JSDA Compliance Manual

FOR SALES MANAGERS AND
INTERNAL ADMINISTRATORS

(For Regular Members and Special Members of the
JAPAN SECURITIES DEALERS ASSOCIATION)

2024

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Use of this Manual

1. The Japan Securities Dealers Association ("JSDA") requires its members to assign a Sales Manager to each business unit to instruct and supervise officers and employees who belong to the sales unit for which the Sales Manager is responsible, so that these officers and employees will comply with the Financial Instruments and Exchange Act and other related laws and regulations thoroughly and carry out business activities including investment solicitation and customer management properly.

   The JSDA also requires its members to assign an Internal Administrator to each business unit to perform proper internal administration so that business activities at the business unit for which the Internal Administrator is responsible will be carried out properly in compliance with the Financial Instruments and Exchange Act and related laws and regulations.

   Both Sales Managers and Internal Administrators need to have knowledge not only on the Financial Instruments and Exchange Act and other related laws and regulations but also a broad range of knowledge on internal administration, covering management of investment solicitation and management of customer orders.

   This Manual contains material for Sales Managers and Internal Administrators of the JSDA to use to acquire the knowledge necessary to conduct their duties.

2. This Manual has in principle been compiled on the basis of information concerning laws, regulations, and systems in force as of April 1, 2024. However, it should be noted that the law, regulations, and systems cited herein may be subject to changes.

3. Entry of categories with redundant content has been omitted in this Manual, and citations to the relevant sections have been entered at the end of each section.

Legend

(Main Abbreviations of Major Laws and Regulations, Etc. Used in this Manual)

1. Laws and Regulations

	Abbreviation
Financial Instruments and Exchange Act	FIEA
Order for Enforcement of the Financial Instruments and Exchange Act	FIEAEO
Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act	Definition Ordinance
Cabinet Office Order on Disclosure of Corporate Affairs	Corporate Affairs Disclosure Ordinance
Cabinet Office Order on Disclosure of Information on Regulated Securities	Ordinance on Disclosure of Regulated Securities
Cabinet Office Order on Financial Instruments Business, Etc.	FIBCOO
Cabinet Office Order on Restrictions on Securities Transactions	Securities Transaction Ordinance
Comprehensive Guidelines for Supervision of Financial Instruments Business Operators, Etc.	FIBO Supervision Guidelines
Guideline for the Disclosure of Corporate Affairs	Guidelines Concerning Corporate Affairs Disclosure
Act on Investment Trusts and Investment Corporations	Investment Trust Act
Act on Provision of Financial Services and the Development of the Accessible Environment Thereto	Financial Services Act
Act on Prevention of Transfer of Criminal Proceeds	Anti-Criminal Proceeds Act
Act on the Protection of Personal Information	Personal Information Protection Act
Act on Prevention of Unjust Acts by Organized Crime Group Members	Anti-Criminal Organization Act
Act on Book-Entry Transfer of Corporate Bonds and Shares	Book-Entry Transfer Act

2. Rules of Japan Securities Dealers Association

	Abbreviation
Articles of Association of the Japan Securities Dealers Association	JSDA Articles of Association
Rules Concerning Solicitation for Investments and Management of Customers, Etc. by Association Members	Investment Solicitation Rules
Rules Concerning Acceptance, Etc. of Deposit of Securities	Deposit Rules
Rules Concerning Internal Administrators, Etc. of Association Members	Internal Administrators Rules
Rules Concerning Application for Confirmation, Examination, Confirmation, Etc. of Incidents	Incident Confirmation Rules
Rules Concerning Elimination of Relationships with Antisocial Forces	Antisocial Forces Elimination Rules
Rules Concerning Employees of Association Members	Employees Rules
Rules Concerning Qualification and Registration, Etc. of Sales Representatives of Association Members	Sales Representative Rules
Rules Concerning Qualification Examination for Sales Representatives, Etc.	Examination Rules
Rules Concerning Representation of Advertising, Etc. and Offer of Premiums	Advertising Rules
Rules Concerning Handling of Analyst Reports	Analyst Reports Rules
Guidelines for Protection of Personal Information	Personal Information Protection Guidelines
Rules Concerning Over-The-Counter Securities	OTC Securities Rules
Rules Concerning Solicitation of Professional Investors for Investment, Etc. in Over-The-Counter Securities	Professional Investors Solicitation Rules

Rules Concerning Equity-Based Crowdfunding Business	.....	Crowdfunding Rules
Rules Concerning Shareholders Community	.....	Shareholders Community Rules
Rules Concerning Phoenix Issues	.....	Phoenix Rules
Rules Concerning Sale and Purchase, Etc. of the Listed Share Certificates, Etc. Conducted Outside of a Financial Instruments Exchange Market	.....	Off-Exchange Trading Rules
Rules Concerning Underwriting, Etc. of Securities	.....	Underwriting Rules
Rules Concerning Distribution, Etc. to Customers Related to Underwriting, Etc. of Public Offering, Etc. of Share Certificates, Etc.	.....	Distribution Rules
Rules Concerning Transactions, Etc., of Unlisted Securities Over Proprietary Trading Systems (PTS)	.....	Unlisted PTS Rules
Rules Concerning Publication of Over-The-Counter Trading Reference Prices, Etc. and Trading Prices of Bonds	.....	OTC Bond Reference Price Rules
Rules Concerning Handling of Sale and Purchase of Bonds with Options	.....	Bonds with Options Rules
Rules Concerning Foreign Securities Transactions	.....	Foreign Securities Rules
Rules Concerning Foreign Securities Futures Transactions, Etc.	.....	Foreign Futures Trading Rules
Rules Concerning CFD Transactions	.....	CFD Transaction Rules
Rules Concerning Application of Self-Regulatory Rules for Commodity-Related Market Derivatives Transactions, Etc.	.....	Commodity Derivatives Rules

3. Financial Instruments Exchange Related

		Abbreviation
Business Regulations of Tokyo Stock Exchange, Inc.	.....	TSE Business Regulations
Trading Participant Regulations of Tokyo Stock Exchange, Inc.	.....	TSE Trading Participant Regulations
Brokerage Agreement Standards of Tokyo Stock Exchange, Inc.	.....	TSE Brokerage Rules

4. Other

		Abbreviation
A financial instruments business operator as set forth in Article 2(9) of the FIEA	.....	Financial Instruments Business Operator
A registered financial institution as set forth in Article 2(11) of the FIEA	.....	Registered Financial Institution
A financial instruments business operator or a registered financial institution	.....	Financial Instruments Business Operator, Etc.
Japan Securities Dealers Association	.....	JSDA
A financial instruments business operator that is a member of the JSDA and which engages in the type 1 financial instruments business (excluding the businesses listed below) (excluding the Specified Business Members) (a) business relating to OTC financial futures transactions, etc.; (b) business relating to transactions listed in Article 3(vii)(d) and (e) of the JSDA Articles of Association or intermediary, brokerage or agency service thereof; and (c) business relating to electronically recorded transferable rights [security token] or the rights set forth in Article 1-12(ii) of the FIEAEO	.....	Regular Member
A financial instruments business operator that is a member of the JSDA and which only engages in "business related to specified OTC derivatives transactions, etc.," "type 1 small amount electronic offering handling business (limited to business related to the securities set forth in Article 29-4-2(10)(i) of the FIEA)" or "business related to the brokerage, etc. of commodity-related market derivatives transactions," within the type 1 financial instruments business	.....	Specified Business Member
A registered financial institution that is a member of the JSDA	.....	Special Member
Regular Members, Specified Business Members, and Special Members	.....	Association Members

* The minister with jurisdiction over the Financial Instruments and Exchange Act is the Prime Minister, but with certain exceptions this authority may be delegated to the Commissioner of the

Financial Services Agency, and consequently in some cases in this Manual the citation is made to the Commissioner of the Financial Services Agency as the context requires.

5. Indications Regarding Regular Members and Special Members

Some items listed in the Table of Contents and some parts of the main body of this Manual are marked with the term "Regular Member" or "Special Member," or put into borders marked with the term "Regular Member" or "Special Member," according to the details of the descriptions in each Section, Paragraph or sentence, to indicate whether the respective descriptions are related to Regular Members or Special Members. Readers can find the information they need by following these marks and frames.

When officers or employees of Special Members consult this Manual to engage in the financial instruments intermediary service by Registered Financial Institutions, they should refer to all of the text—that is, those marked "Regular Member" and "Special Member," as well as the descriptions without marks.

(1) Marks indicated on the left side of the items in the Table of Contents

Regular Member : Descriptions of knowledge required to be held by the Internal Administrators and Sales Managers of Regular Members (partly, Specified Business Members) (hereinafter referred to as the "Internal Administrators, Etc.")

Special Member : Descriptions of knowledge required to be held by the Internal Administrators, Etc. of Special Members (partly, Specified Business Members)

No mark : Descriptions of knowledge required to be held by both the Internal Administrators, Etc. of Regular Members (partly, Specified Business Members) and those of Special Members (partly, Specified Business Members) (including cases where a part of a description is relevant to both.)

(2) Borders in the main text

Regular Member : Descriptions of knowledge required to be held by the Internal Administrators, Etc. of Regular Members (partly, Specified Business Members)

Special Member : Descriptions of knowledge required to be held by the Internal Administrators, Etc. of Special Members (partly, Specified Business Members)

No border : Descriptions of knowledge required to be held by both the Internal Administrators, Etc. of Regular Members (partly, Specified Business Members) and those of Special Members (partly, Specified Business Members)

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Chapter I. Importance of Internal Administration and Legal Compliance System

1 Necessity of Establishing Internal Administration System

In view of the social and public mission of Association Members, they are expected to carry out their financial instruments business in a proper and efficient manner. Consequently, officers and employees of Association Members must observe laws and regulations and rules, etc., and ensure proper business activities. The Financial Services Agency and the Securities and Exchange Surveillance Commission (including the finance bureaus, etc. delegated under laws and regulations) have established guidelines for supervision, etc., and thereby have provided the framework for fair and equitable financial instruments transactions and investment solicitation, and conducted inspections and supervision as necessary. Moreover, self-regulatory organizations such as the JSDA have also demonstrated how their members should act, and verified compliance by means of oversights, etc. through the enactment of various regulations, etc. Despite this, it is still important for each Association Member to prepare a system for constant verification of whether these internal administration mechanisms and legal and regulatory compliance procedures are in fact effective, as well as whether they are fully sufficient as verification measures that can accurately assess the state of business activities in its marketing departments and to improve such system as necessary.

