended April 2009 (see 4. of the table shown above) and the quarterly securities report for the 2nd quarter ended October 2009 (see 6. of the table shown above), both of which contained false statements on important matters on December 4, 2009, and had others acquire its 3,574,000 shares in the amount of 357,400,000 yen, through the public offering based on said securities registration statement on December 24, 2009.

The above actions of the company correspond to the act of having securities acquired through public offering based on offering disclosure documents "containing false statements on important matters," as stipulated in Article 172-2(1)(i) of the FIEA.

[Date of Recommendation] July 15, 2011

[Amount of administrative monetary penalty] 31,080,000 yen

[Process following Recommendation]
Date of decision on commencement of trial procedures: July 15, 2011
Date of order to pay penalty: August 24, 2011

Since the respondent submitted a written answer admitting the facts, no trial was held.

(vi) Recommendation in related to false statements in annual securities reports, etc. of Fonfun Corporation

1. Fonfun Corporation submitted to the director-general of the Kanto Local Finance Bureau its annual securities reports, etc. "containing false statements on important matters" by understating provision of allowance for doubtful accounts and failing to record provision for loss on guarantees etc., as stipulated in Article 172-2 (1) and (2) of the former FIEA and Article 172-4 (1) and (2) of the FIEA, as described in the table below.

No.	Disclosure document		False statement			
	Submission date	Document	Accounting period	Statement on Finance and Accounting	Content	Accounting item
1	August 13, 2008	1st quarterly report for the 13th business year	1st quarter consolidated cumulative period from April 1, 2008, to June 30, 2008	Quarterly consolidated income statement	Consolidated quarterly net loss was found to be 264 million yen, but stated as 123 million yen.	Understating provision of allowance for doubtful accounts
2	November 12, 2008	2nd quarterly report for the 13th business year	2nd quarter consolidated cumulative period from April 1, 2008, to September 30, 2008	Quarterly consolidated income statement	Consolidated quarterly net loss was found to be 797 million yen, but stated as 568 million yen.	Understating provision of allowance for doubtful accounts, etc.

3	February 12, 2009	3rd quarterly report for the 13th business year	3rd quarter consolidated cumulative period from April 1, 2008, to December 31, 2008	Quarterly consolidated income statement	Consolidated quarterly net loss was found to be 1,100 million yen, but stated as 667 million yen.	・Understating provision of allowance for doubtful accounts ・Failing to record provision for loss on guarantees, etc.
			3rd quarter consolidated accounting period from October 1, 2008, to December 31, 2008	Quarterly consolidated balance sheet	Consolidated net assets were found to be 1,069 million yen, but stated as 1,501 million yen.	
4	June 29, 2009	Annual securities report for the 13th business year	Consolidated accounting period from April 1, 2008, to March 31, 2009	Consolidated income statement	Consolidated net loss was found to be 2,129 million yen, but stated as 1,680 million yen.	・Understating provision of allowance for doubtful accounts ・Failing to record provision for loss on guarantees, etc.
			Accounting period from April 1, 2008, to March 31, 2009	Balance sheet	Net assets were found to be 132 million yen, but stated as 613 million yen.	
5	August 13, 2009	1st quarterly report for the 14th business year	1st quarter accounting period from April 1, 2009, to June 30, 2009	Quarterly balance sheet	Net assets were found to be 155 million yen, but stated as 630 million yen.	Understating provision of allowance for doubtful accounts, etc.
6	November 16, 2009	2nd quarterly report for the 14th business year	2nd quarter accounting period from July 1, 2009, to September 30, 2009	Quarterly balance sheet	Net assets were found to be 173 million yen, but stated as 640 million yen.	Understating provision of allowance for doubtful accounts, etc.
7	February 15, 2010	3rd quarterly report for the 14th business year	3rd quarter consolidated accounting period from October 1, 2009, to December 31, 2009	Quarterly consolidated balance sheet	Consolidated net assets were found to be 274 million yen, but stated as 727 million yen.	Understating provision of allowance for doubtful accounts, etc.

8	June 30, 2010	Annual securities report for the 14th business year	Consolidated accounting period from April 1, 2009, to March 31, 2010	Consolidated balance sheet	Consolidated net assets were found to be 316 million yen, but stated as 766 million yen.	Understating provision of allowance for doubtful accounts, etc.
9	August 13, 2010	1st quarterly report for the 15th business year	1st quarter consolidated accounting period from April 1, 2010, to June 30, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be 333 million yen, but stated as 775 million yen.	Understating provision of allowance for doubtful accounts, etc.
10	November 12, 2010	2nd quarterly report for the 15th business year	2nd quarter consolidated accounting period from July 1, 2010, to September 30, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be 359 million yen, but stated as 791 million yen.	Understating provision of allowance for doubtful accounts, etc.

2. Fonfun Corporation submitted to the director-general of the Kanto Local Finance Bureau its securities registration statement incorporating the annual securities report fiscal year ended March 2009 (see row 4. of the table shown above) and the quarterly securities report for the 1st quarter ended June 2009 (see 5. of the table shown above), both of which contained false statements on important matters on October 30, 2009, and had others acquire its 515,000 shares in the amount of 103,000,000 yen, through the public offering based on said securities registration statement on November 16, 2009.

The above actions of the company correspond to the act of having securities acquired through public offering based on offering disclosure documents containing false statements on important matters, as stipulated in Article 172-2(1)(i) of the FIEA.

[Date of Recommendation] August 25, 2011

[Amount of administrative monetary penalty] 19,630,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: August 25, 2011

Date of order to pay penalty: September 29, 2011

Since the respondent submitted a written answer admitting the facts, no trial was held.

(vii) Recommendation in relation to false statements in a quarterly securities report of Nihon Industrial Holdings Co., Ltd.

Nihon Industrial Holdings Co., Ltd. submitted to the director-general of the Hokkaido Local Finance Bureau its quarterly securities report containing false statements on

important matters by understating general and administrative expenses etc., as stipulated in Article 172-4,(2) of the FIEA, as described in the table below.

Submission date	Document	False statement			
		Accounting period	Statement on Finance and Accounting	Content	Accounting item
May 14, 2010	3rd quarterly report for the 19th business year	3rd quarter consolidated cumulative period from July 1, 2009, to March 31, 2010	Quarterly consolidated income statement	Consolidated ordinary loss was found to be 237 million yen, but stated as 172 million yen. Consolidated net loss was found to be 257 million yen, but stated as 192 million yen.	Understating general and administrative expenses, etc.

[Date of Recommendation] November 29, 2011

[Amount of administrative monetary penalty] 1,500,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: November 29, 2011
Date of order to pay penalty: December 26, 2011

Since the respondent submitted a written answer admitting the facts, no trial was held.

(viii) Recommendation in relation to false statements in annual securities reports, etc. of Shiomi Holdings Corporation

1. Shiomi Holdings Corporation submitted to the director-general of the Kanto Local Finance Bureau or to the director-general of the Chugoku Local Finance Bureau its annual securities reports, etc. “containing false statements on important matters” by overstating goodwill or understating land etc., as stipulated in Article 172-4 (1) and (2) of the FIEA, as described in the table below.

No.	Disclosure document		False statement			
	Submission date	Document	Accounting period	Statement on Finance and Accounting	Content	Accounting item
1	June 30, 2010	Annual securities report for the 6th business year	Consolidated accounting period from April 1, 2009, to March 31, 2010	Consolidated balance sheet	Consolidated net assets were found to be negative 3,710 million yen, but stated as negative 2,131 million yen.	Overstating good will
2	August 16, 2010	1st quarterly report for the 7th business year	1st quarter consolidated accounting period from April 1, 2010, to June 30, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 4,183 million yen, but stated as negative 2,623 million yen.	Overstating good will
3	November 15, 2010	2nd quarterly securities report for the 7th business year	2nd quarter consolidated accounting period from July 1, 2010, to September 30, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 4,346 million yen, but stated as negative 2,806 million yen.	Overstating good will
4	February 14, 2011	3rd quarterly report for the 7th business year	3rd quarter consolidated accounting period from October 1, 2010, to December 31, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 2,606 million yen, but stated as negative 1,085 million yen.	Overstating good will
5	July 29, 2011	Annual securities report for the 7th business year	Consolidated accounting period from April 1, 2010, to March 31, 2011	Consolidated balance sheet	Consolidated net assets were found to be negative 1,167 million yen, but stated as positive 332 million yen.	Overstating good will
6	September 15, 2011	1st quarterly report for the 8th business year	1st quarter consolidated accounting period from April 1, 2011, to June 30, 2011	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 1,599 million yen, but stated as negative 68 million yen.	Overstating land

7	September 20, 2011	Amendment report for annual securities report for the 6th business year	Consolidated accounting period from April 1, 2009, to March 31, 2010	Consolidated balance sheet	Consolidated net assets found to be negative 3,710 million yen, but were stated as negative 2,179 million yen.	Overstating land
8	September 20, 2011	Amendment report for 1st quarterly report for the 7th business year	1st quarter consolidated accounting period from April 1, 2010, to June 30, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 4,183 million yen, but stated as negative 2,651 million yen.	Overstating land
9	September 20, 2011	Amendment report for 2nd quarterly report for the 7th business year	2nd quarter consolidated accounting period from July 1, 2010, to September 30, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 4,346 million yen, but stated as negative 2,814 million yen.	Overstating land
10	September 20, 2011	Amendment report for 3rd quarterly report for the 7th business year	3rd quarter consolidated accounting period from October 1, 2010, to December 31, 2010	Quarterly consolidated balance sheet	Consolidated net assets were found to be negative 2,606 million yen, but stated as negative 1,074 million yen.	Overstating land
11	September 20, 2011	Amendment report for annual securities report for the 7th business year	Consolidated accounting period from April 1, 2010, to March 31, 2011	Consolidated balance sheet	Consolidated net assets were found to be negative 1,167 million yen, but stated as positive 363 million yen.	Overstating land

2. Shiomi Holdings Corporation submitted to the director-general of the Kanto Local Finance Bureau:

(1) its securities registration statement incorporating the annual securities report for the fiscal year ended March 2010 (see 1. of the table shown above and the quarterly securities report for the 1st quarter ended June 2010 (see 2. of the table shown above), both of which contained false statements on important matters on October 27, 2010, and had others acquire its 27,777,700 shares in the amount of 149,999,580 yen, through the public offering based on said securities registration statement on November 19, 2010.

(2) its securities registration statement incorporating the annual securities report for the fiscal year ended March 2010 (see 1. of the table shown above) and the quarterly securities report for the 1st quarter ended June 2010 (see 2. of the table shown above), both of which contained false statements on important matters on

October 27, 2010, and had others acquire its 450 share options in the amount of 245,250,000 yen (including the amount to be paid at exercise of the share options), through the public offering based on said securities registration statement on November 19, 2010.

The above actions of the company correspond to the act of having securities acquired through public offering based on offering disclosure documents "containing false statements on important matters," as stipulated in Article 172-2(1)(i) of the FIEA.

[Date of Recommendation] January 20, 2012

[Amount of administrative monetary penalty] 44,770,000 yen

[Process following Recommendation]

Date of decision on commencement of trial procedures: January 20, 2012

In the process of trial procedures (as of May 31, 2012)

(ix) Recommendation in relation to false statements in annual securities reports, etc. of Keiozu Holdings Company

1. Keiozu Holdings Company submitted to the director-general of the Tohoku Local Finance Bureau its annual securities reports, etc. "containing false statements on important matters" by failing to record provision of allowance for doubtful accounts etc., as stipulated in Article 172-2 (1) and (2) of the former FIEA and Article 172-4 (1) and (2) of the FIEA, as described in the table below.

No.	Disclosure document		False statement			
	Submission date	Document	Accounting period	Statement on Finance and Accounting	Content	Accounting item
1	January 31, 2007	Annual securities report for the 14th business year	Consolidated accounting period from November 1, 2005, to October 31, 2006	Consolidated income statement	Consolidated net loss was found to be 2,386 million yen, but stated as 2,288 million yen.	Failing to record provision of allowance for doubtful accounts, etc.

2	January 30, 2008	Annual securities report for the 15th business year	Consolidated accounting period from November 1, 2006, to October 31, 2007	Consolidated income statement	Consolidated ordinary loss was found to be 191 million yen, but positive 89 million yen was stated as income. Consolidated net loss was found to be 1,097 million yen, but stated as 874 million yen.	Overstating net sales, etc.
				Consolidated balance sheet	Consolidated net assets were found to be 468 million yen, but stated as 760 million yen.	
3	January 27, 2009	Annual securities report for the 16th business year	Consolidated accounting period from November 1, 2007, to October 31, 2008	Consolidated income statement	Consolidated ordinary loss was found to be 20 million yen, but positive 102 million yen was stated as income. Consolidated net income was found to be 11 million yen, but stated as 80 million yen.	Understating provision of allowance for doubtful accounts, etc.
				Consolidated balance sheet	Consolidated net assets were found to be 824 million yen, but stated as 1,207 million yen.	