Needless to say, attaining this goal should be based on having every officer and employee recognize the importance of these duties and carry out business activities in compliance with the rules. However, it is also important to achieve the effective functioning of internal administration systems and structures, in order to ensure proper business activities by officers and employees. Since business activities take place in an environment of fierce competition, this at times may cause an overdoing. Thus, a company must, based on a fundamental management policy of ensuring that business is pursued in an aboveboard manner, conduct constant monitoring to ensure that this policy is thoroughly maintained in daily operations. In addition, an internal administration system must be in place which can prevent improper transactions and wrongful acts, and quickly implement remedial action in the event that such transaction or act takes place. Under the FIEA, the Prime Minister (the Commissioner of the Financial Services Agency) may issue an order to improve the business operations pursuant to Article 51 or Article 51-2 of the FIEA to improve the internal administration system of an Association Member even where no violation of laws and regulations has taken place, if in relation to the business operation of the Association Member, it is found necessary and appropriate for public interest or the protection of investors. As a result, the establishment of an internal administration system by the Association Member itself has gained greater importance.

Moreover, customers and investors are steadily adopting a less tolerant attitude towards business activities on the part of Association Members, and the entire industry will incur significant damage to its credibility in the event of an improper act on the part of an officer or employee, and not just the Association Member concerned. Ensuring proper business conduct constitutes a challenge of tremendous importance, both from the perspective of management of Association Members, and from the perspective of maintaining and improving the credibility of the industry at large. From these points of view, the Internal Administrators Rules, which provide for the assignment of officers and employees engaged in the business of managing the status of compliance with the FIEA and other laws and regulations, etc., and their qualifications and responsibilities, etc. were established to improve the implementation of internal administrations and compliance with laws and regulations on the part of Association Members.

In addition, it is important to establish an internal administration system in order to conduct business in accordance with the policy concerning customer-oriented business conduct determined by each Association Member based on the “Principles for Customer-Oriented Business Conduct” released by the Financial Services Agency.

2 Role of Internal Administration Supervisors, Etc.

2 1 Internal Administration Supervisor

The Internal Administration Supervisor should in principle be a high ranking director next in rank to the president or similar person who has the authority to represent the company. The name of this individual and other information is to be registered with the JSDA.

The Internal Administration Supervisor has the following duties (Internal Administrators Rules, Article 4):

- To comply with the FIEA and other laws and regulations, etc. as well as to put thoroughly into place business attitudes on the part of officers and employees of the Association Member that comply with the FIEA and other laws and regulations, etc. and to work to improve an internal administration system in order to ensure the proper conduct of business activities such as investment solicitation, as well as customer control;
- To instruct and supervise Sales Managers and Internal Administrators so that the business activities of the Association Member comply with the FIEA and other laws and regulations, etc. and are carried out in an appropriate manner. If any case of a violation of the FIEA or other laws, regulations or rules, etc. occurs, the Internal Administration Supervisor must handle the matter in the proper manner in view of the FIEA and other laws and regulations, etc.;
- To conduct proper communication and coordination with government authorities and self-regulatory institutions such as the JSDA regarding compliance with the FIEA and other laws and

regulations, etc. in the business activities of the Association Member; and

- To report promptly to the director and president or similar person if any significant event occurs in connection with the business activities such as soliciting investment or of customer management on the part of the Association Member.(Note)

(Note) The director and president, etc. must give proper instructions if he or she has received a report from the Internal Administration Supervisor (Internal Administrators Rules, Article 5). The term "director and president, etc." refers to the director and president or the executive officer and president, the representative in Japan, the representative of a Specified Business Member, or the representative of a Special Member.

The Internal Administration Supervisor may at his or her own responsibility delegate his or her duties to officers in the internal administration division, in the course of performing his or her duties (Internal Administrators Rules, Article 6(1)). A person to whom is delegated these responsibilities is referred to as an "Internal Administration Assistant Supervisor." An Internal Administration Assistant Supervisor must comply with the FIEA and other laws and regulations, etc., and must properly carry out his or her duties, as well as report on the performance of his or her duties to the Internal Administration Supervisor (Internal Administrators Rules, Article 6(6)).

If an Internal Administration Supervisor or an Internal Administration Assistant Supervisor falls under either of the following cases, the JSDA may issue a warning to replace the relevant Internal Administration Supervisor or Internal Administration Assistant Supervisor (Internal Administrators Rules, Article 9).

- If the relevant individual himself or herself has committed a breach of laws and regulations; or
- If the relevant individual has not sufficiently performed his or her duties in the event that a breach of laws and regulations has occurred on the part of an Association Member, such as having concealed or failed to address the breach of laws and regulations, or if the breach of laws and regulations has occurred as a result of the instruction of the relevant individual.

2 2 Sales Manager

The Sales Manager (branch manager, etc.) is in a position to instruct and supervise the business activities of the relevant business unit (branch, etc.), and thus has a responsibility to ensure that the business activities of that unit comply with the laws and regulations, etc. The concern of a branch manager, etc. should not focus only on improving business performance, and it is important for branch managers, etc. to reaffirm their awareness that their responsibility is to instruct and supervise in order to ensure that the business activities and customer management by the officers and employees of their branches comply with laws and regulations, etc.

Under the Examination Rules, a Regular Member must only appoint a person as Sales Manager if he/she has passed the Qualification Examination for Internal Administrators of Regular Members, etc.

(Internal Administrators Rules, Article 11(2)).

Special Member

Specified Business Member and Special Member must define a business unit, and appoint and allocate the chief of such business unit as a Sales Manager.

Specified Business Member and Special Member must not appoint any person as a Sales Manager unless that person has passed the Qualification Examination for Internal Administrators of Regular Members or the Qualification Examination for Internal Administrators of Special Members, etc. (or the Qualification Examination for Regular Members' Internal Administrators, etc. in the case of a Sales Manager of a sales unit that conducts the Financial Instruments Intermediary Service Activity as a Registered Financial Institution) under the Examination Rules (Internal Administrators Rules, Article 11(3) and (4)).

The following are the duties of a Sales Manager (Internal Administrators Rules, Article 12):

- To comply himself or herself with the FIEA and other laws and regulations, etc., and also to instruct and supervise officers and employees within the business unit to which he or she has been appointed as a Sales Manager so that an approach towards business that complies with the FIEA and other laws and regulations, etc. is fully introduced, and so that management of customers and business activities such as soliciting investors are properly carried out; and
- To report promptly to the Internal Administration Supervisor if any substantive case occurs in the business unit to which he or she has been appointed as a Sales Manager that involves investment solicitation or other business activities, or that involves customer management, and obtain instruction from the Internal Administration Supervisor.

2 3 Internal Administrator

Naturally, in some cases it is difficult for an Internal Administration Supervisor to directly examine every detail of internal administration and compliance, etc. with laws and regulations, etc. for each business unit, in light of the scale and characteristics of business. From this standpoint, the Internal Administrators Rules prescribe that a person authorized to manage the internal administration business for each business unit, such as a branch, shall be appointed as the "Internal Administrator." An Internal Administrator is expected to function as a check and balance on the Sales Manager and, consequently, the same person cannot serve as both an Internal Administrator and a Sales Manager.

Under the Examination Rules, a Regular Member must only appoint a person as Internal Administrator if he/she has passed the Qualification Examination for Internal Administrators of Regular Members (Internal Administrators Rules, Article 14(2)).

Special Member

Specified Business Member and Special Member shall define a business unit, and appoint and

allocate a person authorized to manage the internal administration business as the Internal Administrator for each business unit. As the Internal Administrator is expected to check and supervise the Sales Manager, the office of Sales Manager and that of Internal Administrator must not be held by the same person concurrently.

Specified Business Member and Special Member must not appoint any person as Internal Administrator unless that person has passed the Qualification Examination for Internal Administrators of Regular Members or the Qualification Examination for Internal Administrators of Special Members, etc. (or the Qualification Examination for Regular Members' Internal Administrators in the case of a Sales Manager of a sales unit that conducts the Financial Instruments Intermediary Service Activity as a Registered Financial Institution) under the Examination Rules (Internal Administrators Rules, Article 14(3) and (4)).

The following are the duties of an Internal Administrator (Internal Administrators Rules, Article 15):

- The Internal Administrator must comply with the FIEA and other laws, regulations, and various rules, and perform proper internal administration by such means as constantly supervising to see if sales activities at the sales unit for which the Internal Administrator is appointed as the Internal Administrator are properly carried out in accordance with the FIEA and other laws and regulations; and
- The Internal Administrator must, when there has occurred a serious case concerning sales activities including solicitation for investments and management of customers at the sales unit for which the Internal Administrator is appointed as the Internal Administrator, promptly report the contents thereof to the Internal Administration Supervisor and receive his/her instructions.

In other words, it is anticipated that the system for internal administration and compliance with laws and regulations, etc. functions as an independent and effective system by communicating directly from the Internal Administrator with the Internal Administration Supervisor who has the responsibility of ensuring compliance with laws and regulations, etc. on the part of the company as a whole.

If, as a result of the examination of a report of development and results of the incidents or any other materials or reports submitted by an Association Member, its Sales Manager or Internal Administrator falls under any of the following cases, the JSDA will make a decision to take action to prohibit the Association Member to which the Sales Manager or Internal Administrator belongs at the time of falling under any of these cases, from appointing and assigning the relevant Sales Manager or Internal Administrator to the post of Sales Manager or Internal Administrator, for a period not exceeding five years. However, when the Sales Manager or Internal Administrator is treated as a perpetrator of an inappropriate act, this action shall not be taken as the JSDA will revoke his/her qualification as Sales Manager or Internal Administrator (Internal Administrators Rules, Article 17(1) and Article 18(1)):

- If the relevant individual himself or herself has committed a breach of laws and regulations; or
- If the relevant individual has not sufficiently performed his or her duties in the event that a breach of laws and regulations has occurred on the part of officers or employees in the business unit to which he or she has been appointed as a Sales Manager or Internal Administrator, such as having concealed or failed to address the breach of laws and regulations, or if the breach of laws and regulations has occurred as a result of the instruction of the relevant individual.

3 IOSCO International Conduct of Business Principles

In November of 1990, the International Organization of Securities Commissions ("IOSCO") adopted a resolution containing seven principles of rules of conduct regarding firms involving in securities businesses (International Conduct of Business Principles), in view of the globalization of trading in securities, and in the belief that common principles are required for conducts of firms at the international level. In June of the following year, the Securities and Exchange Council suggested that the IOSCO Resolution be applied to Japan as well, and proposed that the necessary statutory revisions be made to ensure a clear statement in law or regulation for appropriate matters (hereinafter referred to as "Council Report"). Subsequently, the Securities and Exchange Law was amended by the Diet to clarify such items as the principles of honesty and fairness.