4	March 13, 2009	1st quarterly report for the 17th business year	1st quarter consolidated accounting period from November 1, 2008, to January 31, 2009	Quarterly consolidated balance sheet	Consolidated net assets were found to be 869 million yen, but stated as 1,263 million yen.	Understating provision of allowance for doubtful accounts, etc.
5	June 12, 2009	2nd quarterly report for the 17th business year	2nd quarter consolidated cumulative period from November 1, 2008, to April 30, 2009	Quarterly consolidated income statement	Consolidated quarterly net income was found to be 107 million yen, but stated as 145 million yen.	Understating provision of allowance for doubtful accounts, etc.
			2nd quarter consolidated accounting period from February 1, 2009, to April 30, 2009	Quarterly consolidated balance sheet	Consolidated net assets were found to be 961 million yen, but stated as 1,379 million yen.	
6	September 14, 2009	3rd quarterly report for the 17th business year	3rd quarter consolidated accounting period from May 1, 2009, to July 31, 2009	Quarterly consolidated balance sheet	Consolidated net assets were found to be 1,204 million yen, but stated as 1,551 million yen.	Understating provision of allowance for doubtful accounts, etc.
7	March 15, 2010	1st quarterly report for the 18th business year	1st quarter consolidated cumulative period from November 1, 2009, to January 31, 2010	Quarterly consolidated income statement	Consolidated quarterly net income was found to be 47 million yen, but stated as 111 million yen.	Failing to record provision of allowance for doubtful accounts, etc.
8	September 14, 2010	3rd quarterly report for the 18th business year	3rd quarter consolidated cumulative period from November 1, 2009, to July 31, 2010	Quarterly consolidated income statement	Consolidated quarterly net income was found to be 264 million yen, but stated as 334 million yen.	Failing to record provision of allowance for doubtful accounts, etc.

9	January 28, 2011	Annual securities report for the 18th business year	Consolidated accounting period from November 1, 2009, to October 31, 2010	Consolidated income statement	Consolidated net income was found to be 416 million yen, but stated as 507 million yen.	· Failing to record provision of allowance for doubtful accounts · Overstating net sales, etc.
10	June 14, 2011	2nd quarterly report for the 19th business year	2nd quarter consolidated cumulative period from November 1, 2010, to April 30, 2011	Quarterly consolidated income statement	Consolidated quarterly net income was found to be 281 million yen, but stated as 346 million yen.	Failing to record provision of allowance for doubtful accounts, etc.

2. Keiozu Holdings Company submitted to the director-general of the Tohoku Local Finance Bureau:

(1) its securities registration statement incorporating the annual securities report for fiscal year ended October 2006 (see 1. of the table shown above), which contained false statements on important matters on March 13, 2007, and had others acquire its 160 share option certificates in the amount of 9,600,000 yen, through the public offering based on said securities registration statement on March 29, 2007.

(2) its securities registration statement incorporating the annual securities report for fiscal year ended October 2006 (see 1. of the table shown above), which contained false statements on important matters on January 10, 2008, and had others acquire its 6,500 shares in the amount of 195,195,000 yen, through the public offering based on said securities registration statement on January 25, 2008.

(3) its securities registration statement incorporating the annual securities report for fiscal year ended October 2007 (see 2. of the table shown above), which contained false statements on important matters on April 15, 2008, and had others acquire its 6,000 shares in the amount of 120,000,000 yen, through the public offering based on said securities registration statement on April 30, 2008.

The above actions of the company correspond to the act of having securities acquired through public offering based on offering disclosure documents containing false statements on important matters, as stipulated in Article 172(1)(i) of the former FIEA.

3. Keiozu Holdings Company submitted to the director-general of the Tohoku Local Finance Bureau its securities registration statement incorporating the annual securities report for fiscal year ended October 2008 (see 3. of the table shown above) and the quarterly securities report for the 3rd quarter ended July 2009 (see 6. of the table shown above), both of which contained false statements on important matters on October 20, 2009, and had others acquire its 20 share options in the amount of 360,960,000 yen (including the amount to be paid at exercise of the share options),

through the public offering based on this securities registration statement on November 4, 2009.

The above actions of the company correspond to the act of having securities acquired through public offering based on offering disclosure documents "containing false statements on important matters," in Article 172-2(1)(i) of the FIEA.

[Date of recommendation] January 24, 2012

[Amount of administrative monetary penalty] 43,730,000 yen

[Process following recommendation]

Date of decision on commencement of trial procedures: January 24, 2012
Date of order to pay penalty: March 16, 2012

Since the respondent submitted a written answer admitting the facts, no trial was held.

(x) Recommendation in relation to false statements in annual securities reports, etc. of Crowd Gate Co., Ltd. and false statements in offering disclosure documents of the secondary distribution of the company's shares held by the company's officer.

1. Crowd Gate Co., Ltd. submitted to the director-general of the Kanto Local Finance Bureau its annual securities reports, etc. "containing false statements on important matters" by recording fictitious sales etc., as stipulated in Article 172-2 (1) and (2) of the former FIEA and Article 172-4 (1) and (2) of the FIEA, as described in the table below.

No.	Disclosure document		False statement			
	Submission date	Document	Accounting period	Statement on Finance and Accounting	Content	Accounting item
1	March 30, 2007	Annual securities report for the 7th business year	Accounting period from January 1, 2006, to December 31, 2006	Income statement	Ordinary loss was found to be 36 million yen, but positive 66 million yen was stated as income. Net loss was found to be 45 million yen, but positive 60 million yen was stated as income.	・Recording fictitious sales ・Understating cost of goods sold, etc.
				Balance sheet	Net assets were found to be 325 million yen, but stated as 431 million yen.	

2	September 28, 2007	Semiannual report for the 8th business year	Interim accounting period from January 1, 2007, to June 30, 2007	Interim income statement	Interim net loss was found to be 100 million yen, but stated as 64 million yen.	・Overstating software ・Overstating contents ・Overstating long-term prepaid expenses, etc.
				Interim balance sheet	Net assets were found to be 494 million yen, but stated as 639 million yen.	
3	March 31, 2008	Annual securities report for the 8th business year	Accounting period from January 1, 2007, to December 31, 2007	Income statement	Ordinary loss was found to be 131 million yen, but positive 54 million yen was stated as income. Net loss was found to be 191 million yen, but positive 56 million yen was stated as.	・Recording fictitious sales ・Overstating software ・Overstating contents, etc.
			Consolidated accounting period from January 1, 2007, to December 31, 2007	Consolidated balance sheet	Consolidated net assets were found to be 400 million yen, but stated as 760 million yen.	
4	September 26, 2008	Semiannual report for the 9th business year	Interim consolidated accounting period from January 1, 2008, to June 30, 2008	Interim consolidated income statement	Consolidated ordinary loss was found to be 260 million yen, but stated as 190 million yen. Consolidated interim net loss was found to be 269 million yen, but stated as 211 million yen.	・Recording fictitious sales ・Overstating software ・Overstating contents, etc.
				Interim consolidated balance sheet	Consolidated net assets were found to be 237 million yen, but stated as 649 million yen.	

5	March 27, 2009	Annual securities report for the 9th business year	Consolidated accounting period from January 1, 2008, to December 31, 2008	Consolidated balance sheet	Consolidated net assets were found to be negative 519 million yen, but stated as negative 389 million yen.	· Overstating software · Overstating contents · Understating provision of allowance for doubtful accounts, etc.
6	May 15, 2009	1st quarterly report for the 10th business year	1st quarter accounting period from January 1, 2009, to March 31, 2009	Quarterly balance sheet	Net assets were found to be negative 374 million yen, but stated as negative 259 million yen.	· Overstating software · Overstating contents, etc.
7	August 12, 2009	2nd quarterly report for the 10th business year	2nd quarter accounting period from April 1, 2009, to June 30, 2009	Quarterly balance sheet	Net assets were found to be negative 415 million yen, but stated as negative 280 million yen.	· Overstating software · Overstating contents, etc.
8	November 13, 2009	3rd quarterly report for the 10th business year	Accounting period from July 1, 2009, to September 30, 2009	Quarterly balance sheet	Net assets were found to be negative 156 million yen, but stated as negative 29 million yen.	· Overstating software · Overstating contents, etc.
9	March 29, 2010	Annual securities report for the 10th business year	Accounting period from January 1, 2009, to December 31, 2009	Balance sheet	Net assets were found to be negative 83 million yen, but stated as positive 42 million yen.	· Understating provision of allowance for doubtful accounts · Overstating software · Overstating contents, etc.
10	May 14, 2010	1st quarterly report for the 11th business year	1st quarter accounting period from January 1, 2010, to March 31, 2010	Quarterly balance sheet	Net assets were found to be negative 91 million yen, but stated as positive 25 million yen.	· Understating provision of allowance for doubtful accounts · Overstating software · Overstating contents, etc.

11	August 13, 2010	2nd quarterly report for the 11th business year	2nd quarter accounting period from April 1, 2010, to June 30, 2010	Quarterly balance sheet	Net assets were found to be negative 106 million yen, but stated as positive 840,000 yen.	· Understating provision of allowance for doubtful accounts · Overstating software · Overstating contents, etc.
12	November 15, 2010	3rd quarterly report for the 11th business year	3rd quarter accounting period from July 1, 2010, to September 30, 2010	Quarterly balance sheet	Net assets were found to be negative 128 million yen, but stated as negative 31 million yen.	· Understating provision of allowance for doubtful accounts · Overstating software · Overstating contents, etc.
13	March 28, 2011	Annual securities report for the 11th business year	Accounting period from January 1, 2010, to December 31, 2010	Balance sheet	Net assets were found to be 13 million yen, but stated as 83 million yen.	· Understating provision of allowance for doubtful accounts · Overstating contents, etc.
14	May 16, 2011	1st quarterly report for the 12th business year	1st quarter accounting period from January 1, 2011, to March 31, 2011	Quarterly balance sheet	Net assets were found to be negative 14 million yen, but stated as positive 45 million yen.	· Understating provision of allowance for doubtful accounts · Overstating contents, etc.
15	August 15, 2011	2nd quarterly report for the 12th business year	2nd quarter accounting period from April 1, 2011, to June 30, 2011	Quarterly balance sheet	Net assets were found to be negative 34 million yen, but stated as positive 19 million yen.	· Understating provision of allowance for doubtful accounts · Overstating contents, etc.

2. Crowd Gate Co., Ltd. submitted to the director-general of the Kanto Local Finance Bureau:

(1) its securities registration statement containing the income statement on January 30, 2007, which contained false statements on important matters by recording fictitious sales, etc., stated ordinary income for the interim accounting period from January 1, 2006 to June 30, 2006 as 48 million yen despite it actually being an ordinary loss of 5 million yen, and stated net income as 43 million yen despite it

actually being a net loss of 12 million yen, and had others acquire its 2,500 shares in the amount of 212,500,000 yen, through the public offering based on the securities registration statement on February 27, 2007.

(2) its securities registration statement incorporating the annual securities report for fiscal year ended December 2007 (see 3. of the table shown above) and the semiannual securities report for the interim period ended June 2008 (see 4. of the table shown above), both of which contained false statements on important matters on March 10, 2009, and had others acquire its 19,300 shares in the amount of 115,800,000 yen, through the public offering based on said securities registration statement on March 26, 2009.

(3) its securities registration statement incorporating the annual securities report for fiscal year ended December 2008 (see 5. of the table shown above) and the quarterly securities report for the 2nd quarter ended June 2009 (see 7. of the table shown above), both of which contained false statements on important matters on November 2, 2009, and had others acquire its 6,667 shares in the amount of 100,005,000 yen, through the public offering based on said securities registration statement on November 19, 2009.

(4) its securities registration statement incorporating the annual securities report for fiscal year ended December 2009 (see 9. of the table shown above) and the quarterly securities report for the 3rd quarter ended September 2010 (see 12. of the table shown above), both of which contained false statements on important matters on December 1, 2010, and had others acquire its 30,770 shares in the amount of 200,005,000 yen, through the public offering based on said securities registration statement on December 20, 2010.

The above actions of the company correspond to the acts of having securities acquired through public offering based on offering disclosure documents containing false statements on important matters, as stipulated in Article 172(1) of the former FIEA and Article 172-2(1) of the FIEA.

3. An officer of Crowd Gate Co., Ltd., who was involved in the submission of the securities registration statement containing false statements on important matters which was submitted to the director-general of the Kanto Local Finance Bureau by Crowd Gate Co., Ltd. on January 30, 2007 (see 2.(1) above), sold the company's 100 shares owned by said officer for the amount of 12,000,000 yen on February 28, 2007, through secondary distribution based on said securities registration statement with knowledge of the fact that said securities registration statement contains a misstatement.

The above actions of the officer of Crowd Gate Co., Ltd. correspond to the act that an officer of an issuer which has submitted offering disclosure documents "containing a false statement on important matters" who has been involved in the submission of said offering disclosure documents with knowledge of the fact that said offering disclosure documents contain a misstatement has sold securities that he/she owns through secondary distribution based on said offering disclosure documents, as stipulated in Article 172(2) of the former FIEA.

[Date of Recommendation] January 27, 2012

[Amount of administrative monetary penalty]
Crowd Gate Co., Ltd.: 49,960,000 yen
Officer of Crowd Gate Co., Ltd.: 240,000 yen

[Process following Recommendation]

- Crowd Gate Co., Ltd.
  Date of decision on commencement of trial procedures: January 27, 2012
  Date of order to pay penalty: March 2, 2012
  In the process of trial procedures (as of May 31, 2012) } (*)

  * With regard to this Recommendation, the respondent submitted a written answer admitting part of the facts pertaining to the administrative monetary penalty listed in the respective items of Article 178(1)(ii) and (iv) of the FIEA and the amount of the administrative monetary penalty to be paid (31,250,000 yen), but denied the remaining parts. In the response to this written answer, the examiners submitted the draft decision to issue an administrative monetary penalty payment order based on Article 185-6 of the FIEA, after separating the trial procedures for the part which the respondent admitted.

- Officer of Crowd Gate Co., Ltd.
  Date of decision on commencement of trial procedures: January 27, 2012
  Date of order to pay penalty: March 2, 2012

Since the respondent submitted a written answer admitting the facts, no trial was held.

3. Other

With regard to the case of false statements in annual securities reports, etc. relating to DDS, Inc., for which a recommendation for an administrative monetary penalty payment order had been made on November 19, 2010, the respondent has submitted a written answer denying the facts of the violation, and arguing as follows: although inventory assets as well as tools, furniture and fixtures, which had not actually been delivered, have been recorded in each of the securities reports, these should have been recorded as advance payments pertaining to two development transactions, but were mistakenly recorded as inventory assets and as tools, furniture and fixtures; and since there is no error in recording them as assets, it could not be argued that each of these securities reports, as well as each of the securities registration statements incorporating these securities reports, contain any false statements on important matters attributable to the improper recording of fictitious assets.

Following the trial procedures, the commissioner of the FSA commented that, while it cannot be recognized that either of the two development transactions asserted by the respondent did exist, it can be recognized that inventory assets as well as tools, furniture and fixtures, which had not actually been delivered, had been recorded as fictitious assets in each of the securities reports, and in view of the large nominal and relative size of these fictitious recordings, each of the securities reports, as well as each of the securities registration statements incorporating these reports, do contain false statements on important

important matters. Therefore, on October 3, 2011, the commissioner of the FSA made the decision to order payment of the administrative monetary penalty.

3) Petitions for Court Injunctions against Public Offering without Filing Securities Registration Statements

As damages to investors in recent years due to so-called unregistered offering, which is public offering of securities without filing securities registration statements, is expanding and has been recognized as a social problem, the FSA and SESC have been expected to make use of petitions to the court for injunctions against unregistered business operators under Article 192 of the FIEA (hereinafter referred to as "Article 192 Petition" in this section) and investigations therefor under Article 187 of the FIEA (hereinafter referred to as "Article 187 Investigation" in this section).

Upon the filing of a petition from the SESC, when a court finds that there is an urgent necessity and that it is appropriate and necessary for the public interest and investor protection, the court may issue an order against a person who has conducted or will conduct an act in violation of the FIEA from among the acts stated above. (See the figure below.)

Articles similar to Article 192 and 187 of the FIEA have existed from the time when the Securities and Exchange Act was enacted in 1948, referring to U.S. securities legislation, but they have not been utilized for a substantial amount of time. An amendment of the FIEA in 2008, however, delegated the authority for the Article 192 Petition and the Article 187 Investigation to the SESC, which is routinely monitoring illegal financial activities through market surveillance and inspections. In addition, an amendment of the FIEA in 2010 introduced severe fines of up to 300 million yen against corporations that violate a court injunction, in order to ensure the effectiveness of the injunction. From the viewpoint of prompt and flexible responses, the SESC has also become able to delegate the authority for the Article 192 Petition and the Article 187 Investigation to directors-general of Local Finance Bureaus.

In response to these developments, the SESC vigorously collects and analyzes information on public offering of securities without filing securities registration statements in cooperation with supervisory departments of the FSA and the Local Finance Bureaus, and investigating authorities, etc.

As unregistered offerings of shares, bonds, and other securities in violation of the FIEA have caused various troubles, we would like investors to be careful not to purchase such securities.

4) Future Challenges

In performing disclosure statements inspections, taking into account that there are very many diverse parties obligated to disclose documents, and that the environment surrounding securities markets is changing, the SESC will make efforts to conduct more diverse and advanced disclosure statements inspections, from the following perspectives:

(1) In order to implement quick and efficient disclosure statements inspections with an eye to ensuring that market participants are fairly and equally provided with accurate corporate information without delay, the SESC will strive to improve the capacity of its inspections,

such as by developing and improving inspection techniques and by developing human resources through training. Furthermore, in order to efficiently find leads on concealed false statements, etc., the SESC will continue striving to collect an extensive variety of information inside and outside the markets, and will also develop and improve the associated analytical techniques.

(2) On the significance of the role played by third-party panels set up in listed companies, encouraging a listed company or any other issuer, if it has made false disclosure statements, to exercise its initiatives for autonomous and timely disclosure of the accurate financial information to the market as well as encouraging the related parties to achieve such appropriate disclosure.

(3) From the perspective of enhancing its market surveillance functions, the SESC will promote cooperation with financial instrument exchanges and the Japanese Institute of Certified Public Accountants (JICPA), as well as with the relevant departments of the FSA, by sharing the SESC's identified challenges and related information on false statement cases, etc. In addition, the SESC will work on the external dissemination of easy-to-understand information on false statement cases, etc.

(4) Taking appropriate actions against public offerings of securities such as stocks and corporate bonds without filing securities registration statements, along with enhancing cooperation with the FSA and the Local Finance Bureaus and, if necessary, seeking petitions for court injunctions (Article 192 of the FIEA).

(5) Amid the ongoing advances in information and technology, operations, such as preserving, restoring and analyzing electromagnetic records saved on computers, mobile phones and other electronic devices, as well as making such records admissible as evidence (hereinafter referred to as "digital forensics"), are also gaining importance in disclosure statements inspections.

For this reason, during FY2011, the SESC trialed taking the digital forensics equipment provided within the SESC Executive Bureau and introducing and utilizing it in actual disclosure statements inspections. Going forward, the SESC will maintain its efforts to develop digital forensics operations in a bid to conduct disclosure statements inspections more effectively and efficiently.

6. Investigation of Criminal Cases

1) Outline

1. Purpose of Investigation of Criminal Cases

For the purpose of maintaining financial and capital markets in which investors and other market participants are able to participate with trust, it is important to ensure the fairness and transparency of these markets, and to nurture feelings of trust among all market participants. One way of doing this is by strictly punishing any offenders of market rules. With an aim of clarifying the truth behind any malicious acts that impair the fairness of financial instruments and transactions, the Securities and Exchange Surveillance Commission (SESC) has been authorized to conduct investigations of criminal cases since its establishment in 1992.

The investigation of criminal cases is prescribed in the Financial Instruments and Exchange Act (FIEA) as an authority inherent to the SESC officials. The targeted scope of this authority is not limited to financial instruments business operators. The SESC can also exercise this authority over investors and all other persons involved in financial instruments transactions and so forth. Furthermore, the SESC has also been given the authority to investigate criminal cases under the Act on Prevention of Transfer of Criminal Proceeds (APTCP), in which the FIEA is applied mutatis mutandis in this regard.

Amid greater diversity, and as globalized financial instruments and transactions become more complex and complicated, the SESC investigates criminal cases comprehensively in both primary and secondary markets.

2. Authority and Scope of Investigation of Criminal Cases

Specifically, the SESC has two types of authority with regard to the investigation of criminal cases. One is non-compulsory investigation; the SESC is authorized to conduct administrative level (non-compulsory) investigations, including questioning a suspect in, or witness to, a violation of the law or regulations, inspecting articles possessed or left behind by a suspect and provisionally holding articles provided voluntarily or left behind by a suspect (Article 210 of the FIEA). The other is compulsory investigation; the SESC is also authorized to carry out compulsory investigations, visits, searches and seizures conducted based on a warrant issued by a judge (Article 211 of the FIEA).

The scope of criminal cases is prescribed in a government ordinance as a category of acts impairing fair securities trading (Article 45 of the FIEA Enforcement Order). Most typical criminal cases include the submission of a false annual securities report by an issuing company, insider trading by a corporate insider, and the dissemination of false rumors, fraudulent means and market manipulation by any persons.

Under the APTCP, in cases where a financial instruments business operator confirms the identity of individuals, an act by a customer to conceal his or her name or address is also subject to investigation as a criminal case (Article 29 of the APTCP).

At the conclusion of a criminal case investigation, the SESC official reports the results of the investigation to the SESC (Article 223 of the FIEA, Article 29 of the APTCP). In the event that the investigation leads the committee members to have a strong belief that the case constitutes a violation, the SESC shall file a formal complaint with a public prosecutor, and if there are any items that have been retained or seized in the SESC's investigation,

they shall be sent together with a list of retained/seized articles to the public prosecutor (Article 226 of the FIEA, Article 29 of the APTCP).

3. Activities in FY2011

In FY2011, the SESC filed complaints to public prosecutors for 12 criminal cases ((see part 2) in this chapter). In each case, the SESC conducted non-compulsory investigations and compulsory investigations of relevant places, including the residences and offices of the suspects. In 6 out of 12 cases, the SESC filed complaints with the Tokyo District Public Prosecutors Office; in the remaining 6 cases, the SESC filed with the public prosecutors offices in the Yokohama, Kobe, Osaka and Fukuoka districts. This indicates that violations were conducted throughout the country.

The SESC also conducted prompt disclosures of information on all the cases to the public and market, on the exact day of filing the respective complaints, on SESC's website, about details of violations, the relevant provisions and the statutory penalty for each case.

2) Complaints

1. Summary

In FY2011, based on the results of criminal investigation, the SESC filed criminal charges with the following district public prosecutor offices for a total of 12 cases (38 individuals), consisting of 5 cases (9 individuals) of suspected insider trading, 1 case (1 individual) of suspected market manipulation, 1 case (1 individual) of suspected dissemination of false rumors, 3 cases (15 individuals) of suspected fraudulent means, and 2 cases (12 individuals) of suspected submission of false annual securities reports.

Name of case	Accusation date	Office
The case concerning submission of false annual securities reports of Fuji Bio Medix Co., Ltd.	May 27, 2011	Tokyo District Public Prosecutors Office
Insider trading case concerning the shares of Suruga Corporation	June 10, 2011	Yokohama District Public Prosecutors Office
Insider trading case concerning the shares of Just Systems Corporation	July 13, 2011	Tokyo District Public Prosecutors Office
The case of abusing a real estate appraisal for contributions in kind	August 2, 2011	Osaka District Public Prosecutors Office
Market manipulation case utilizing "*Misegyoku*" sham order transactions by a day trader	August 5, 2011	Fukuoka District Public Prosecutors Office
Fraudulent scheme case using fake payment in capital increase of Inoue Industry Co., Ltd.	December 12, 2011	Tokyo District Public Prosecutors Office
The case of disseminating a false rumor and abusing electronic bulletin boards	December 21, 2011	Kobe District Public Prosecutors Office
Insider trading by Assistant Vice-Minister of the Ministry of Economy, Trade and Industry	January 31, 2012	Tokyo District Public Prosecutors Office
The case concerning submission of false annual securities reports of Olympus Corporation	March 6, 2012 March 28, 2012	Tokyo District Public Prosecutors Office

Name of case	Accusation date	Office
Insider trading case concerning the shares of Kurosaki Harima Corporation	March 22, 2012	Fukuoka District Public Prosecutors Office
Fraudulent scheme case using fake payment in capital increase of Celartem Technology, Inc.	March 26, 2012	Tokyo District Public Prosecutors Office
Insider trading case concerning the shares of Japan Wind Development Co., Ltd.	March 28, 2012	Kobe District Public Prosecutors Office

2. Outline of Cases

(1) The case concerning submission of false annual securities reports of Fuji Bio Medix Co., Ltd.

(i) The suspected corporation, Fuji Bio Medix Co., Ltd., was in the business of conducting to check the safety of biopharmaceuticals as well as to sell medical and pharmaceutical products. Suspect A, its CEO, managed the operations of the suspected corporation. Suspect B, general manager of administration (between August 22, 2006, and April 27, 2007), managed the accounting and financial operations of the company, and continued management of accounting and financial operations of the company after April 28, 2007. Suspect C is an officer of a corporation which provides diagnosis and guidance, etc. on management and accounting, and from June 20, 2007, was engaged in the accounting and financial operations of the suspected corporation as a part-time deputy general manager of administration. Suspect D is an officer of a corporation whose purpose is to provide management consulting, etc.

(ii) On August 31, 2007, the four suspects in conspiracy submitted to the Kanto Local Finance Bureau the suspected corporation's annual securities report for 2006/2007, which contains its consolidated income statement by recording fictitious sales, approximately JPY 18,215 million yen (in truth JPY 16,696 million), and recording recurring profit, approximately JPY 834 million, (in truth an ordinary loss of approximately JPY 514 million) as well as its fictitious contribution in consolidated balance sheet, approximately JPY 1,911 million (JPY 11 million in truth) and so on.