The aforementioned Council Report explains that "these principles are for the purpose of regulating the activities of businesses and sales representatives who handle or provide advice on securities and all derivative products (specifically including futures and options), in order to protect the interest of customers, and ensure a sound market." Moreover, the report specified that these principles do not include the general regulations applicable to all market participants, such as capital requirement regulations and prohibitions against market manipulation.

The following are the conduct of business principles adopted by IOSCO:

International Conduct of Business Principles

(i) Honesty and Fairness
In conducting its business activities, a firm should act honestly and fairly in the best interests of its customers and the integrity of the market.

(ii) Diligence
In conducting its business activities, a firm should act with due skill, care and diligence, in the best interests of its customers and the integrity of the market.

(iii) Capabilities
A firm should have and employ effectively the resources and procedures which are needed for the proper performance of its business activities.

(iv) Information about Customers
A firm should seek from its customers information about their financial situation, investment experience and investment objectives relevant to the services to be provided.

(v) Information for Customers
A firm should make adequate disclosure of relevant material information in its dealings with its customers.

(vi) Conflicts of Interest
A firm should try to avoid conflicts of interest, and when they cannot be

avoided, should ensure that its customers are fairly treated.

(vii) Compliance

A firm should comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of customers and the integrity of the market.

The above seven principles constitute the basic rules of conduct of business by firms. As such, Japan had already incorporated these precepts in some form, as was recognized even in the Council Report. Nevertheless, as various necessary reforms progressed, these principles were further codified through statutory and other amendments.

The principle of honesty and fairness, for example, is provided in the existing FIEA as follows: "A Financial Instruments Business Operator, etc. as well as its officers and employees must be sincere and fair to customers in the performance of its services." (FIEA, Article 36(1)).

The above Council Report stressed in its closing comments that "these rules of conduct can only be put into effect through the realization and unceasing efforts of each and every individual involved in the securities business to comply with these rules of conduct." It is therefore particularly necessary for each individual who uses this Manual to keep these concepts in mind.

Chapter II. Professional Ethics on the Part of Officers and Employees of Association Members

1 Professional Ethics and Self-Discipline Required for Earning Investors' Trust

In order for the internal administration system of an Association Member to function effectively, it is necessary for each officer and employee of the Association Member to act with an awareness of sound common sense, professional ethics and self-discipline.

Association Members are responsible for a public role in fulfilling the function of an intermediary in various aspects such as when an investor invests in securities or a corporation (issuer) will obtain financing by issuing securities. In order to increase confidence of investors in the Japanese market and to lead to market development, it is becoming increasingly important for Association Members to thoroughly implement its compliance with laws and regulations as well as properly perform its market intermediary functions as a market leader.

In addition, Association Members are expected to perform the role as a market gatekeeper, and must have a framework of legal and regulatory compliance as well as a system of internal administration and approaches to enhance professional ethics for preventing unfair acts by officers and employees that are at least equivalent to those of other participants in the financial and capital markets. Accordingly, it is important that officers and employees must each be aware of the public nature of being a market intermediary, and its importance as a social mission, must comply with laws and regulations, etc. in their operations, and must be diligent in their duties exercising common sense, professional ethics and self-discipline in order to earn the trust of investors.

Moreover, management staff must take the lead and actively tackle these issues with an objective of improving the sense of professional ethics of all officers and employees of Association Members.

Pursuant to the obligation to establish an operational control system (FIEA, Article 35-3), Association Members need to establish internal rules or other equivalent rules in order to properly perform the financial instruments business, etc. and to implement training and other measures for the employees to comply with such internal rules, etc. However, also, from the viewpoint of improving professional ethics awareness, Association Members are required to establish ethics rules, etc., and make employees thoroughly knowledgeable of such ethics rules, etc. through training, etc.

2 Professional Ethics Required for Officers and Employees

2 1 What Are Professional Ethics?

Officers and employees of an Association Member are required to have a high consciousness of professional ethics and legal compliance, etc. based on their public role functioning as a market intermediary function and their duties.

Officers and employees of an Association Member must understand that having a high ethical sense is fundamental to being a professional. Continuing to maintain a high ethical sense leads to maintaining trust in all respects.

The FIEA clearly prescribes the sincerity and fairness principles, providing that "A financial instruments business operator, etc. as well as its officers and employees must be sincere and fair to customers in the performance of its services" (FIEA, Article 36(1)). Principle II of the FSA's Principles Concerning Customer-Oriented Business Conduct provides that "Financial service providers should maintain a high level of expertise and professional ethics, treat their customers faithfully and fairly and pursue the best interests of the customers. Financial service providers should make efforts to ensure such business conduct becomes established as a corporate culture," serving as one of the basic principles regulating the conduct of Association Members.

This is not limited to the securities industry in Japan alone. For example, the "Compliance Function at Market Intermediaries: Final Report" published by the IOSCO Technical Committee in March 2006 indicates that "It is equally important, however, that firms develop a business "culture" that values and promotes not only compliance with the "letter of the law," but also a high ethical and investor protection standard."

Furthermore, for example, FINRA (the U.S. Financial Industry Regulatory Authority) states, "The foundation of the securities industry is fair dealing with customers. Whether your work is with individuals, institutions, or business entities, your obligation in this profession is to serve your customers with honesty and integrity by putting their interests first." The FINRA Rules require all Regular Members to observe high standards of commercial honor and just and equitable principles of trade (FINRA Rules 2010).

In addition, under the general principles of MiFID II (Markets in Financial Instruments Directive II), firms are required to act honestly, fairly and professionally in accordance with the best interests of their clients (Directive 2014/65/EU Section 2, Article 24, etc.).

2 2 The Necessity of Professional Ethics

Among officers and employees, sales representatives in particular are required to have a particularly

high sense of ethics as professionals who are constantly engaged in the financial instruments business (professional ethics), since, as stated above, the sales representative is expected to have the authority to perform, on behalf of the Financial Instruments Business Operators, etc. to which he/she belongs, any and all acts outside of a court of law concerning sale and purchase or other transactions in securities.

Full compliance with professional ethics by officers and employees is not realized by the simple observation of the rules, but also requires a consistent attitude of refusing to conduct acts which are improper for professionals from the viewpoint of social demands even if the rule does not clearly prohibit such acts. In order to instill in officers and employees an appropriate sense of professional ethics, it is extremely important that the viewpoints of third parties are always kept in mind. However, it is even more important to have officers and employees become accustomed to performing day-to-day operations in compliance with the code of conduct based on professional ethics, even when they are not being observed.

2 3 Prohibition Against Wrongdoing and Self-Awareness as Officers and Employees

Article 1 of the FIEA prescribes as follows: "The purpose of this Act is, by, *inter alia*, developing systems for disclosure of corporate affairs and other related matters, providing for necessary matters relating to persons who engage in Financial Instruments Business and securing appropriate operation of Financial Instruments Exchanges, to ensure fairness in, *inter alia*, issuance of the Securities and transactions of Financial Instruments, etc. and to facilitate the smooth distribution of Securities, as well as to aim at fair price formation of Financial Instruments, etc. through full utilization of functions of the capital market, thereby contributing to sound development of the national economy and protection of investors." The self-regulatory rules of the JSDA have the same purpose and objectives.

Sales representat*ives,* in particular, have a serious social responsibility for their actions since they represent the Association Members to which they belong, especially considering the very large number of customers to which Association Members target their business and the role played by the financial instruments business in the national economy.

For example, the FIEA requires compliance with the duty to explain and the principle of suitability when making solicitations, and this is to rectify the large information gap that generally exists between Association Members and customers, so the customer can make investments based on the customer's own judgment only after having obtained appropriate and adequate information.

It is inexcusable for an officer or employee of an Association Member to act wrongfully or improperly, and it must always be kept in mind that such an act will bring about a loss not only on the part of the person who acted in such a way, but could also cause a severe loss of trust in the firm to which the relevant officer or employee belongs and to the entire industry or the capital markets. Penalties for an officer or employee who acts wrongfully or improperly would include the severe penalty of revocation of the sales representative's qualification or termination of his/her employment.

In particular, heavy penal sanctions and administrative monetary penalties will be imposed after a criminal prosecution in the event of wrongful acts such as insider trading or market manipulation. In

these cases, the responsibility of the company as a whole in addition to the relevant actor will be brought into question. If administrative sanctions or the like are imposed, the reputation of the firm will also be damaged, and it will inevitably incur major economic losses.

Further, permitting intervention by antisocial forces in securities trading or the securities markets, or relations between persons involved with securities and antisocial forces, will not only undermine the reputations of the companies to which the relevant officers or employees belong, but also damage the health of the securities markets and securities-related persons, resulting in the loss of the trust of many investors.

In recent corporate scandals, the advancement of technology has made it possible to identify problematic conduct and its signs or evidence more deeply and accurately. In addition, there have also been an increasing number of examples that were uncovered by whistle-blowing.

Just as there is the phrase "Heaven's vengeance is slow but sure" (meaning that although the net spread by heaven is wide and large and it appears to be loosely woven, evildoers will not be allowed to escape its mesh and will be caught; the just deserts for evil will come sooner or later), one must understand that if one acts in violation of laws or regulations, etc., it will invariably be discovered and a severe penalty will be imposed.

It is necessary to beware that, if one underestimates small violations, there is a risk that it will develop into an even larger incident and concealment of wrongdoing can easily give rise to further wrongdoing. In particular, in recent years, the concept of "conduct risk" was presented in the FSA's "Approach to Compliance Risk Management" which had significant influence on legal compliance and risk management views. Under the concept of "conduct risk," it is understood that, even if the conduct, etc. of officers and employees do not formally fall under acts in violation of laws and regulations, etc., they will become risks if they turn out to have (i) adverse effects on user security, (ii) adverse effects on the fairness and transparency of markets, or (iii) adverse effects on the reputation of financial institutions despite there being no objective external adverse effects. Recently, several administrative dispositions have been issued from this perspective. In addition, along with rapid changes in the external environment, the events subject to risk management and the underlying awareness of problems have also been changing. In order to appropriately manage conduct risk under such circumstances, officers and employees of Association Members should fully understand the purpose, background and intent of the rules they are to observe, always reflect on their own duties, and endeavor not to act wrongfully or inappropriately.

As described above, it must be remembered that a wrongful or improper act will damage trust in the capital markets and will unavoidably lead to harming even the essential functions of the capital markets, which are the smooth investment and procurement of funds. This risk bringing about a serious effect even on the national economy, and one must consider that if damage is once done to trust in the markets, that trust cannot easily be restored, and it will require a large amount of effort at great cost.

2 4 Points to Keep in Mind in Order to Continuously Maintain Consciousness of Ethics

As stated above, it is essential that officers and employees of Association Members conduct their business with a rigorous professional ethics. The following is a summary of points to keep in mind in order to continuously maintain a consciousness of ethics:

(i) It must be understood that a wrongdoing will invariably be found out. Also, the concealment of wrongdoing easily brings about further wrongdoing, and will cause a considerable loss of trust;

(ii) One must not underestimate small violations. The risk of something leading to an even larger incident must always be borne in mind;

(iii) As a professional, the excuse, "I didn't know the rules," cannot be tolerated;

(iv) It is necessary to avoid the easy perception that "Since everyone around me also does it, it is probably OK," and to make responsible judgments. Decisions on these occasions must not be made on the basis of that individual's assumptions, and the event of any doubt advice must be sought from the individual's superior or specialist departments such as the internal administration division or the legal department;

(v) One must not pretend not to see mistakes around them, and must have the courage to correct these mistakes; in addition, it is important to speak up when finding something that raises even a small concern from the perspective of professional ethics, regardless of whether it violates laws or regulations, and mental safety must be secured so that such attitude is accepted and positively evaluated at the workplace;

(vi) It is essential not to view cases of wrongdoing or inappropriate acts that occur at other companies as "someone else's problem," but to take the attitude of learning from those cases as "mistakes to learn by." In that sense, as disciplinary actions against Association Members or mediation cases, etc. will serve as useful reference, it is necessary for one to pay daily attention to these;

(vii) Social consciousness is always changing, and it is necessary to be aware that a more thorough response is expected. There are many cases requiring attention, such as where an act that was not regarded as problematic several years ago now poses a big problem, or where an act that has also been performed by other companies and has not been criticized is now considered to be a new problem. The recent trend is for judicial decisions regarding corporate or professional wrongdoing to produce strict judgments;

(viii) One should strive to distance oneself from an environment that easily invites wrongdoing or temptation. Together with maintaining health in mind and body, it is essential to abstain from a lifestyle that involves taking on excessive debt, take care to act with dignity, and always draw a line between public and private life; and

(ix) Even if the conduct does not formally fall under an act in violation of laws and regulations, etc., it is important to self-examine such conduct from the perspective of the conduct risk, *i.e.,* whether there are any adverse effects on user security or whether such conduct harms the fairness and transparency of markets.

The "Rules Concerning Maintenance of and Compliance with Ethical Code by Association

Members," the JSDA's self-governing rules for ensuring the maintenance and compliance with ethical codes by individual member companies, were repealed on June 30, 2024. However, the FIBO Supervision Guidelines provide that examination should be conducted from the viewpoint of whether the Financial Instruments Business Operator has formulated a code of conduct (rules concerning ethics and a compliance manual, etc.), thoroughly informed its officers and employees of the code, and ensured a full understanding and compliance in daily business operations (FIBO Supervision Guidel*ines,* III-2-1), and the Principles for Customer-Oriented Business Conduct also require financial business operators to maintain a high level of expertise and professional ethics as in the case of ethical codes. Therefore, in order to implement customer-oriented business conduct according to the principle-based approach, it is desirable for each Association Member to promote voluntary initiatives to formulate and comply with a code of ethics or code of conduct depending on the content of their business and the type of their customers, even though it is not mandatory to do so under any rules.

<Relevant Laws and Regulations> Employees Rules

3 Principles in the Financial Services Industry

The FSA published "The Principles in the Financial Services Industry" in April 2008. These principles constitute the underpinnings of individual legal and regulatory rules, and should be considered to be an important behavioral code or principles of behavior that should be followed when, *inter alia*, a financial institution engages in activities or authorities carry out administration. Sharing common views on the principles among a wide range of relevant parties can be expected to achieve the following:

(i) An environment will be created under which users of financial services will be able to know in advance what they can expect in terms of the behavior of financial firms as well as the quality of financial services they offer, and thus purchase financial services with a sense of security.

(ii) Clarification can be expected of the basic vision on the part of financial firms that provide financial services concerning the way they should act even in cases where there are no applicable written rules or where interpretation of existing rules may vary. These can be anticipated to become guidelines in their voluntary efforts to improve their services as well as develop and provide new ones, in order to respond flexibly to changing circumstances.
In this sense, the principles will indicate the direction in which the financial firms should head in their efforts to improve their services and the foundation of best practices. They may also serve as the basis for interpreting existing rules.

(iii) For their part, administrative authorities can (a) ensure prompt and adequate supervisory responses based on the actual conditions of the firms concerned by complying with the basic ideas as outlined in the principles when interpreting and applying rules at the time of onsite inspections and off-site supervision. Moreover, (b) when conducting reviews of existing rules such as laws, regulations, and Supervisory Guidel*ines,* efforts aimed at simplifying and

clarifying rules in line with the principles can contribute to putting in place a market and regulatory environment that will not impede innovation or free competition in the area of financial services.

In view of the above, those who are involved in the financial instruments business must have an unshakable awareness of "The Principles in the Financial Services Industry", including their spirit.

The Principles in the Financial Services Industry

Principles in the Financial Services Industry	Practical Image
Financial service providers are expected to: l. Pursue greater customer benefits and fulfill expected roles through voluntary efforts with creativity.	(i) Ceaseless efforts aimed at providing financial services to meet customer needs (ii) Proper relationship with diverse stakeholders (iii) Conformity to expectations that Japan's financial services industry generate high added-value and contribute to sustainable growth of the national economy (iv) Responses aimed at meeting social responsibilities
2. Participate in the markets with the resolve to improve the functioning thereof as a whole and secure fairness and transparency therein.	(i) Compliance with laws and regulations as well as self-regulations (ii) Contribution to improving market functions, including market efficiency, through pursuit of best practices and improvement in self-regulations as needed (iii) Contribution to securing market transparency and fairness, by strictly confronting malicious acts that may harm transparency and fairness of the markets
3. Pay due regard to reasonable customer expectations and conduct business with integrity and professional prudence in order to meet their needs.	(i) A due consideration of customer needs is to be reflected in provision of appropriate financial services and management of contracts thereafter, including follow-ups (ii) Maintenance of decency in transactions, including by preventing abuse of dominant positions (iii) Thorough protection of customer information (iv) Fair treatment among customers and compliance with arm's-length rules
4. Pay due regard so as to provide customers with information and advice on a timely basis and in a clear and fair manner, thus enabling them to make economically rational judgments.	(i) Disclosure of information with accuracy and clarity for customer decision-making, thereby securing substantive fairness (ii) Conformity to the principle of suitability (iii) Provision of truthful information to customers and avoidance of misleading explanations
5. Respond to customer consultations and inquiries with integrity and provide needed information and advice, while making efforts to disseminate financial knowledge.	(i) Commitment to gaining customers understanding and confidence to the extent possible (ii) Accumulation and analysis of cases of consultations, inquiries and complaints, thereby endeavoring to improve business operations, particularly in the area of customer explanation (iii) Dissemination of correct financial knowledge
6. Prevent abuse stemming from conflicts of interest between one's self, including group firms, and the customers, or among different customers.	(i) Sufficient verification as to whether conflicts of interest and other business conflicts are being handled properly (ii) Implementation of appropriate control over conflicts of interest to avoid abuses (iii) Performance of duties with integrity towards customers
7. Manage customers' assets in an appropriate manner, corresponding to the responsibilities assumed.	(i) Appropriate management of customer assets (ii) Fulfillment of obligations borne as asset managers (*e.g.,* responsibilities to provide a due care of a conscientious manager, keep in segregated custody and meet fiduciary requirements, depending on the context of contracts)

Principles in the Financial Services Industry	Practical Image
8. Establish appropriate mechanisms for corporate governance, including by way of making necessary personnel allocations, and achieve effective corporate governance, to ensure financial soundness and proper business operation.	(i) Establishment of effective and efficient corporate governance (ii) Appropriate allocation of officers and employees (iii) Compliance with laws, regulations and other business rules, and sound and proper conduct of business thereby (iv) Appointment of directors qualified as being fit and proper
9. Conduct appropriate information disclosure, considering the significance of both setting market discipline to work and enhancing transparency of corporate management.	(i) Timely and appropriate disclosure of information to the markets (ii) Timely and appropriate disclosure of information to stakeholders at large
10. Establish mechanisms so as to avoid being exploited by financial crimes, including by way of blocking anti-social parties access.	(i) Implementation of mechanisms aimed at preventing involvement in or exploitation by financial crimes, including blocking off anti-social parties' access (ii) Implementation of mechanisms for customer management and collaboration with relevant organizations
11. Maintain sound financial basis corresponding to risk profile.	(i) Proper evaluation and assessment of the structure of assets, debts and capital in the light of the risk profiles of the firms in question (ii) Maintenance of capital proportionate to the extent of risks
12. Conduct appropriate risk management in accordance with the size and features of the business operation and inherent risk profile.	(i) Implementation of appropriate risk management mechanisms (ii) Comprehensive recognition and effective control of various risks that may adversely affect assets, debts and profits and losses (iii) Establishment of sustainable profit structure
13. Establish countermeasures against large- scale disasters and other contingencies in accordance with the role it fulfills in the markets.	(i) Prospects for market liquidity in times of market turmoil (ii) Establishment of crisis management systems and coordination among the parties involved in the event of crises
14. Provide accurate information with integrity upon reasonable requests from the FSA, and facilitate effective communication with the FSA, including by way of interactive dialogues.	(i) Prompt provision of sufficient and accurate information meeting the FSA's needs, in response to reasonable requests (ii) Effective communication between the FSA and financial service providers through enhanced interactive dialogue

(Source: FSA)

4 Principles for Customer-Oriented Business Conduct

On March 30, 2017, the FSA published the "Principles for Customer-Oriented Business Conduct." These principles set forth the principles considered to be useful in order for financial business operators, including Association Members, to seek best practices in customer-oriented business conduct. If a financial business operator adopts these principles, such financial business operator is required to establish a clear policy to realize customer-oriented business conduct and to conduct business in accordance with such policy; and if any part of the principles is not implemented, a financial business operator is required to fully explain the "reasons for not implementing" the principle. Subsequently, following the publication of a report by the Working Group on Capital Market Regulations of the Financial System Council dated August 5, 2020, titled "Toward the Development of Customer-Oriented Business Conduct," the Principles for Customer-Oriented Business Conduct were revised as of January 15, 2021, to introduce changes, such as providing under Principle 5[(Note 4)] that when selling or

recommending complex or high-risk products to customers, financial business operators should provide customers with reference materials prepared so as to enable them to compare these products with the same type of products." Regarding such reference materials, the report states that it is desirable to actively use a "key information sheet." There are two versions of this "key information sheet": "Financial Business Operator" version and "Product" version. The "Financial Business Operator" version is to be filled with information on each distributor of financial products, including its basic information, the products it handles, and its policy on product lineup; and the "Product" version is to be filled with information on each product, including its details, risks and investment results, costs, conditions for payout and cancellation, possibility of conflict of interest, and examples of anticipated questions from customers. The key information sheet is supposed to be used when financial business operators propose products to customers and when customers select products from among those proposed.