(iii) On February 13, 2008, in a public offering of shares issued by the suspected corporation, suspect A submitted to the Kanto Local Finance Bureau a securities registration statement containing some fictitious information in sales amount and recurring profit.

(iv) By engaging in the matter described above, four suspects violated Section 197 of the FIEA. The SESC filed a criminal charge with respect to each of the suspect and the suspected corporation.

(2) Insider trading case concerning the shares of Suruga Corporation shares

(i) The suspected corporation, Suruga Corporation ("Suruga"), is a stock company engaged in real estate business. Suspect A was the Chief Executive Officer of Suruga. Suspect B was the executive officer in charge of the Finance Department, and suspect C was the Legal Affairs Manager at Suruga. Although Suruga had contracted another

corporation to carry out a negotiation for eviction, from at least mid-February 2008, all three suspects became aware of material information concerning the contracted corporation being under the influence of anti-social forces, and the police were proceeding with an investigation.

(ii) The three suspects sold a total of 14,500 shares of the suspected corporation for a total price of JPY 19,043,600 during the period from February 25 to March 3, 2008, prior to the information being announced.

(iii) By engaging in insider trading as described above, three suspects violated Section 166-2 (4) of the FIEA. The SESC filed a criminal charge with respect to each of the suspects.

(3) Insider trading case concerning the shares of Just Systems Corporation

(i) Around early February 2009, from a person who has a consultancy contract with Just Systems Corporation, the suspect received material information regarding the fact that the executive board of Just Systems Corporation decided to increase capital by allocating new shares to Keyence Corporation as well as to form business alliance.

(ii) The suspect purchased a total of 353,400 shares of Just Systems Corporation for a total price of JPY 53,292,300, during the period from February 23 and March 27, 2009, prior to the information being announced.

(iii) By engaging in insider trading as described above, the suspect violated Section 166-3, 166-1(4), 166-2(1) of the FIEA. The SESC filed a criminal charge with respect to the suspect.

(4) The case of abusing a real estate appraisal for contributions in kind

(i) The suspected corporation, NESTAGE Co., Ltd. ("NESTAGE"), went into insolvency for the period of 2009/2010, as well as that of 2008/2009, and there were concerns that it would infringe the delisting criteria. Under such circumstances, for the purpose of preventing delisting, seven suspects conspired to artificially inflate the share price of NESTAGE and attempt to eliminate insolvency by overstating its contribution in kind through the allocation of new shares to a third party named Cross Biz Co., Ltd. ("Cross Biz").

(ii) In particular, the suspects overvalued three properties of land and buildings, which were comprised of accommodation facilities, as JPY 1.3 billion while knowing that the actual value of the properties was less than JPY 1.2 billion in total, and not adequate for the value of property contributed in kind. Then during the period from January 22 to February 5, 2010, based on inflated accommodation capacity, the suspects prepared a written appraisal to the effect that the total appraised value of the three properties was JPY 1.3 billion.

(iii) On February 10, the suspects made NESTAGE announce that its board of directors had resolved to issue 1,200 class-A preferred stock with a total issue value of JPY 1.2

billion through contributions in kind of three properties, which was information containing false details of appraisal for property, and published a fake statement certifying that the estimated value is reasonable, and that real estate having a value equivalent to this amount would be paid as contributions in kind.

(iv) By engaging in fraudulent means as described above, the seven suspects violated Section 158 of the FIEA. The SESC filed a criminal charge.

(5) Market manipulation case utilizing "Misegyoku" sham order transactions by a day trader

(i) For the purpose of obtaining economic benefit through manipulating the price of Gaba Corporation shares, on November 15, 2007, the suspect purchased a total of 46 shares by placing a series of higher limit buy orders and pushed the share price higher. Then, the suspect placed buy limit orders of a total of 150 shares at a lower price than the current price. By such orders, the suspect falsely portrayed that trades of the above shares were active and inflated the share price from JPY 110,000 to JPY 122,000. And later on, the suspect turned to sell his/her 59 shares at a higher price range and earned illicit gain.

(ii) On May 21, 2009, by repeatedly conducting the same methods as mentioned above, the suspect manipulated the shares of Daito Woolen Spinning Co., Ltd, and earned illicit gain.

(iii) On August 31, 2010, by repeatedly conducting the same methods as mentioned above, the suspect manipulated the share price of Leopalace21 Corporation, and earned illicit gain.

(iv) By engaging in market manipulation as described above, the suspect violated Section 159 of the FIEA. The SESC filed a criminal charge with the matter.

(6) Fraudulent scheme case using a fake payment in capital increase of Inoue Industry Co., Ltd.

(i) The suspects circulated money among Inoue Industry's bank account and third party's account in order to disguise the money as a genuine investment. With those money transfers, suspects defrauded payments of capital increase by issuance of new shares, and announced false information.

(ii) In particular, on September 24, 2008, the four suspects conspired with Apple LLP employees to transfer JPY 1500 million from a bank account of Inoue Industry to a bank account of Apple LLP through the bank account of a third party. Then, under the name of Apple LLP, the suspects ordered to transfer the money to another bank account of Inoue Industry. The suspects announced false information that the payment of JPY 1,800 million, including the above JPY 1,500 million, as payment for the capital increase by issuance of new shares was completed.

(iii) By engaging in a fraudulent scheme as described above, the four suspects violated

Section 158 of the FIEA. The SESC filed a criminal charge.

(7) The case of disseminating a false rumor and abusing electronic bulletin boards

(i) The suspect disseminated a false rumor and used fraudulent means for the purpose of inflating the stock prices of S-pool Inc., Long life Holdings Co. Ltd., Nippon manufacturing service Corp., and Full Speed Inc. by showing false information on a popular electronic bulletin board.

(ii) Even though no journals ever showed articles about S-Pool Inc.'s business profit increasing significantly, the suspect posted false information, such as "A journal posted S-pool Inc.'s significant increase in business profit," on the electronic bulletin board.

(iii) The suspect repeatedly conducted the same methods as above mentioned on the material information on Long life Holdings Co. Ltd., Nippon manufacturing service Corp., and Full Speed Inc.

(iv) By engaging in the dissemination of a false rumor which affects the stock price, the suspect violated Section 158 of the FIEA. The SESC filed a criminal charge with the suspect.

(8) Insider trading by Assistant Vice-Minister of the Ministry of Economy, Trade and Industry

(i) The suspect, Assistant Vice-Minister of the Ministry of Economy, Trade and Industry, has duties of planning of the development, improvement and coordination for the market of semiconductor devices, integrated circuits and other information and telecommunications equipment as well as overseeing related firms.

(ii) In the course of exercising his authority in those duties, around March 9, 2009, the suspect became aware of the material information that an executive board of NEC Electronics Corporation, operating to develop and manufacture electronic components for semiconductor devices, had decided to merge with Renesas Technology Corporation.

(iii) The suspect purchased a total of 5,000 NEC Electronics shares in the name of the suspect's wife for a total price of JPY 4,897,900, prior to the announcement of the material information.

(iv) In the course of exercising his authority in those duties, around May 11, 2009, the suspect became aware of the material information that an executive board of Elpida Memory Inc., operating to develop and manufacture electronic components for semiconductor devices, had decided to obtain approval for a business restructuring plan based on the Special Industry Revitalization Act, and in accordance with that plan, to increase its capital through the allocation of new shares to a third party.

(v) The suspect purchased a total of 3,000 Elpida Memory shares in the name of the suspect's wife for a total price of JPY 3,059,000 yen, prior to the announcement of the material information.

(vi) By engaging in insider trading as described above, a suspect violated Section 166-1 of the FIEA. The SESC filed a criminal charge against the suspect.

(9) The case concerning submission of false annual securities reports of Olympus Corporation

With respect to the business and property of the suspected corporation,

(i) On June 28, 2007, three suspects, who were executive officials of Olympus Corporation, and the other four suspects, who were former employees of securities company, conspired to submit to the Kanto Local Finance Bureau the suspected corporation's annual securities report for its consolidated fiscal year of 2006/2007, which hid loss-making investment by using an off-the-book accounting scheme, falsely stating its consolidated net assets as JPY 344,871 million (in truth JPY 232,249 million)

(ii) On June 27, 2008, the seven suspects above conspired to submit the suspected corporation's annual securities report for its consolidated fiscal year of 2007/2008, which hid loss-making investment, falsely stating its consolidated net assets as JPY 367,876 million (in truth JPY 251,450 million)

(iii) On June 26, 2009, four of the seven suspects conspired to submit the suspected corporation's annual securities report for its consolidated fiscal year of 2008/2009, which hid loss-making investment, falsely stating its consolidated net assets as JPY 168,784 million (in truth JPY 121,323 million)

(iv) On June 29, 2010, the four suspects in (c) conspired to submit the suspected corporation's annual securities report for its consolidated fiscal year of 2009/2010, which hid loss-making investment, falsely stating its consolidated net assets section as JPY 216,891 million (in truth 171,823 million)

(v) On June 29, 2011, the three suspects (executive officers of the suspected corporation) conspired to submit the suspected corporation's annual securities report for its consolidated fiscal year of 2010/2011, which hid loss-making investment, falsely stating its consolidated net assets section as JPY 166,836 million (in truth 125,239 million)

(vi) By engaging in the action described above, the seven suspects violated Section 197-1 of the FIEA. The SESC filed a criminal charge with respect to each of the suspects and the suspected company.

(10) Insider trading case concerning the shares of Kurosaki Harima Corporation

(i) Around December 19, 2008, suspect A, who works at Kurosaki Harima Corporation ("Kurosaki"), became aware of material information that the executive board of Kurosaki confirmed that the forecasting figures for the ordinary profit of fiscal year 2008/2009 should be revised from those released on May 25, 2008.

(ii) Suspect A and a friend, suspect B, conspired to sell a total of 431,000 Kurosaki shares in the name of suspect B for a total price of JPY 101,571,000, prior to the announcement of the material information.

(iii) Around January 14, 2010, suspect A became aware of material information that the executive board of Kurosaki confirmed that the forecasting figures for the ordinary profit of fiscal year 2009/2010 should be revised from those released on November 11, 2009.

(iv) Suspect A and suspect B conspired to purchase a total of 303,000 Kurosaki shares in the name of suspect B for a total price of JPY 51,644,000 yen prior to the announcement of the material information.

(v) Around mid-January 2010, suspect B received the material information mentioned (c) from suspect A. Then, suspect B purchased a total of 61,000 Kurosaki shares in the name of another person at a total price of JPY 10,134,000 prior to the announcement of the material information.

(vi) On November 9, 2010, suspect A became aware of material information to the effect that the executive board of Kurosaki confirmed that the forecasting figures for the ordinary profit of fiscal year 2010/2011 should be revised from those released on May 13, 2010.

(vii) Suspect A purchased a total of 171,000 Kurosaki shares in the name of another person at a total price of JPY 52,058,000 on November 10, 2010, prior to the announcement of the material information.

(viii) Around November 9, 2010, suspect B received the material information mentioned (f) from suspect A. Then, suspect B purchased a total of 106,000 Kurosaki shares in his own name at a total price of JPY 31,893,000 prior to the announcement of the material information. Suspect B was also prosecuted for crimes of breaching the Act on Punishment of Organized Crimes.

(11) Fraudulent scheme case using fake payment in capital increase of Celartem Technology, Inc.

(i) The suspect company, Celartem Technology Inc., ("Celartem"), listed on the Osaka Securities Exchange, faced delisting due to an insufficient amount of capital. Therefore, two suspects of Celartem planned to avoid delisting by increasing its share price, with the scheme that Celartem would make a China-based company named Beijing CEE Technology Co., Ltd ("BCT") and become substantively affiliated with it by exchanging shares. Because the scheme seems to be deemed as "backdoor listing" by BCT, two suspects made it appear as if Celartem acquired BCT by financing from a third party.

(ii) Specifically, two suspects, in conspiracy, for the purpose of increasing the share price of Celartem, during the period from November 13 and December 9, 2009, repeatedly circulated Celartem's own funds of JPY 750 million in total amongst Celartem and two companies respectively named True Honour Group Ltd. ("THG") and Wealth Chime Industrial Limited ("WCI"), which both ostensibly seemed to be third parties substantially under control of BCT. The two suspects made it appear as though Celartem raised JPY 1.5 billion of capital from WCI, the third party entity. However, the real purpose was that

BCT would take over Calartem by obtaining the majority of issued outstanding shares of Celartem via an exchange of shares with WCI and THG, BCT's affiliates.

(iii) On November 13, 2009, Celartem announced false information of "Allocation of new shares to a third party" and "Acquisition of BCT". The announcements explained that Celartem would increase approximately JPY 1.5 billion by third party allocation to WCI, then with that JPY 1.5 billion, Celartem would purchase the substantially entire ownership of BCT through THG.

(iv) Furthermore, on December 16, 2009, Celartem also announced false information to the effect that the above-mentioned payments of JPY 1.5 billion and procedures were completed, and that Celartem would succeed to the acquisition of BCT; with all of above mentioned schemes, the suspects conducted fraudulent means for the purpose of changing the market prices of the securities.

(v) In this case, the SESC obtained information from overseas securities supervisory authorities, pursuant to the Multilateral Memorandum of Understanding (MMOU) of the International Organization of Securities Commissions (IOSCO).

(12) Insider trading case concerning the shares of Japan Wind Development Co., Ltd.

(i) During the period from about June 4 to 13, 2010, the suspect received the material information that there was a possibility for Japan Wind Development Co., Ltd. ("JWD"), to be designated as securities under supervision by the Tokyo Stock Exchange.

(ii) The suspect sold a total of 470 JWD shares under his/her own name for JPY 86,639,900 on June 14, 2010, prior to the announcement of the information.

(iii) By engaging in insider trading as described above, the suspect violated Section 166-2(4) of the FIEA. The SESC filed a criminal charge against the suspect.

3) Future Challenges

With regard to criminal investigation, the SESC will address the following issues in order to react flexibly and promptly to environmental changes of markets and to improve the effectiveness of surveillance.

Through these efforts, by speedy criminal filings of malicious violations, the SESC is trying to warn market participants, including private investors, and will prevent any recurrence of similar types of violations.

(1) Approach to mixed cases of malicious and complex cases throughout primary and secondary markets, such as fraudulent financing (unfair financing)

As stated in the 7th term booklet on target (published on January 18, 2011), the SESC continues to improve its functions for market surveillance, and strongly addressing the exposure of complex and malicious cases including unfair financing or fraudulent means. In FY2011, the SESC filed complaints in cases of fraudulent means in relation to NESTAGE Co., Ltd., Inoue Industry Co., Ltd. and Celartem Technology,

Inc. In each case, the SESC recognized issues of the allocation of new shares to a third party by listed companies; such as the improper use of the system of contributions in kind, the possible involvement of anti-social forces, and an attempt for a "backdoor listing" by offshore capital. Thus, it has become obvious that concerning unfair financing, more people are involved, and the types of schemes are increasingly varying.

Under such circumstances, the SESC will continue to watch over unfair financing with flexibility and a broad point of view, and will apply laws addressing the use of fraudulent means to expose malicious violations. Furthermore, even for cases in which antisocial groups may be secretly involved, the SESC intends to tackle such cases in cooperation with the police.

(2) Monitoring a wide variety of crimes

In addition to tackling the above-mentioned cases involving unfair finance, the SESC tackles typical types of crime, such as insider trading, market manipulation, and submission of false financial statements like window-dressing of accounts). For exercising strict control over these types of crimes, the SESC continues to strive for more effective and efficient market surveillance.

(i) Countermeasures to insider trading

As for insider trading, the number of cases in which the people who are required to have professional ethics are involved as informants or insider traders is increasing. In recent years, the enhancement of capital through public offering or allotment of new shares to a third party by listed companies became popular as well as the method of being unlisted through management buyout (MBO), etc. In such situation, it is obvious that there are risks of insider trading being done. Thus, the SESC will continue monitoring the overall market and all transactions suspected of being insider trading—for example, a transaction made in a timely manner prior to a material fact being announced—, and analyzing the primary factors of insider trading. The SESC will also strive to set up preventive measures and communicate with Self-Regulatory Organizations (RSOs), listed companies and relevant industries to prevent insider trading and to find evidence of insider trading promptly.

(ii) Countermeasures to market manipulation

The SESC recognizes two types of broad trends in recent cases of market manipulation: manipulation using techniques such as "*Misegyoku*" sham order transactions in which individual day traders exploit online trading, and more methodical and artificial price manipulation performed by "shite-suji," professional speculators. In cooperation with stock exchanges, the SESC will endeavor to detect problematic cases at an early stage, and will continue to take all possible measures when exercising surveillance over market manipulation.

(iii) Countermeasure for window-dressing

With regard to the case of Olympus Corporation, a window-dressing case which has drawn worldwide attention, the SESC conducted a joint investigation with the Tokyo District Public Prosecutors Office and the Metropolitan Police Department, and

promptly filed criminal complaints after conducting compulsory investigation. In addition, in the case of Fuji Bio Medix Co., Ltd.'s window dressing, it was the first time for the SESC to file a complaint against a "window-dressing arranger," who had provided instruction on window-dressing schemes, as a co-principal. Moreover, in the case of Olympus, the SESC also filed complaints as co-principals against four external collaborators who were involved in hiding investment losses.

The SESC will continue its work of analyzing and examining the financial information of listed companies to facilitate the prompt exposure of malicious cases of window dressing designed to deceive investors. The SESC is going to charge all suspects who are involved in window dressing, regardless of whether they are inside or outside of the company. As a matter of fact, companies facing financial problems tend to commit window dressing, and such companies also face the risk of committing unfair financing because of their cash-strapped condition. Hence, the SESC tries to conduct investigation of window-dressing cases in combination with surveillance of fraudulent finance.

(3) Enhancing cooperation with foreign regulators

Along with the globalization of financial industries and rapid economic growth of emerging markets like Asian countries, the numbers of cross-border transactions and expansions of foreign capitals or foreign investors into Japanese markets are continuously increasing. Under such circumstances, in addition to insider trading and market manipulation, cases of window-dressing and unfair financing by using offshore bank accounts or brokerage accounts are also increasing. In FY2011, in the case of Celartem Technology, Inc., for the first time, the SESC sounded the warning bell to the market by filing a complaint against applying fraudulent means for a so-called backdoor-listing scheme, whereby unfair financing is used to enable foreign capital to substantively control a listed company in Japan. The SESC will continue its endeavors to expose these kinds of problems that are emerging in the shadows of globalization.

In order to investigate such forms of cross-border market misconduct, it is essential for the SESC to cooperate with overseas surveillance authorities. Thus, the SESC commits itself to cooperating with overseas authorities much more actively, and shall use its endeavors for closing loopholes enabling market misconduct using overseas transactions. Especially, the SESC will make the most of international information exchange frameworks, including the International Organization of Securities Commissions (IOSCO) Multilateral MOU.

(4) Responding to the spread of crimes in rural areas

As seen in the case of market manipulation done by a day trader residing in Oita, and a similar case in FY2011 of a day trader residing in Fukuoka, the SESC found that the nationwide spread of online trading facilitates rural investors involvement in crime related to securities transactions, and also found that there is some risk of insider trading or other for such people who are close to emerging companies in rural areas. Amid such circumstances, the SESC will continue to strengthen its cooperation with the investigative authorities and local finance bureaus in each area, and will adopt a stance of clarifying the truth behind offenses, no matter where they are committed, and filing accusations with public prosecutors.

(5) Strengthening digital forensics operations

For exercising investigations efficiently and effectively, it is important to use information technology or digital forensics especially for tracing the proof of crimes. The SESC focuses on collecting evidence through implementing the seizure of computers, mobile phones and other devices in order to restore and analyze the data saved on those devices.

Therefore, in addition to recruiting specialists in digital forensics, the SESC has been providing practical training to its staff, in an effort to acquire and accumulate technical know-how. It has also been systematically expanding its equipment and software necessary for digital forensics. During FY2011, the SESC introduced software, etc. for efficiently analyzing vast amounts of information, such as the financial data of listed companies, thereby further enriching its digital forensics environment.

The SESC will continue its endeavor to strengthen both the human and equipment aspects of its digital forensics operations in an effort to conduct investigations into criminal cases more effectively and more efficiently.

(6) Development of human resources

In exercising criminal case investigations, the SESC focuses on developing staff members' skills of questioning suspects or witnesses, and of reviewing and verifying seized articles.

The SESC will continue its commitment to developing the required human resources, such as through personnel exchanges with prosecutors and enhancing training, and through human-resource management oriented toward development and training.

7. Policy Proposals

1) Outline

1. Purpose and Authority of Policy Proposals

To establish a fair, highly transparent and sound market, and to maintain investor confidence in that market, the rules of the market should respond to changes in the environment surrounding it. Therefore, with regard to measures considered necessary to ensure fairness in trading or to secure investor protection and other public interests, the Securities and Exchange Surveillance Commission (SESC) can submit policy proposals to the prime minister, the Commissioner of the Financial Services Agency (FSA), or the minister of finance pursuant to Article 21 of the Act for Establishment of the FSA, where necessary based on the results of inspections, investigations or other relevant activities, in order to have the rules maintained appropriately to reflect the actual conditions of the market.

Policy proposals are submitted after the SESC has comprehensively analyzed the important issues identified in the results of its inspections and investigations. These proposals clarify the SESC's views on laws, regulations and self-regulatory rules, and it is intended that they will be reflected in the policies of the administration and of self-regulatory organizations. The policy proposals submitted by the SESC serve as an important consideration in the policy response of regulatory authorities.

In terms of the substance of specific policy proposals, when existing laws, regulations and self-regulatory rules are found to be insufficient in light of the situation of the securities market, the SESC draws attention to that fact. It then presents issues to be considered regarding the state of laws, regulations and self-regulatory rules from the perspective of ensuring market integrity and securing investor protection and other public interests, and calls on them to be reviewed.

2. Policy Proposals Submitted in FY2011

In FY2011, the SESC submitted to the prime minister and the commissioner of the FSA one policy proposal based on its investigation of cases of market misconduct ("Imposition of administrative monetary penalties concerning persons who have conducted market misconduct on the accounts of customers, etc."). From its inception in 1992 through FY2011, the SESC submitted 22 policy proposals.

2) Specific Policy Proposals and Measures Taken Based on Policy Proposals

1. Specific Policy Proposals

The specific contents of policy proposals submitted in FY2011 are as follows:

Imposition of administrative monetary penalties concerning persons who have conducted market misconduct on the accounts of customers, etc.

In investigating cases of market misconduct, an incident was recognized where it was suspected that a person who does not fall under the category of a financial instruments business operator, etc. had conducted market misconduct on the accounts of customers, etc.

With respect to administrative monetary penalties concerning a person who has conducted market misconduct on the accounts of customers, etc. (hereinafter referred to as a "violator"), under the existing system, because the provisions for calculating administrative monetary penalties can only be applied in cases where a violator is a "financial instruments business operator, etc." prescribed by the Financial Instruments and Exchange Act (FIEA), the SESC is unable to impose administrative monetary penalties even though the violator has received compensation.

Therefore, from the perspective of preventing violations, administrative monetary penalties also need to be able to be imposed in cases where a person who does not fall under the category of a financial instruments business operator, etc. has received compensation having conducted market misconduct on the accounts of others.

2. Actions Taken Based on Policy Proposals

In FY2011, actions taken based on the policy proposal described above are as follows:

Measures taken should be based on a policy proposal for the imposition of administrative monetary penalties concerning persons who have conducted market misconduct on the accounts of customers, etc.

On March 9, 2012, the FSA submitted to the Diet the "Draft Act for Partial Revision of the Financial Instruments and Exchange Act, etc.," which included an amendment to the FIEA (to be enforced within one year after promulgation of the revised act) that would enable administrative monetary penalties to also be imposed in cases where a person, who does not fall under the category of a financial instruments business operator, etc., has received compensation having conducted market misconduct on the accounts of others.

3. Other Initiatives

Some initiatives are deemed necessary to ensure market fairness and investor protection, but do not reach the stage of policy proposals. For such initiatives, the SESC communicates its awareness of issues through opinion exchanges with administrative departments of the FSA and self-regulatory organizations, and urges necessary policy responses. The SESC contributed to the revisions of systems and the amendment of rules in self-regulatory organizations.

3) Future Challenges

Based on the results of inspections and investigations, etc. pursuant to the FIEA and other laws, with regard to measures believed necessary, the SESC submitted policy proposals with the aim of having them reflected in the measures implemented by the administration and self-regulatory organizations. Furthermore, with regard to matters that do not require a revision of laws or regulations, and with regard to matters that are not directly linked to policy proposals, the SESC strengthened its function of providing information, such as actively communicating its awareness of issues to the FSA, self-regulatory organizations and so forth, aiming to share its awareness of issues. The SESC intends to continue to proactively work on this.

8. Measures to Respond to the Globalization of Markets

1) Cooperation with Overseas Regulators and Global Market Surveillance

1. Activities in IOSCO (the International Organization of Securities Commissions)

IOSCO is an international organization acting with the aim of establishing international harmony of securities regulations and mutual collaboration among regulatory authorities. At present, IOSCO is composed of 203 organizations representing each country or region. The SESC became an associate member of IOSCO in October 1993. (Note: the FSA participates in IOSCO as an ordinary member representing Japan.)

In IOSCO, the Annual Conference led by the Presidents Committee which is the supreme decision-making body of IOSCO is held every year, where the top-level officials of securities regulators from various countries and regions meet together to discuss and exchange opinions on the current situation and challenges in each securities regulations. As the number of international transactions in financial and capital markets increases, it is extremely important to strengthen international collaborative relationships through the exchange of information and opinions with regulators from various countries in order to carry out proper market surveillance in Japan. Therefore, from the SESC, the Commissioner attends the Annual Conference of IOSCO. In addition, the SESC also participates in the Asia-Pacific Regional Committee (APRC), which is one of the Regional Standing Committees of IOSCO to discuss specific regional issues. In this way, the SESC is striving to enhance cooperation with overseas regulators.