Principles for Customer-Oriented Business Conduct	
Principle 1 Establishment/publication, etc. of policy for customer-oriented business conduct	Financial business operators should establish and publicize a clear policy in order to realize customer-oriented business conduct, and periodically publish reports on the status of efforts taken relating to such policy. Such policy should be reviewed periodically in order to realize a better business conduct. (Note) When formulating a policy for customer-oriented business conduct, financial business operators should consider their customers not only as their direct counterparty to transactions but also as the final beneficiaries in the investment chain.
Principle 2 Pursuit of customer's best interest	Financial business operators should maintain high level of expertise and professional ethics, faithfully and fairly conduct business for customers and pursue the customers' best interest. Financial business operators should endeavor to set such business operation as a part of their corporate culture. (Note) When conducting transactions with customers, financial business operators should aim to secure their profits and a stable customer base by providing customer-oriented, quality services and achieving the best interest for the customers.
Principle 3 Appropriate management of conflicts of interest	Financial business operators should accurately monitor the potential conflicts of interest with customers in transactions, and if there is a possibility of conflicts of interest, they should manage such conflicts of interest in an appropriate manner. Financial business operators should establish specific policies therefor in advance. (Note) When judging the possibility of a conflict of interest, financial business operators should take into consideration matters such as the impact of the following circumstances on their transactions or business operations: - the distributor, when selling or recommending a financial product to a customer, receives commissions or similar payments from the company that provides the product; - the distributor sells or recommends a product provided by another company in the same group; - the distributor has a corporate sales department and investment department in the same entity or group, and the investment department selects the company in which it will invest funds from among companies with which the corporate sales department has business relationships.
Principle 4 Clarification of commissions, etc.	Financial business operators should provide information on the details of the commissions and other expenses to be borne by the customer, regardless of how they are named, in a manner comprehensible to customers; such information should include description of the services for which such commissions are incurred

Principles for Customer-Oriented Business Conduct	
Principle 5 Provision of material information in a comprehensible manner	In light of the nature of information asymmetries with customer, in addition to the matters indicated in Principle 4 above, financial business operators should provide material information relating to sale and recommendation, etc. of financial products and services in a manner comprehensible to customers. (Note 1) Key information should include the following: - the basic profit (return), loss or other risks, and conditions of transactions regarding the financial product or service to be sold or recommended to customers; - the attributes of the prospective customers of the financial business operator engaging in structuring the financial product to be sold or recommended to customers; - the reasons for selecting the financial product or service to be sold or recommended to customers (including the reason for determining that the product or service has been selected in consideration of the customers' needs and intentions); and - if there is a possibility of a conflict of interest with any customers in connection with the financial product or service to be sold or recommended to customers: the details of such conflict of interest (including commissions or similar payments to be received from a third party) and its impact on the transactions or business operations. (Note 2) When selling or recommending multiple financial products or services in a package, financial business operators should indicate to customers whether the products or services can be purchased separately, and provide customers with material information on these products or services in a package or as separate items, respectively, so that customers can compare the two cases (Notes 2 to 5 also apply when financial business operators provide information on commissions). (Note 3) Financial business operators should provide customers with information that is clear, plain, trustworthy and not misleading in content, in consideration of customers' experience and knowledge in financial trading. (Note 4) Financial business operators should provide customers with information on financial products and services to be sold or recommended to customers in an easy-to-understand manner according to the degree of complexity of these products and services. If they sell or recommend simple and low-risk products, they are allowed to provide concise information; whereas, if they sell or recommend complex or high-risk products, they should provide information more carefully and in a manner more comprehensible to customers, using materials that enable customers to compare the recommended product with the same kind of product and that indicate the basic structure of the product such as the risk-return relationship. (Note 5) When providing customers with information, financial business operators should categorize information by the degree of importance and attract customers' attention to more important information by emphasizing it.

Principles for Customer-Oriented Business Conduct	
Principle 6 Provision of services suitable for customer	Financial business operators should obtain information concerning the customer's asset status, experience in trading, knowledge, purpose and needs in transaction; and provide services, such as structuring, selling and recommending financial products and services that are suitable for the respective customer. (Note 1) In relation to sale and recommendation of financial products and services, financial business operators should pay attention to the following points: - the financial business operator should first confirm the customer's intention, and then consider the target asset value and an appropriate ratio between risk-free assets and investment-type assets in consideration of the customer's life plan, and propose a specific financial product or service based on these factors; - when proposing a specific financial product or service, the financial business operator should compare the content of the financial product or service it handles with similar or alternative products or services (including commissions) beyond the boundaries of business areas; and - after selling the financial product or service, the financial business operator should provide an appropriate follow-up service to the customer based on the customer's intention and from a long-term perspective. (Note 2) When selling or recommending multiple financial products or services in a package, financial business operators should pay attention to whether the package as a whole is suitable to the respective customer. (Note 3) Financial business operators engaging in structuring financial products should specify and publicize the attributes of the prospective customers of the products in light of the product characteristics and take care so that financial business operators engaging in selling the products will sell the products according to such customer attributes. (Note 4) When financial business operators sell or recommend complex or high-risk financial products or sell or recommend products to a group of customers who are prone to suffering damage in financial trading, they should more carefully examine whether the sale or recommendation of the relevant products is appropriate according to the product characteristics or the customer attributes. (Note 5) Financial business operators should make efforts to have their employees gain better understanding of the structures of financial products they handle and should provide customers with information actively so that they can obtain basic knowledge on financial trading according to their attributes.

Principles for Customer-Oriented Business Conduct	
Principle 7 Framework, etc. of appropriate motivation for employees	Financial business operators should establish a compensation/ performance evaluation system, employee training program and other frameworks for giving appropriate motivation and appropriate governance system, that are designed to promote behavior that pursues the best interest of customers, fair treatment of customers and appropriate management of conflicts of interest, etc. (Note) Financial business operators should announce the principles (including the notes attached thereto) that they implement and the alternative measures for any principles that they do not implement and raise awareness of these matters among the employees involved in the relevant principles, and should also establish a system for supporting and inspecting the business operations carried out by the respective employees.

(Source: FSA)

Chapter III. Opening Customer Accounts

1 Investigation of a Customer and Preparation of Customer Cards, Etc.

1 1 Investigation of a Customer

In order to properly implement customer management relating to the sale and purchase or other transactions of securities, Association Members must establish internal rules for checking a customer's name, address and other specified information (investigation of a customer) and have its officers and employees comply with such rules (Investment Solicitation Rules, Article 24(1)).

1 2 Preparation of Customer Cards

Association Members are required to prepare a customer card which contains specific entries for any customer who will engage in sale and purchase or other transactions or similar activities (excluding specified investors).

The following shall be the matters that must be entered in the customer card (Investment Solicitation Rules, Article 5(1)):

a. Personal name or firm name;
b. Address or domicile and contact details;
c. Date of birth (only if the customer is a natural person);
d. Occupation (only if the customer is a natural person);
e. Investment purposes;
f. Status of assets;
g. Experience in investing in securities, or lack thereof;
h. Type of transaction; and
i. Such other matters as each Association Member may determine to be necessary.

(Note) Among the Specified Business Members, a person who only engages in the brokerage, etc. of commodity-related market derivatives transactions and holds a license granted under Article 190(1) of the Commodity Derivatives Transaction Act as of March 1, 2020 (hereinafter referred to as a "Special Commodity Futures Member") may also prepare a

customer card containing the following matters in addition to the matters listed above:

a. Personal name or firm name;
b. Address or domicile and contact details;
c. Date of birth (only if the customer is a natural person);
d. Occupation (only if the customer is a natural person);
e. Income;
f. Status of assets;
g. Amount of funds available for investment;
h. Whether customer has experience with commodity-related market derivatives transactions or other investment experience and the degree of such experience;
i. Purpose of executing a contract relating to commodity-related market derivatives transactions; and
j. Such other matters as each Association Member may determine to be necessary.

It should be noted that, in order to assess customer attributes such as investment purpose and experience in a timely and appropriate manner, the FIBO Supervision Guidelines provide the following major supervisory viewpoints: whether the Financial Instruments Business Operator prepares a system of customer cards, for instance, adequately confirming the investment purpose, and whether the customer's investment purpose registered on the customer cards is shared by both the Financial Instruments Business Operator and the customer; furthermore, whether the Financial Instruments Business Operator appropriately manages customer information in such manner as when the Financial Instruments Business Operator ascertains any change in the status of a customer's assets and income or his/her investment purpose based on a report, etc. by the customer, the Financial Instruments Business Operator makes changes to the registered details on the customer cards after confirming the customer's intention whether or not to make said changes and shares the modified registered details with the customer, upon conducting investment solicitation thereafter (FIBO Supervision Guidelines III-2-3-1(1)(ii)A.).

1 3 Preparation of Insider Registration Cards

In order to prevent insider trading, Association Members must prepare insider registration cards if a customer is an "officer, etc. of a listed company, etc.," as prescribed in Article 15(1) of the Investment Solicitation Rules(Note) (for details see Chapter VIII. "6. Preventing Insider Trading"). An insider registration card must state the following (Investment Solicitation Rules, Article 15(2)):

(i) Personal or firm name;
(ii) Address or domicile and contact details;
(iii) Date of birth (only if the customer is a natural person);
(iv) Company name, title, and organizational unit to which the customer belongs; and
(v) Firm name and company code of the listed company, etc. that will constitute an officer, etc. of a listed company, etc.

If the customer card described in the previous section satisfies the statements that are to be made in the insider registration card, the same card may be used for both the customer card and the insider registration card (Investment Solicitation Rules, Article 15(6)).