For the purpose of discussing major regulatory issues faced by international markets and proposing practical solutions for such issues, IOSCO has established the Policy Committee, which is made up of the regulatory authorities of developed countries or regions, and seven Standing Committees were made under it. The SESC has been a member of Standing Committee 4 (C4), which was set up to carry out the discussion of enforcement issues and information exchange.

Note: At its Annual Conference in Cape Town in April 2011, IOSCO resolved to establish the IOSCO Board by 2014, absorbing the functions of the Technical Committee, the Executive Committee and the Emerging Markets Committee Advisory Board. As a result, a temporary board will be established in May 2012, and the Technical Committee is abolished along with it.

In FY2011, C4 had discussion on promoting the dialogue with uncooperative jurisdictions and some other issues, warning investors about problematic business operators. The SESC also explained about recent market misconduct in the securities markets and its cooperation with overseas regulators. The SESC has also participated in meetings of the Screening Group (SG) to examine countries/jurisdictions applying for signing of the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (Multilateral MOU) adopted in the Annual Conference in May 2002, which is an information sharing framework among multiple securities regulators.

At the Annual Conference held in Colombo in April 2005, it was agreed that the Multilateral MOU would be an international benchmark for cooperation and information exchange in relation to enforcement issues, and the IOSCO members would sign the

Multilateral MOU, or make an official commitment to seek a legal authority to enable signing the Multilateral MOU, by January 1, 2010, at the latest (all IOSCO members are required to sign the Multilateral MOU by January 1, 2013.) In May 2006, the FSA submitted an application to sign the Multilateral MOU, and in February 2008, the FSA was approved as a signatory country. As a result, the SESC has become able to mutually exchange information with signatories if necessary for enforcement purposes.

Like this, in addition to the participation in IOSCO, the SESC has made efforts for proactive contributions to international discussion in cooperation with the FSA, taking into account the awareness reached through market surveillance.

2. Measures to Investigate Cross-Border Transactions through Information Exchange Frameworks

(1) The SESC has recognized that it is absolutely essential to share information among securities regulators in different countries, as there is concern that market misconduct that may impair the fairness of transactions in multiple countries' markets would increase, while international activities of market participants such as cross-border transactions and investment funds in financial and capital markets have become common.

With regard to building the information exchange framework to exchange information smoothly with overseas regulators, the FSA has entered into bilateral information sharing agreements with the following regulatory bodies:

- China Securities Regulatory Commission (CSRC), China
- Monetary Authority of Singapore (MAS), Singapore
- Securities and Exchange Commission (SEC), United States
- Commodity Futures Trading Commission (CFTC), United States
- Australian Securities and Investments Commission (ASIC), Australia
- Securities and Futures Commission (SFC), Hong Kong
- Securities Commission (SC) (currently, the Financial Markets Authority (FMA)), New Zealand

As mentioned above, the FSA became a signatory to the Multilateral MOU in February 2008. As a consequence, it has become possible for the FSA, including the SESC, to mutually exchange information with other signatories if necessary for surveillance and law enforcement purposes. The SESC intends to ensure fairness in cross-border markets under international cooperation.

(2) Utilizing these frameworks for information exchange, the SESC exchanged information with the Securities and Futures Commission of Hong Kong (SFC) which stemmed from its market surveillance on unfair cross-border trading being conducted in Japanese markets. As a result, on September 15, 2011, the SFC exposed the following case.

Regarding the disciplinary action taken by the Securities and Futures Commission of Hong Kong against an investment advisor based in Hong Kong and its Chief Investment Officer for committing inappropriate trading concerning the shares of Japan Airlines Corporation publicly traded in the Japanese stock market (September 15, 2011)

[Outline of the case]

Following an announcement in 2006 by Japan Airlines Corporation for a public offering of new shares, Oasis Management (Hong Kong) LLC (hereinafter referred to as "Oasis"), which is licensed by the Securities and Futures Commission of Hong Kong (hereinafter referred to as the "Hong Kong SFC"), applied for subscription of the new shares on behalf of a fund it manages. On 19 July 2006, the issue price determination date, Oasis took the following actions:

1. Placement of a large number of buy market orders on close in the last 15 minutes prior to the market close and cancelled them subsequently; and
2. Placement of a large number of short selling orders for Japan Airlines shares in the last five minutes prior to the market close. Some of these short selling orders violated the Securities and Exchange Act of Japan (under enforcement at the time) which prohibited short selling at prices lower than the latest execution prices.

On the settlement day, the fund managed by Oasis failed to deliver shares in nearly 70% of the shares they had short sold and approximately 50% of these transactions were covered by new shares issued by Japan Airlines in the public offer.

The Hong Kong SFC recognized that the above series of actions executed by the Oasis Chief Investment Officer appeared designed to drive down the closing price of Japan Airlines shares on the date. It also recognized that profit could be derived by acquiring the publicly offered Japan Airlines shares at an issue price calculated based on the closing price that had been lowered by the fund managed by Oasis. In light of these matters, the Hong Kong SFC determined that there was a possibility that Oasis and the Oasis Chief Investment Officer lacked eligibility under the applicable law of Hong Kong. The Hong Kong SFC reprimanded Oasis and the Oasis Chief Investment Officer under Hong Kong law, and fined each of them HKD 7,500,000. Furthermore, according to a manager at the Hong Kong SFC, the fines of HKD 7,500,000 are of the highest ever for fines imposed on individuals.

The SESC maintained close cooperation with the Hong Kong SFC. It continued to provide the Hong Kong SFC with information on transactions which stemmed from transaction reviews conducted by the SESC, and with documents on regulations and trade practices in Japan. This close cooperation resulted in the recent disposition rendered in this case by the Hong Kong SFC.

This case presented many challenges: although these acts were committed in the Japanese market, the persons committing them resided overseas; the case was one of complex market manipulation performed not by an ordinary investor like a day trader, but by a business operator licensed by the Hong Kong SFC, that is, by a professional; the acts in question were performed on a large scale and in a very short time, and despite of the fact that it is an actively-traded stock, the share price fluctuated suddenly, and as a consequence, this greatly affected not only the share price in the secondary market, but also the issue price of the new shares being publicly offered in the primary market, and thus many market participants were affected.

The SESC greatly appreciates that the Hong Kong SFC was able to render the disciplinary action after conducting a careful investigation and verification, based on the

various information provided by the SESC and after taking into consideration the laws, regulations and trade practices of Japan.

(3) As a result of the SESC having exchanged information stemming from its market surveillance with overseas securities regulators, so far, four cases (including the case mentioned above) have been charged by overseas securities regulators under their respective laws and regulations. Furthermore, in April 2009, the SESC cooperated with the authorities in Singapore to file an accusation against malicious conduct using cross-border transactions. Thus, the SESC has made steady achievements in this way.

However, this kind of market misconduct using cross-border transactions is difficult to detect, and moreover, recently, suspected cases of insider trading in connection with large public offerings of new shares have been raised in media reports overseas as well. Thus, cross-border transactions and the international activities of market participants are becoming common.

In light of such circumstances, the SESC set up "response to the globalization of markets" as one of the new pillars of its policy directions in the *SESC Policy Statement for the 7th Term*, which it formulated in January 2011, thereby clarifying its policy of strengthening global market surveillance. Furthermore, in the "Action Plan for the New Growth Strategy" (hereinafter referred to as the "Action Plan") published by the FSA on December 24, 2010, it was revealed that the cooperation with market surveillance authorities in Asian countries would be enhanced, based on the awareness of the necessity of enhancing market oversight related to cross-border transactions, especially in Asia. The SESC will appropriately respond to violations using cross-border transactions, taking advantage of information provided by overseas authorities through the information exchange framework among securities regulators in multiple countries and regions, as well as requesting investigations by overseas authorities. While giving attention to the entire primary and secondary markets in order to preclude any loopholes in market oversight, the SESC also intends to reinforce surveillance of cross-border transactions.

3. Measure to Investigate Possible Insider Trading Related to Large Public Offerings of New Shares

Since the summer of 2010, a trend was seen among several large public offerings of new shares made by listed companies in Japan, which was an increase in the volume of transactions and a decline in the share price before the announcement of the public offering was made. In response to this, both Japanese and overseas media pointed out suspicions of insider trading, and there was a series of media reports indicating the need to ascertain the situation that could undermine confidence in Japan's markets. Unlike previous cases of insider trading committed by individual investors in relation to stocks in emerging markets, the involvement of professional investors in Japan and overseas, who regularly conduct large transactions of major stocks, was suspected. In view of this, the SESC (and the Kanto Local Finance Bureau), in cooperation with the Tokyo Stock Exchange, conducted swift market oversight. Following this, the newly established Office of the Investigation for International Transactions and Related Issues has strived to investigate the possible violation which caused this situation, while seeking cooperation from overseas authorities.

As a result, a recommendation for an administrative monetary penalty payment order was made for a case of insider trading by a major institutional investor that had received information as part of its business from the lead managing underwriter prior to the announcement of a large public offering of new shares (see 2) 2. (xvi) in Chapter 4). In addition, verifications related to the management of corporate information at securities companies were also made as part of securities inspections. The SESC still continues to work on investigating possible violation, in cooperation with overseas authorities.

4. Inspections of Large, Globally Active Securities Companies, etc.

For large, globally active securities companies and foreign-owned securities groups, the SESC has engaged in verifications focused on the appropriateness of internal control systems, etc. from the forward-looking perspective so as to prevent the exposure of risks related to their business operations and financial position.

During FY2011, the SESC conducted inspections in response to the introduction of consolidated regulation and supervision, such as conducting verifications for large, globally active securities groups, which also take international activities into consideration.

5. Exchange of Views and Publication of Information

The SESC is working on identifying recent trends in international financial and capital markets as well as the efforts by overseas regulators for ensuring market integrity. The SESC is also working to promote understanding of its activities. Therefore, the SESC collects information on a daily basis, and interviews securities companies and self-regulatory organizations as needed in order to understand actual market conditions. Furthermore, the SESC actively exchanges views with overseas regulators and foreign financial institutions. In FY2011, the SESC exchanged views with overseas regulators such as the United States, China, Hong Kong, Singapore, Taiwan, Thailand and Malaysia, and foreign financial institutions and international industry organizations. Furthermore, SESC staff members served as lecturers in seminars for overseas authorities to report the recent activities of the SESC, as part of the SESC's efforts to deliver information.

2) Development of Human Resources and Organizational Structures

1. Participation in Short-Term Training Courses and Secondment to Overseas Regulators

In order for the SESC's officials to acquire the surveillance and inspection techniques used by regulatory authorities overseas, and to then apply those techniques in market surveillance operations at the SESC, the SESC has sent staff members to participate in short-term training courses hosted by the US Securities and Exchange Commission (SEC), the US Commodity Futures Trading Commission (CFTC), the UK Financial Services Authority (FSA) and by the Monetary Authority of Singapore (MAS), and has also seconded staff to the US SEC and CFTC, and the Hong Kong Securities and Futures Commission (SFC). As stated in the Action Plan mentioned above, the SESC will further develop human resources, for example by sending more staff to overseas securities regulators, including those in Asian countries, from the viewpoint of enhancing the surveillance of cross-border transactions.

2. Development of Organizational Structures in response to the Globalization of Markets

The SESC has proceeded to develop organizational structures for conducting global market surveillance and inspections utilizing international inspection and supervisory frameworks. Specifically, in addition to establishing the position of Deputy Secretary General of International and Intelligence Services, staff members in charge of international affairs have been assigned to each division within the SESC, such as specialist examiners and specialist investigators related to international matters, to conduct investigations by utilizing information exchange frameworks.

Furthermore, up until now, the SESC has closely watched the trends associated with cross-border transactions with great interest. More recently, it has also proceeded to develop organizational structures for responding to the globalization of markets as part of its further development of human resources and organizational structures mentioned in the *SESC Policy Statement for the 7th Term* as described above. For instance, in August 2011, the SESC established the Office of the Investigation for International Transactions and Related Issues in the Administrative Monetary Penalty Division, which specializes in investigating possible market misconduct by professional investors both in Japan and overseas using cross-border transactions. The SESC continues to bring forward the reforms of organizational structure to respond to globalization of the markets.

9. Efforts to Enhance Surveillance Activities and Functions

1) Reinforcement and Strengthening of the Market Surveillance System

1. Reinforcement of Organization

(1) Reinforcement of Organization

In addition to enhancing and strengthening the market surveillance function of the Securities and Exchange Surveillance Commission (SESC), as seen in the delegation of authority to conduct administrative monetary penalty investigations and the expansion of its authority to conduct inspections, the SESC has reinforced its organizational structure by expanding its organization from the previous two-division system, comprised of the Coordination and Inspection Division and the Investigation Division, to the current six-division system.

In FY2012, amid the severe conditions for overall quotas of national public service personnel, as a result of requesting an increase in personnel as one of the main pillars of improving the system of investigating unregistered business operators and the system of monitoring cross-border transactions, an increase of 7 officers was approved. This brings the total SESC staff quota to 392 as of the end of FY2012.

As to the securities transactions surveillance officers (divisions) at the local finance bureaus, an increase of 17 officers was approved, mainly for improving the system of inspection of securities companies and other entities, bringing the quota to 322 as of the end of FY2012. Combined with the staff quotas of the SESC, the total number stands at 714.

(2) Appointment of Private-Sector Experts

From the perspective of ensuring accurate market surveillance and boosting professional expertise among its officers, during FY2011, the SESC reinforced its investigation and inspection systems by employing a total of 13 private-sector experts with specialized knowledge and experience in the securities business, including lawyers and certified public accountants. The appointment of private-sector experts started in 2000, and as of the end of FY2011, 113 such professionals were employed at the SESC.

2. Improvement of Capacity for Collecting and Analyzing Information

(1) Utilization of the Securities Comprehensive Analyzing System (SCAN-System)

Due to the need to ascertain all the facts related to securities transactions by analyzing complicated and massive amounts of data, the SESC has been developing a system supporting its operations called the "Securities Comprehensive Analyzing System (SCAN-System)" since 1993 in order to enhance operational efficiency. The SCAN-System is a comprehensive information system that can be widely used in the operations of the SESC, including the investigation of criminal cases, the investigation of market misconduct, the inspection of disclosure

documents, the inspection of financial instruments business operators, day-to-day market surveillance, and market oversight. Even after the completion of its fundamental development in FY2001, efforts to review and enhance each of its functions have continued to be made, aimed at achieving more efficient operations. In FY2011, modifications on the functions of the system were made in response to the fact that the Civil Penalties Investigation and Disclosure Documents Inspection Division was divided into Administrative Monetary Penalty Division and the Disclosure Statements Inspection Division.

Note: The SCAN-System consists of two major functional modules: the "Securities Companies Inspection System" and the "Market Oversight System." In addition, there are some supporting systems in the SCAN-System: the "SCAN-Internet Patrol System (SCAN-IPS)," the "SCAN-Surveillance by Technical Analysis of Corporation Finance System of Electronic Disclosure (SCAN-STAF)," and the "Information Control System" which is aimed at efficiently processing information provided from the general public.

(2) Better Staff Training

The SESC has aimed at improving the quality of the staff by providing them the OJT and seminars where the know-how acquired in investigation techniques can be passed. Staff members also learn the latest information on financial and capital markets from lectures by outside instructors, etc. These are some of the efforts to enhance staff quality.

The SESC must also respond to new challenges of more complex and diversified types of transactions, the increase of cross-border transactions, and the trading techniques on a rapid basis.

To accurately respond to these conditions, in addition to its previous actions, training is being provided to enable each staff member to acquire advanced specialized knowledge and skills, new financial instruments and transaction techniques, investigation techniques using digital forensics, etc.

3. Enhancement of Systems Infrastructures to Support Market Surveillance

At the phase of design for the next-generation system (Integrated Financial Services Agency (FSA) Business Support System) based on the "Optimization Plan of Business Processes and Systems on the Inspections and Supervision of Financial Institutions and Securities and Exchange Surveillance," which was founded on the philosophy of the program for Building e-Government (as per the decision dated March 28, 2006, by the e-Government Promotion Conference, FSA), the SESC considered ways of having IT-system design incorporate the necessary system functions for each business process, and succeeded in not only raising business efficiency but also in sophisticated business processes incorporating changes in external environments like the adoption of XBRL technology in the EDINET system. The system design phase was completed by FY2010. In FY2011, as work commenced on development of the system, the SESC conducted different types of verifications in accordance with the

progress of the development. Going forward, the SESC will watch the progress carefully to ensure that the designed functions are properly incorporated in the system.

Regarding digital forensics, the SESC continued to procure additional equipment and materials, and it prepared its infrastructure in the area of data analysis so that it can be ready to process a large volume of data. The SESC also sought to make its business more efficient and its investigations speedier by introducing tools for the reliable collection of data.

2) Dialogue with Market Participants and Efforts to Strengthen the Dispatch of Information to the Market

As part of its "outreach activities for enhanced market integrity," which is the second mainstay of the policy statement, *Towards Enhanced Market Integrity*, the SESC mentions enhancing dialogue with individual investors and other market participants, and providing more information to markets. As such, the SESC is making efforts to communicate with market participants actively and widely. The SESC uses a variety of creative means to do this, including exchanges of views, lectures, public talks, press releases, contribution to various public relations media, and the SESC website and email magazine. By providing details of its activities and other information in a timely and easily understood fashion, the SESC aims to increase the understanding of its efforts among market participants and to deepen their confidence in the financial and capital markets.

3) Cooperation with Related FSA Departments

In order to ensure market fairness and transparency and investor protection, in properly executing its work, it is essential that the SESC shares its awareness of issues with the FSA, which is the regulatory agency for Japan's financial and capital markets. The SESC works on using various opportunities to cooperate with the FSA. For example, in addition to daily exchanges of information, it widely shares problems of the moment between executives and personnel in charge. For the supervisory college established for large and complex financial institutions as a response to the financial crisis, the SESC cooperates with the FSA and exchanges information with foreign authorities. From the standpoint of its role in the surveillance of market rules, the SESC thus exchanges information with the FSA regarding market governance.

The SESC delegates part of its work to Directors-General of Local Finance Bureaus, etc. The surveillance officers unit of each local finance bureau performs its delegated work under the director-general, etc., who receives instructions and supervision from the SESC. At occasions such as the Local Finance Bureaus Director-Generals Meeting held by the FSA, the SESC works to build plenty of mutual understanding with each the local finance bureaus, etc. The Local Finance Bureau Inspectors Meeting is held every year, with the aim of sharing awareness of problems regarding matters which require national cooperation, such as problems in market surveillance. From the viewpoint of sharing awareness of problems regarding unfair financing, the Joint Conference for Local Finance Bureau Inspectors and Financial Instrument Exchange Supervisory

Officers and Securities Inspectors (hereinafter referred to as the "Trilateral Joint Conference") has been held regularly as part of the SESC's efforts to share and deepen awareness of problems.

4) Future Challenges

The SESC will address the following issues in order to accurately respond to changes in the conditions surrounding markets, and to achieve more effective and efficient market surveillance.

(1) Development of human resources

Along with advances in innovation of financial instruments and transactions, cross-border transactions and international activities by investment funds and other market participants have become everyday occurrences. Amid such circumstances, the market environment is also undergoing change. One such change is that the techniques of misconduct are becoming more diverse and complex, including market misconduct committed by professional investors in Japan and overseas.

The SESC believes that, on top of enriching its organization and personnel, developing human resources equipped with specialized knowledge and skills is important for responding accurately to these kinds of changes. On this basis, the SESC will continue its efforts to develop human resources, such as by implementing personnel exchanges with other ministries and agencies, utilizing on-the-job training, enriching its staff training, and by making planned appointment of staff to certain positions.

(2) Further cooperation with local finance bureaus

Turning to the circumstances surrounding the SESC, as a result of a series of regulatory reforms, including the enforcement of the Financial Instruments and Exchange Act (FIEA), the scope of securities inspections has diversified, and the number of business operators subject to inspection has reached almost 8,000. The SESC is also being called on to respond accurately to the sale of unlisted stocks by unregistered business operators. Moreover, as progress in online trading is helping to eliminate geographical restrictions on securities transactions, and as newly established listed companies are spreading into rural areas, the SESC is also being required to respond appropriately to the geographical spread of violations of laws and regulations, such as market misconduct and the window dressing of accounts.

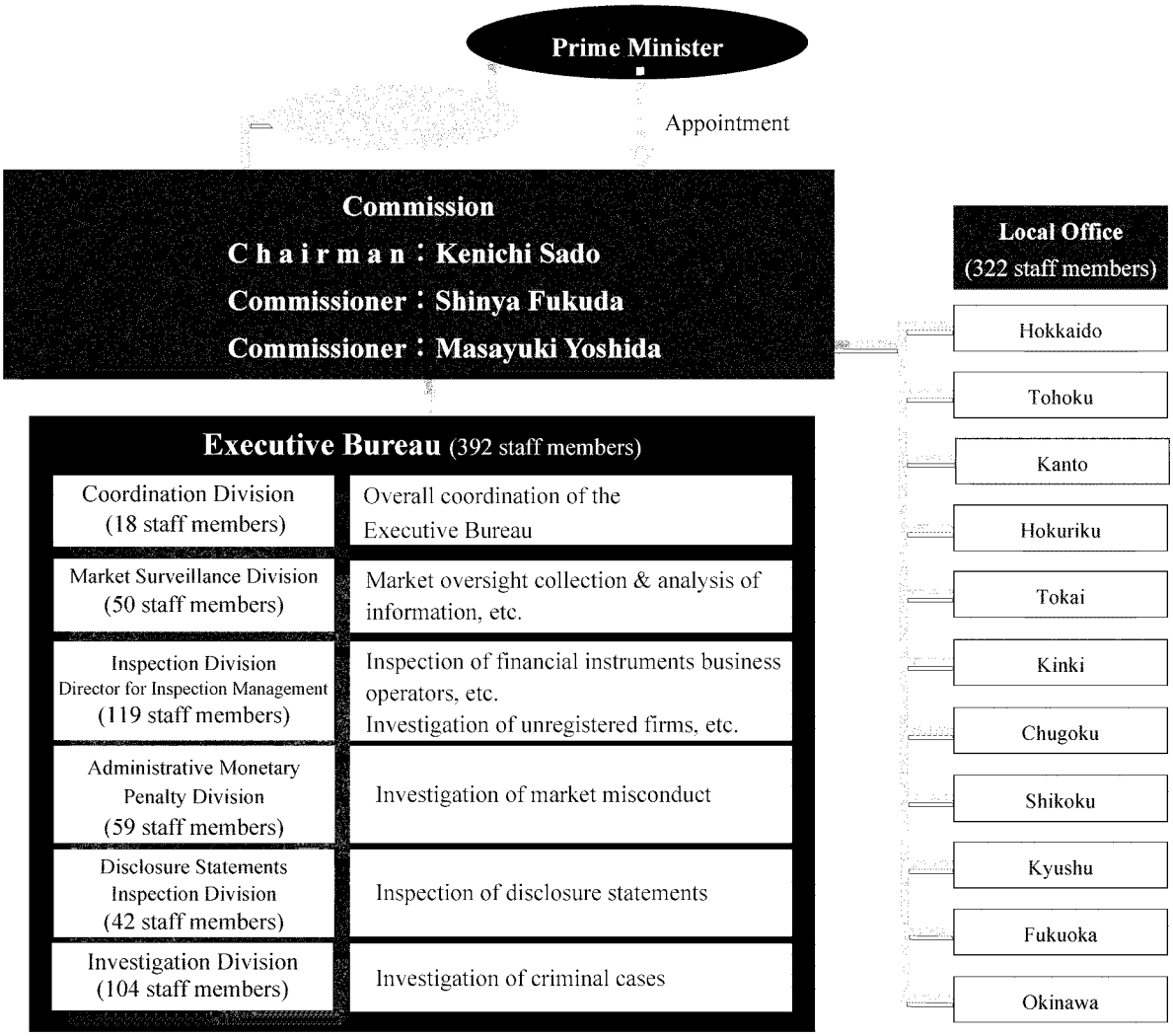
Under these circumstances, in order for the SESC to achieve its mission, it will need to conduct efficient, effective and viable reviews, inspections and investigations, by accurately and effectively utilizing its limited human resources, including those in the securities and exchange surveillance departments at local finance bureaus. Thus far, the SESC has promoted the sharing of its awareness of problems and the unification of viewpoints on surveillance activities with local finance bureaus through various kinds of meetings and training. Going forward, though, the SESC will work to develop human resources together with local finance bureaus, and through regular exchanges of views and opinions, it will endeavor to

further strengthen the cooperation, exercising its overall strength so that effective market surveillance can be carried forward.