In addition, Association Members must have in place a management system regarding insider trading such as establishing internal rules that provides for matters regarding the prevention of insider trading (Investment Solicitation Rules, Article 15(7)).

(Note) Until the day separately specified by the JSDA, Article 15 of the Investment Solicitation Rules shall not apply to Special Commodity Futures Members (Commodity Derivatives Rules, Article 4).

<Relevant Laws and Regulations> TSE Brokerage Rules, Article 3; and FIBO Supervision Guidelines III-2-3-1

<Relevant Sections of this Manual> Chapter VIII. 6 Preventing Insider Trading

2 Verification of Customer Identity upon Transaction

2 1 Identity Verification upon Transaction, Etc.

To prevent customers from money laundering of profits from crime or providing funds to terrorist groups, an Association Member must verify the prescribed matters regarding the identity of a customer, etc. upon conducting a transaction. These matters include: (1) identification data (if the customer, etc. is a natural person (excluding certain groups of foreign nationals), his/her name, address and date of birth, and if the customer, etc. is a corporation, its name and the address of the corporation's head or main office); (2) the purpose of conducting the transaction; (3) if the customer, etc. is a natural person, his/her occupation, and if the customer, etc. is a corporation, the content of its business; and (4) if the customer, etc. is a corporation and there is a person who has substantial control thereof, the identification data of the said person. This requirement applies to the following (and other) types of transactions ("specified transactions") (Anti-Criminal Proceeds Act, Article 4(1); and Enforcement Order for the Act on Prevention of Transfer of Criminal Proceeds, Article 7 (hereinafter referred to as the "Anti-Criminal Proceeds Act Enforcement Order")):

(i) Concluding a contract with a content of committing an act of having the customer obtain securities through an act set forth in Article 2(8)(i) through (vi) or (x) of the FIEA, or an act set forth in (vii) through (ix) thereof (meaning both opening a securities account and/or engaging in an individual securities transaction);

(ii) Concluding a contract with a content of borrowing or lending securities or performing intermediary or agency services thereof;

(iii) A transaction of the receipt and payment of cash, certain checks payer to bearer or cashier's check, or the actual bearer bond or bond coupons (excluding currency exchange between Japanese currency and foreign currencies, and the sale and purchase of traveler's checks; hereinafter referred to as the "Cash, etc. Receipt and Payment Transaction"), where the amount of the transaction exceeds 2 million yen (or 100,000 yen in the event of a transaction in which cash will be received and paid and involving exchange transactions or drawing of a cashier's check)(Note 1);

(iv) Concluding a contract to open an account for book-entry transfer of corporate bonds, etc. pursuant to the provisions of the Book-entry Transfer Act; and

(v) Concluding a contract for custodial service, etc.(Note 2)

(Notes) 1. With respect to certain transactions, such as the Cash, etc. Receipt and Payment Transaction, when an Association Member conducts two or more transactions either simultaneously or sequentially with the same customer, etc., and it is immediately apparent that such transactions consist of all or a part of one transaction that is divided to decrease the amount per transaction, the Association Member needs to determine whether such transactions constitute a specified transaction by considering such two or more transactions as one transaction (Anti-Criminal Proceeds Act Enforcement Order, Article 7(3)).

2. In addition to the transactions stated above, suspicious transactions and transactions that are conducted in a significantly different manner from similar transactions shall also fall under specified transactions (Anti-Criminal Proceeds Act Enforcement Order, Article 7(1); Enforcement Ordinance of the Act on Prevention of Transfer of Criminal Proceeds (hereinafter referred to as the "Anti-Criminal Proceeds Act Enforcement Ordinance") Article 5).

However, even if the transaction with the customer, etc. in question falls within the category of transactions for which identity verification upon transaction is required, if it is confirmed that the identity verification upon transaction has already been conducted with regard to that customer, etc. (limited to cases where the verification records have been prepared and preserved with respect to the relevant identity verification upon transaction), there is no need to conduct additional identity verification upon transaction regarding that customer, etc. (Anti-Criminal Proceeds Act, Article 4(3); and Anti-Criminal Proceeds Act Enforcement Order, Article 13(2)). However, in the case of high-risk transactions, verification is required.

The term "person who has substantial control" referred to in (4) above means a person who is in a relationship that allows such person to have substantial control of the business and the management of the corporation, as specified as follows (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 11(2)):

a. If the corporation operates under the principle of equity-based majority (*e.g.,* stock company, investment corporation, specified purpose company, etc.):
→ a person who is deemed to have held, directly or indirectly, in excess of one quarter of the

total voting rights of the corporation (except if it is apparent that such person does not have the intention or ability to substantially control the business and management of such equity-based majority corporation or if another person directly or indirectly holds voting rights exceeding one half of the total voting rights of the corporation) or a person who is deemed to have controlling influence over business activities of such corporation through equity contribution, loan, transaction or other relationship; or

b. If the corporation does not operate under the principle of equity-based majority (*e.g.,* general incorporated association or foundation, incorporated educational institution, religious corporation, medical corporation, social welfare corporation, specified non-profit corporation, membership company (*e.g.,* general partnership company, limited partnership company, limited liability company, etc.)):
   → a person who is deemed to have the right to receive the distribution of proceeds or property exceeding one quarter of the total amount of the proceeds arising from the business of such corporation or the property pertaining to such business (except if it is apparent that such person does not have the intention or ability to substantially control the business and management of such corporation or if another person holds the right to receive the distribution of proceeds or property exceeding one half of the total amount of the proceeds arising from the business of such corporation or the property pertaining to such business) or a person who has controlling influence over business activities of such corporation through equity contribution, loan, transaction or other relationship.
c. If the corporation does not have such persons described in a. and b. above:
   → a person who represents the corporation and executes its business.

The method of verifying identification data and the documents to be submitted or presented for identity verification (identification documents) are in general those stated in the table later in this Chapter, titled "Identification Documents and Method of Verification of Identification Data" (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 6(1) and Article 7).

If the current residence or location of the customer, etc. is not stated in the identification documents or copies thereof or information of the current residence or location is not recorded on the integrated circuit incorporated in the identification documents, the Association Member, under certain requirements, may verify the same by having the customer present or send an identification document or any of the following documents indicating the current residence or location of the customer, etc. (limited to a document bearing a dated seal of receipt, etc. which is not more than six months prior to the date of receipt of presentation or delivery; hereinafter referred to as the "supplementary document") and by attaching such document or a copy thereof to the personal identification documents (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 6(2)):

(i) National or local tax receipt or other certificate of tax payment;
(ii) Social insurance premium receipt;
(iii) Receipt of payment of public utility bill;
(iv) If the customer, etc. is a natural person, in addition to the documents set forth in (i) through (iii) above, a document that is issued or delivered by a government agency or other similar document that bears the name and address of the customer, etc. (except for an identification

number notification card); or

(v) A document issued by a foreign government or authorized international institution, recognized by the government of Japan, or any other similar document which is equivalent to the identification document indicating the current residence or location of the customer, etc. (if the customer, etc. is a natural person, limited to a document indicating his/her name and residence, and if the customer is a corporation, limited to a document indicating its name and the location of its head or principal office).

A passport issued in response to an application filed on or before February 3, 2020 (a "former-type passport") has the "Information on Bearer" page in which the bearer can write his/her address, and it can be used for the purpose of verifying the identification data if the bearer writes his/her current address in it by his/her own hand. However, a passport issued in response to an application filed on or after February 4, 2020 (a "new-type passport") does not have such "Information on Bearer" page and it is impossible to verify the bearer's current address using the new-type passport. Therefore, if a customer, etc. uses a new-type passport as his/her identification document, it is necessary to have the customer, etc. present or send a supplementary document under Article 6(2) of the Anti-Criminal Proceeds Act Enforcement Ordinance. If the natural person who is actually in charge of conducting a specified transaction (hereinafter referred to as the "representative, etc.") is different from the customer, etc. concerned, such as the case where the agent of a company conducts transactions on behalf of the company, or the representative of a company or the person in charge of handling transactions for a company conducts transactions on behalf of the company, the Association Member must not only implement identity verification upon transaction regarding the customer, etc., but must also verify the identification data of the representative, etc. on the assumption that the representative, etc. is deemed to be in charge of conducting the specified transaction on behalf of the customer, etc. (Anti-Criminal Proceeds Act, Article 4(4)).

If the customer, etc. is an entity such as the government of Japan, a local public entity, or a listed company, etc., the Association Member shall verify the identification data of the representative, etc. on the assumption that the representative, etc. is deemed to be in charge of conducting the specified transaction on behalf of the customer, etc., and if the customer, etc. is an association or foundation without legal personality, the Association Member shall verify the identification data of the representative, etc., as well as the purpose for conducting the transaction and the content of the business of the customer, etc. (Anti-Criminal Proceeds Act, Article 4(5); and Anti-Criminal Proceeds Act Enforcement Order, Article 14).

In addition, if the Association Member conducts any of the following transactions ("high-risk transactions") and the transaction involves the transfer of property of a value exceeding 2 million yen, the Association Member shall verify the status of the assets and income of the customer, etc. in addition to the matters for identity verification upon transaction as set out in (1) through (4) above (Anti-Criminal Proceeds Act, Article 4(2); Anti-Criminal Proceeds Act Enforcement Order, Article 11 and Article 12; Anti-Criminal Proceeds Act Enforcement Ordinance, Article 15):

a. A transaction based on a contract, the conclusion of which will result in a specified transaction, and which is either of the following:
   - A transaction with a party who is suspected of pretending to be the customer, etc. or the

representative, etc. related to the identity verification upon the related transaction (meaning identity verification conducted upon another transaction related to the transaction in question); or

- A transaction with a customer, etc. who is suspected of having given false information concerning the matters for identity verification upon the related transaction when the relevant identity verification upon the related transaction was conducted;

b. A transaction with a person who resides or is located in Iran or North Korea, or a transaction which involves the transfer of property to a person who resides or is located in Iran or North Korea;

c. A transaction with the head of a foreign state and any person holding an important position in a foreign government, a central bank or any other institution similar thereto as set forth in Article 15 of the Anti-Criminal Proceeds Act Enforcement Ordinance, as well as those who were formerly such persons;

d. A transaction with a family member of those enumerated in c. above (spouse, including a person in a de facto marital relationship, though an application for marriage registration has not been filed; hereinafter the same in this Item d), parents, children, siblings, as well as the parents and children of the spouse other than the foregoing); or

e. A transaction with a corporation substantially controlled by any person enumerated in c. and d. above.

(Those who fall under any of c. through e. above shall be referred to as "Foreign PEPs"; the same shall apply hereinafter.)

The verification of identification data conducted in relation to the transactions stated in a. above must be conducted by a method different from the method applied when conducting identity verification upon the related transaction, and the verification of the status of assets and income shall be conducted to the extent necessary for determining whether a notification of a suspicious transaction must be submitted (Anti-Criminal Proceeds Act, Article 4(2)).

Identity verification upon transaction is not required for the following transactions if the verification records have been prepared and preserved with regard to the relevant customer, etc. (except for a high-risk transaction) (Anti-Criminal Proceeds Act, Article 4(3); and Anti-Criminal Proceeds Act Enforcement Order, Article 13(1)):

- A financial transaction entrusted by an Association Member to another Specified Business Operator, which is to be conducted with a customer, etc. for whom the said other Specified Business Operator has already conducted identity verification upon transaction when conducting a previous transaction with that customer, etc.; or
- If an Association Member has taken over the business of another Specified Business Operator through a merger or business transfer, etc., a transaction to be conducted with a customer, etc. for whom the other Association Member has already conducted identity verification upon transaction when conducting a previous transaction with that customer, etc.

In order to properly conduct measures such as identity verification upon transaction, preservation of transaction records, etc., notification, etc. of suspicious transactions (hereinafter referred to as the "Identity Verification, etc. Measures Upon Transaction"), an Association Member must take measures to

keep information up-to-date concerning the identification data that has been verified upon conducting the transaction, and endeavor to take the measures as enumerated below (Anti-Criminal Proceeds Act, Article 11, Anti-Criminal Proceeds Act Enforcement Ordinance, Article 32(1)):

(i) To implement education and training for its employees;

(ii) To prepare rules concerning the implementation of the Identity Verification, etc. Measures Upon Transaction;

(iii) To appoint a person to supervise and manage auditing and other business necessary (hereinafter referred to as the "Supervising Manager") to conduct the proper implementation of the Identity Verification, etc. Measures Upon Transaction;

(iv) To investigate and analyze transactions conducted by the Association Member itself (including transactions using new technology and other transactions conducted in a new manner), and prepare a document or electronic record that describes or records the result of such investigation and analysis of the degree of risk of such transaction involving a criminal proceeds transfer (hereinafter referred to as the "Document Prepared by Specified Business Operator"), and review as necessary and make necessary revisions;

(v) To collect information necessary for conducing the Identity Verification, etc. Measures Upon Transaction by considering the content of the Document Prepared by Specified Business Operator, and organize and analyze such information;

(vi) To continue to carefully examine the verified records and transaction records, etc. by considering the content of the Document Prepared by Specified Business Operator;

(vii) When a transaction with a customer, etc. falls under the transaction provided for in Anti-Criminal Proceeds Act Enforcement Ordinance, Article 27(1)(i)(c), the Association Member shall, upon conducting such transaction, have employees in charge of the transaction obtain approval from the Supervising Manager for such transaction;

(viii) With respect to the transaction provided for in (vii), when information is collected, organized and analyzed pursuant to the provisions of (v), to prepare a document or electromagnetic record that describes or records the results, and preserve it along with the relevant verified records or transaction records, etc.;

(ix) To take necessary measures to hire a person who has the requisite ability to properly conduct the Identity Verification, etc. Measures Upon Transaction as an employee who engages in specified business; and

(x) To conduct necessary auditing to properly implement the Identity Verification, etc. Measures Upon Transaction.

Furthermore, as one way to establish a proper implementation system of the Identity Verification, etc. Measures Upon Transaction, the FIBO Supervision Guidelines III-2-6(1)(i) require an investigation and analysis of the risk of transactions being used in financing terrorism or money laundering based on the Anti-Criminal Proceeds Act, and to establish a system that properly implements the measures that take into consideration the results thereof. In particular, (i) in light of the content of the Investigation Report on the Risk of a Criminal Proceeds Transfer, which was prepared and released by the National Public Safety Commission pursuant to Article 3(3) of the Anti-Criminal Proceeds Act, and in view of the relevant transaction/product profile or transaction mode, country/region relating to the transaction,

customer's attributes, etc., financial instruments business operators shall, upon properly investigating and analyzing the risk of the relevant transaction being used in financing terrorism or money laundering, prepare a Document Prepared by Specified Business Operator and conduct periodic review; (ii) in light of the content of the Document Prepared by Specified Business Operator, financial instruments business operators shall collect and analyze necessary information and continuously review the confirmation records and transaction records already preserved; (iii) when conducting (a) transactions for which the necessity to conduct strict customer management as set forth in the former clause of Article 4(2) of the Anti-Criminal Proceeds Act is deemed to be particularly high or (b) transactions requiring special care upon conducting customer management set forth in Article 5 of the Anti-Criminal Proceeds Act Enforcement Ordinance, or transactions other than the foregoing (a) or (b) for which the level of risk of the transaction being used in financing terrorism or money laundering is deemed to be high considering the content of the Investigation Report on the Risk of a Criminal Proceeds Transfer, it is required that the Supervising Manager gives approval, and financial instruments business operators prepare a document, etc. describing the results of information collection/analysis, and preserve such document together with the verification records or transaction records, etc.

Moreover, by the development of the "Guidelines for Anti-Money Laundering and Combating the Financing of Terrorism" published on February 6, 2018, "required actions" and "expected actions" were clarified based on risk-based approach (Note) from the perspective of developing a more rigid risk management system for anti-money laundering and the combating financing of terrorism.

(Note) A risk-based approach refers to "an approach that financial institutions identify and assess their own money laundering and financing terrorism risks and implement effective mitigation measures commensurate with those identified risks" (FIBO Supervision Guidelines III-2-6 (1)[(Note 2)]).

Method of Verification of Identification Documents and Identification Data

Identity Verification upon Transaction in the Presence of the Customer, Etc.
[If the Customer, Etc. or Representative, Etc. Is a Natural Person] a. Have the customer, etc. or the representative, etc. present the following identification documents: • Driver's license, driving record certificate, passport, residence card or certificate of special permanent residence, individual number card, landing permit for cruise ship tourists, physical disability certificate, etc. • (If the customer is a foreign national who does not reside in Japan) In addition to the above, a document issued by a foreign government or international institution recognized by the government of Japan, which contains identification data.

Identity Verification upon Transaction in the Presence of the Customer, Etc.

b. With respect to the following identification documents, the methods provided for in (i) through (iii) below shall be conducted:
   - Health insurance certificate, pension plan passbook (as before, pension plan passbooks issued on or before March 31, 2022, can be used as identification documents; basic pension number notifications, which are issued in replacement of pension plan passbooks (abolished as of April 1, 2022), are unacceptable as identification documents), child rearing allowance certificate, maternal and child health handbook, certificate of seal registration in connection with the seal affixed by the customer, etc. on the document making the offer or acceptance for the purpose of conducting a specified transaction, etc., (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 7(i)(c)), copy of supplementary family register, copy of resident record, etc. (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 7(i)(d)), document issued or delivered by a government office or other similar document stating the name, address and date of birth of the said natural person and carrying no photo of the person's face (except for an identification number notification card; Anti-Criminal Proceeds Act Enforcement Ordinance, Article 7(i)(e)), etc.
     (i) By method of receiving presentation of the identification documents of such customer, etc., and sending a bank statement and other documents relating to the transaction with the relevant customer (hereinafter referred to as the "Transaction-Related Documents") as non-forward mail, etc. by means such as registered mail, etc. to the residence of the customer, etc. stated in such identification documents;
     (ii) By method of receiving presentation of any two documents among those enumerated in Anti-Criminal Proceeds Act Enforcement Ordinance, Article 7(i)(c), or by method of receiving presentation of the document enumerated in Anti-Criminal Proceeds Act Enforcement Ordinance, Article 7(i)(c) and the document enumerated in Anti-Criminal Proceeds Act Enforcement Ordinance, Article 7(i)(b)(d)(e) or a supplementary document which states the current address of such customer, etc.
     (iii) By method of receiving the presentation of the documents enumerated in the Anti-Criminal Proceeds Act Enforcement Ordinance, Article 7(i)(c) among the identification documents of the customer, etc., and upon receiving transmission of an identification document other than the said identification document or the supplementary document which describes the current residence of the customer, or a copy thereof, and by attaching such identification documents or such supplementary document or a copy thereof to the verification record.

[If the Customer, Etc. Is a Corporation]

Have the customer, etc. present the following identification documents:
- The certificate of registered matters (or, if incorporation has not been registered, a document evidencing the name and location of head or main office of the said corporation, issued by the director of the administrative organization having jurisdiction over the said corporation), or certificate of registration of seal impression (limited to cases in which the name of the corporation and the location of the head or main office is stated therein), or document issued or delivered by a government office or other similar document stating the name and location of head or main office of the corporation.
- (If the customer is a corporation that has its head office or principal office in a foreign country) In addition to the above, a document issued by a foreign government or authorized international institution recognized by the government of Japan, which contains identification data.

Identity Verification upon Transaction Without the Presence of the Customer, Etc.

[If the Customer, Etc. or Representative, Etc. Is a Natural Person]

a. Have the customer, etc. or the representative, etc. send identification documents or transmit relevant information or graphic information for identification recorded in a semiconductor integrated circuit incorporated in the identification documents (limited to those documents that incorporate a semiconductor integrated circuit that records one's name, address and date of birth); and send the Transaction-Related Documents as non-forward mail, etc. by means such as registered mail, to the residence of the said customer, etc. stated in the identification document or recorded in the said information.

b. Have the customer, etc. or the representative, etc. send a copy of any two identification documents containing the current residence, or a copy of an identity confirmation document and a supplementary document or a copy thereof stating the current residence; and send the Transaction-Related Documents as non-forward mail, etc. by means such as registered mail, to the residence of the said customer, etc. stated in the copy of the identification document or the supplementary document or the copy thereof.

c. Have the customer, etc. or the representative, etc. send a copy of the identification document of the customer, etc. when conducting the transactions set forth in (a) or (b) below, or when conducting the transactions set forth in Article 7(1)(i) II or KK of the Anti-Criminal Proceeds Act Enforcement Order simultaneously or continuously with the transactions set forth in (b) below with the relevant customer, etc.; and send the Transaction-Related Documents as non-forward mail, etc. by means such as registered mail, to the residence of the said customer, etc. stated in the copy of the identification document:

   (a) Among the transactions set forth in Article 7(1)(i)A of the Anti-Criminal Proceeds Act Enforcement Order, a transaction conducted with an employee of a corporation (limited to a corporation whose transactions conducted with a Specified Business Operator are deemed to have a low risk involving a transfer of criminal proceeds in light of the nature of the transactions conducted with the Specified Business Operator and other circumstances) (limited to transactions that can be verified, by making a telephone call to the head office, etc. or a business office of the said corporation or by other similar means, to be related to a deposit or savings account for receiving the transfer of the salary or other funds from the said corporation to the employee).