Appendixes

Table 1

Organization

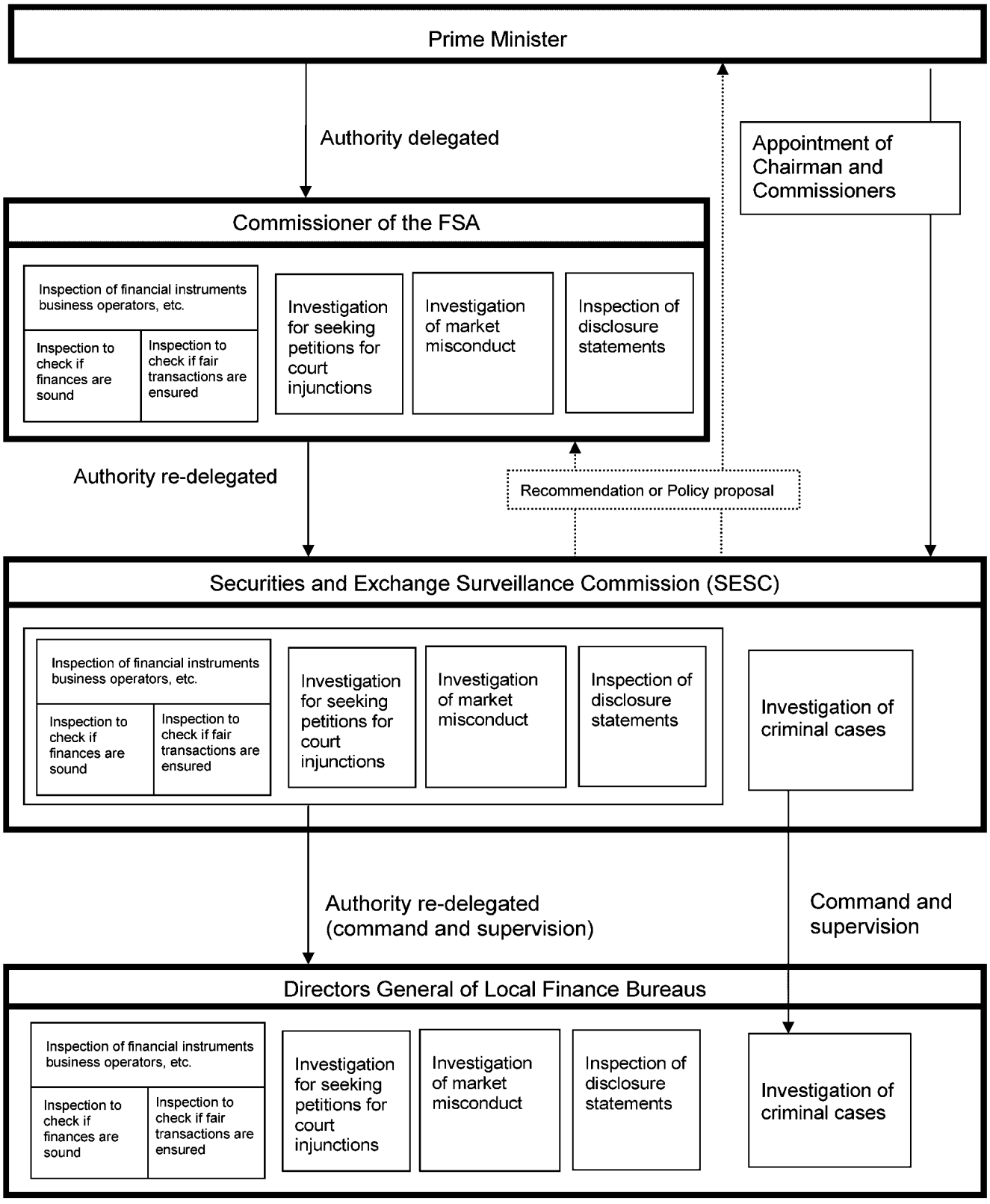


Note1: Staff members of Executive Bureau are quota as at the end of FY2012.

Note2: In July 2006, the SESC was transformed from two divisions (the Coordination and Inspection Division and the Investigation Division) and three offices (the Compliance Inspection Office, the Market Surveillance Office, and the Office of Penalties Investigation and Disclosure Documents Examination under the Coordination and Inspection Division) into five divisions (the Coordination Division, the Market Surveillance Division, the Inspection Division, the Civil Penalties Investigation and Disclosure Documents Inspection Division, and the Investigation Division). Furthermore, in July 2011, the Civil Penalties Investigation and Disclosure Documents Inspection Division was divided into two divisions (the Administrative Monetary Penalty Division and the Disclosure Statements Inspection Division), meaning that the SESC was transformed into six divisions. In August 2011, the Office of Investigation for International Transactions and Related Issues was established within the Administrative Monetary Penalty Division, to investigate transactions, etc. conducted by persons in foreign countries.

Table 2

Conceptual Chart of Relationship among the Prime Minister, the Commissioner of the FSA, the SESC, and Directors General of Local Finance Bureaus



Note 1: Regarding the authority that the SESC delegates to directors-general of Local Finance Bureaus or directors of its branch offices, it directs and supervises them. (FIEA: Article 194-7 (7))

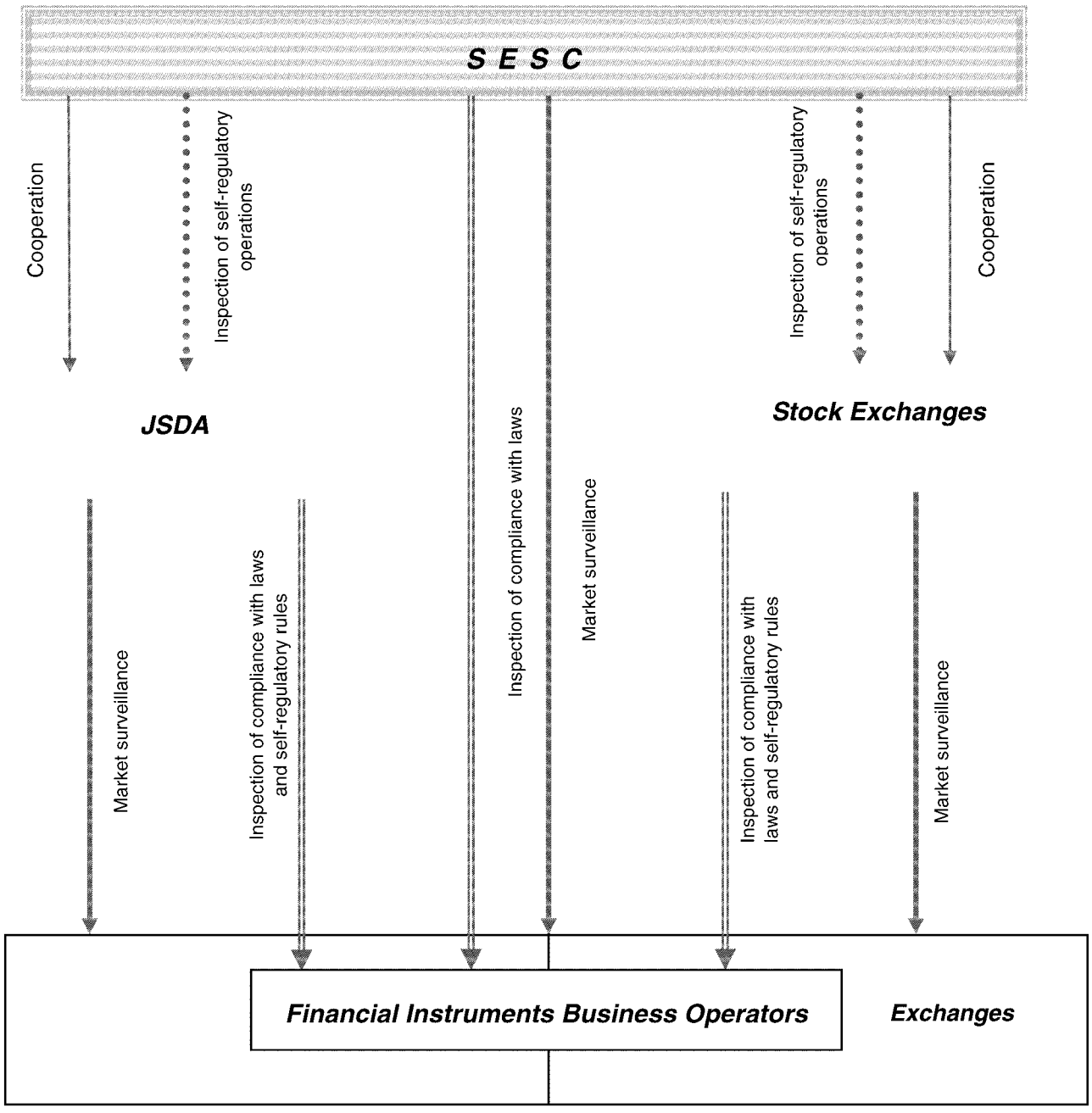
Note 2: For an investigation of a criminal offence, the SESC directs and supervises directors-general of Local Finance Bureaus or directors of its branch offices. The SESC may, deeming it necessary for investigating a criminal offence, direct and supervise firsthand officials of Local Finance Bureaus or directors of its branch offices. (FIEA: Article 224(4) and (5))

Note 3: The SESC does not delegate authority to directors-general of local finance bureaus, etc. related to financial instruments business operators, etc. designated in the following public notices

- The public notice to designate financial instruments business operators, etc. under paragraph 5, Article 44, of the Order for Enforcement of the FIEA, and paragraph 2, Article 136, of the Order for Enforcement of the Act on Investment Trust and Investment Corporation
- The public notice to designate financial instruments business operators, etc. under paragraph 6, Article 24, of the Order for Enforcement of the Act on the Prevention of Transfer of Crime Proceeds

Table 3

Relationship to Self-Regulatory Organizations



Note: The same system applies to financial futures.

Table 4

Activities in figures

Table of Summary

Unit: Number of cases

Category \ Business year / Fiscal year	1992 to 2003	2004	2005	2006	2007	2008		2009	2010	2011	Total
Criminal charges	63	11	11	13	10	13	(4)	17	8	15	157
Recommendations	270	17	39	43	59	50	(19)	74	63	45	641
Recommendations based on securities inspections	270	17	29	28	28	18	(4)	21	18	16	441
Recommendations to pay administrative monetary penalty (market misconduct)	-	-	9	9	21	20	(10)	43	26	18	136
Recommendations to pay administrative monetary penalty (false statements in disclosure statements, etc.)	-	-	-	5	10	12	(5)	10	19	11	62
Recommendations for order to submit revised report, etc.	-	-	1	1	0	0	(0)	0	0	0	2
Petition for a court injunction , etc., against unregistered business operator or solicitation without the filing of securities registration statements	-	-	-	-	-	0	(0)	0	2	3	5
Proposals	7	0	5	3	0	4	(4)	4	2	1	22
Securities inspections: Financial instrument businesses operators	1,106	113	150	150	187	191	(62)	176	148	148	2,307
Type I financial instrument businesses operators	1,106	113	111	99	138	117	(20)	90	91	85	1,930
Type II financial instrument businesses operators	-	-	-	-	2	1	(1)	23	6	14	45
Investment management firms Investment advisories/agencies	-	-	39	51	47	73	(41)	63	51	49	332
Registered financial institutions	88	27	28	27	32	25	(4)	24	28	32	307
Persons making notification for business specially permitted for qualified institutional investors	-	-	-	-	0	0	(0)	1	2	6	9
Financial instruments intermediaries	0	0	1	1	1	0	(0)	1	1	9	14
Credit rating agencies	-	-	-	-	-	-	-	-	0	4	4
Self-regulatory organizations	5	0	2	6	1	5	(2)	5	1	0	23
Investment corporations	-	-	2	7	10	7	(1)	9	6	2	42
Other	-	-	0	1	2	0	(0)	0	0	1	4
Total	1,199	140	183	192	233	228	(69)	216	186	202	2,710
Market oversight	3,825	674	875	1,039	1,098	1,031	(276)	749	691	913	10,619

Notes

1. Total number of securities inspections refers to the number of cases that have been started.
2. In addition to the inspections of Type I financial instrument businesses operators (former domestic securities companies) above, Local Finance Bureaus and other organizations conduct inspections of individual branches of those Type I financial instrument businesses operators (former domestic securities companies) that are assigned to the SESC.
3. Up until business year 2006, "investment management firms" was "former investment trust management businesses," and "investment advisories/agencies" was "former investment advisories."
4. Up until business year 2008, there was a "business year basis" of July to June the following year, and since fiscal year 2009, there has been an "accounting year basis" of April to March the following year.
5. The numbers in parentheses ( ) in business year 2008 refer to the number of cases in the period (April-June 2009) which overlap with fiscal year 2009 during the transition to the "accounting year basis."

Introduction of Chairman and Commissioners

Chairman　Kenichi SADO

Kenichi SADO was appointed Chairman of the SESC in July 2007. Before being appointed to the Commission, he served as superintending public prosecutor of the Sapporo High Public Prosecutors Office (2005–2006) and superintending public prosecutor of the Fukuoka High Public Prosecutors Office (2006–2007).

Commissioner　Shinya FUKUDA

Shinya FUKUDA was appointed a commissioner of the SESC in July 2007. Before being appointed to the Commission, he served as a Senior Partner, TOHMATSU-AOKI Audit Corporation (currently TOHMATSU Audit Corporation).

Commissioner　Masayuki YOSHIDA

Masayuki YOSHIDA was appointed a commissioner of the SESC in December 2010. Before being appointed to the Commission, he served as an advisor at Nagashima Ohno & Tsunematsu Law Firm.

Logo of Securities and Exchange Surveillance Commission

SESC

"for investors, with investors"

∗ Note: The two ellipses crossing each other symbolize the securities markets and financial futures markets, which are both subject to our surveillance, the cooperation between the SESC and other domestic authorities concerned, and, what's more, our relationship with investors.
The slogan "for investors, with investors" represents the principle position of the SESC, which was established to protect investors and respect its relationship with them.

The Securities and Exchange Surveillance Commission
3-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100-8922, Japan
Tel: +81(3)3581-7868
Fax: +81(3)3581-9846
Website: http://www.fsa.go.jp/sesc/english/index.htm