   (b) Transactions set forth in in Article 7(1)(i) I of the Anti-Criminal Proceeds Act Enforcement Order (limited to cases where a Specified Business Operator has been provided with an individual number specified in Article 2(5) of the Act on the Use of Numbers to Identify a Specific Individual in the Administrative Procedure by the customer pursuant to the provisions of Article 14(1) of the same Act)

d. Send Transaction-Related Documents to the customer, etc. through specified matter communication type personal receipt only mail or the equivalent.

e. Have the customer, etc. or the representative, etc. transmit information using a certain electronic identification issued by a person who has been approved by the Act on Electronic Signatures and Certification Business or an electronic signature that is confirmed by the said electronic identification.

f. By using software provided by the specified business operator, have the customer, etc. or the representative, etc. transmit (i) graphic information on the appearance of the customer, etc., captured by the said customer, etc., using the said software, and (ii) graphic information on a photo identification document (the name, address and date of birth stated thereon, the photo contained thereon, as well as the thickness and other features of which are recognizable).

Identity Verification upon Transaction Without the Presence of the Customer, Etc.

g. By using software provided by the specified business operator, have the customer, etc. or the representative, etc. transmit (i) graphic information on the appearance of the customer, etc., captured by the said customer, etc., using the said software, and (ii) information recorded on a semiconductor integrated circuit built into the photo identification documents of the customer (limited to those documents that incorporate a semiconductor integrated circuit that records one's name, address, date of birth and photo information).

h. By using software provided by the specified business operator, have the customer, etc. or the representative, etc. transmit (i) graphic information on a certain identification document captured by the customer, etc., using the said software (the name, address and date of birth stated thereon, the photo contained thereon, as well as the thickness and other features of which are recognizable), or (ii) information recorded in a semiconductor integrated circuit incorporated into the identification documents of the customer, etc. (limited to those documents that incorporate a semiconductor integrated circuit that records one's name, address, date of birth and photo information), which such customer reads using the said software, and (iii) conduct either (a) or (b) set forth below (in addition to either (i) or (ii), (iii) is also required):

(a) Confirm that another specified business operator verified the said customer's name, address and date of birth when conducting a certain transaction with the customer and retain the verification record relating to such verification, and have the said customer provide information only known to the said customer himself/herself so that another specified business operator can verify that the said customer is identical to the customer recorded in the verification record.

(b) Making transfers to the customer's deposit or savings account, receive from such customer a copy of the customer's deposit or savings passbook, etc., or anything equivalent thereto on which matters necessary to identify the said bank transfer are recorded.

[If the Customer, Etc. Is a Corporation]

a. Have the customer, etc. send identification documents or a copy thereof, and send the Transaction-Related Documents as non-forward mail, etc. by means such as registered mail, etc. to the head office, etc. of the said customer, etc. stated in the identification document or a copy thereof.

b. Have the customer, etc. transmit information using electronic identification prepared by a registrar pursuant to the Commercial Registration Act, or an electronic signature that is confirmed by the said electronic identification.

c. (i) Have the relevant customer, etc., state the name and location of the customer's head office and principal office, (ii) receive registration information from the registration information service operated by *Minji Houmu Kyokai* (Civil Legal Affairs Association), and (iii) send the Transaction-Related Documents by registered mail, etc. as non-forward mail, etc. to the head office, etc. of the said customer, etc.

d. (i) Have the relevant customer, etc., state the name and location of the customer's head office and principal office, (ii) confirm the registered information published on the Corporate Number Publication Site run by the National Tax Agency, and (iii) send the Transaction-Related Documents by registered mail, etc. as non-forward mail, etc. to the head office, etc. of the said customer, etc.

Other Method

[If the Customer, Etc. Is a Natural Person or Corporation]

If settlement is made through transfer to and from a specific savings account or deposit account, an Association Member shall confirm that the financial institution, etc. at which the account is opened has conducted identity verification upon transaction and preserves the verification records, provided that this shall be limited to cases in which a prior agreement has been reached with the correspondent financial institution that it will conduct identity verification upon transaction for the Association Member.

(Notes) 1. Documents such as the certificate of seal registration, copy of supplementary family register, and certificate of registered matters must have been prepared no more than six months prior to the date on which they are presented or received.
2. The health insurance certificate, pension plan passbook, driver's license, etc. must be valid on the date that it is presented or received.
3. Documents, etc. that are issued by a government office (i) must be valid on the date that they are presented or received if the document, etc., has a fixed period of validity or an expiration date; or (ii) must have been prepared no more than six months prior to the date on which they are presented or received if the document, etc. does not have a fixed period of validity or an expiration date.

The table below shows a summary of the matters to be verified, and the method of verification applied in identity verification upon transaction, as set out above.

Category of the customer, etc.	Natural person	Corporation (excluding a listed company)	The government of Japan, local public entity, listed company, etc.	Association or foundation without legal personality
(1) Identification data	To be verified based on the identification documents	To be verified based on the identification documents	The identification data of the representative, etc., (a natural person who is actually in charge of conducting the specified transaction, etc.) to be verified based on his/her identification documents	The identification data of the representative, etc., (a natural person who is actually in charge of conducting the specified transaction, etc.) to be verified based on his/her identification documents
(2) Purpose of conducting the transaction	To be based on the information given by the customer, etc.	To be based on the information given by the customer, etc.		To be based on the information given by the customer, etc.
(3) Occupation/ Content of business	To be based on the information given by the customer, etc.	To be verified based on the articles of incorporation, certificate of registered matters, etc.		To be based on the information given by the customer, etc.

Category of the customer, etc.	Natural person	Corporation (excluding a listed company)	The government of Japan, local public entity, listed company, etc.	Association or foundation without legal personality
(4) Identification data of such person who has substantial control		**Verification method of presence or absence of a person who has substantial control** (i) specified transaction: To be verified based on the information given by the customer, etc.; (ii) high-risk transaction: To be verified based on the shareholder registry, annual securities report, etc. and the report from the representative. **Verification method of identification data of the person who has substantial control** (i) specified transaction: To be verified based on the information given by such person; (ii) high-risk transaction: To be verified based on such person's identification documents		
(5) Transaction by the representative, etc.	The reason for deeming the representative, etc. to be in charge of conducting the specified transaction, etc. on behalf of the customer, etc., to be verified by confirming the status of the representative, etc., referring to the power of attorney power of attorney he/she carries, making a phone call to him/her, etc.	The reason for deeming the representative, etc. to be in charge of conducting the specified transaction, etc. on behalf of the customer, etc., to be verified by referring to the power of attorney or registration which describes him/her as an officer having representative authority, making a phone call to him/her, etc.	The reason for deeming the representative, etc. to be in charge of conducting the specified transaction, etc., on behalf of the customer, etc., to be verified by referring to the power of attorney or registration which describes him/her as an officer having representative authority, making a phone call to him/her, etc.	
(6) Status of assets and income when conducting a high-risk transaction which involves the transfer of property of a value exceeding 2 million yen	Verified based on withholding records, final return, deposit/savings passbook, etc.	Verified based on the balance sheet, profit and loss statement, etc.		

* In the case of a high-risk transaction with a party who is suspected of pretending to be a customer, etc. or suspected of having given false information concerning the matters to be verified when identity verification upon the related transaction was conducted, it is necessary to request the customer, etc. to present an additional identification document or supplementary document or copy of those documents, in addition to conducting verification by the method applicable to an ordinary transaction (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 14(1)).

2 2 Preparation of Verification Record

If an Association Member has conducted identity verification upon transaction, the Association Member must immediately prepare a verification record in connection with the matters set forth the Anti-Criminal Proceeds Act Enforcement Ordinance, Article 20, including the name of the person who conducted identity verification upon transaction and the name of the person who prepared the verification record, and must keep the records for seven years from the later of: (1) the date of termination of the transaction; and (2) the date of termination of the transaction concerning the transaction for which identity verification upon transaction was conducted (Anti-Criminal Proceeds Act, Article 6(2); and Anti-Criminal Proceeds Act Enforcement Ordinance, Article 21).

The verification record shall be prepared in document form, as an electronic record or using microfilm, or by attaching the materials presented or sent upon identity verification upon transaction by a certain method to the verification record (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 19).

2 3 Preparing Transaction Records, Etc.

After conducting a transaction pertaining to specified business, an Association Member must immediately prepare transaction records, etc. in connection with the matters set forth in the Anti-Criminal Proceeds Act Enforcement Ordinance, Article 24, including matters for the purpose of searching the verification records of the customer, etc., as well as the transaction date and content of such transaction, and keep these records for seven years from the date that the transaction was conducted (Anti-Criminal Proceeds Act, Article 7(3)).

The transaction records are to be prepared in document form, as an electronic record or using microfilm (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 23), but preparation and keeping of records is not required for transactions that do not involve the transfer of assets or transactions that involve the transfer of assets of a value equal to or less than 10,000 yen (Anti-Criminal Proceeds Act Enforcement Order, Article 15).

2 4 Thorough Implementation of Identity Verification upon Transaction

As stated above, the Anti-Criminal Proceeds Act and other regulations require an Association Member to conduct identity verification upon transaction. Moreover, with the recent growth of internet transactions and the like in which there is no face-to-face contact, even more care is required in conducting identity verification upon transaction. As one example, the FIBO Supervision Guidelines

III-2-6(1)(ii) demand the preparation of a system for accurately conducting identity verification upon transaction pursuant to the Anti-Criminal Proceeds Act.

Specifically, the following matters are required: (i) to clearly set internal systems and procedures to conduct identity verification upon transaction in the internal rules, etc., and to familiarize officers and employees with the content thereof in order to ensure their full understanding, (ii) to accurately understand the customer's attributes as well as confirm the credibility and appropriateness thereof through the submission of identification documents, etc., properly respond to and manage a problem identified in relation to a customer, and constantly strive to keep track of up-to-date customer attributes through ongoing monitoring of transactions with the customer regarding information for identity verification upon transaction obtained from the customer, (iii) to accurately provide for the customer acceptance policy in the internal rules, etc., and properly apply the customer acceptance policy to the customer attributes identified through the procedures for identity verification upon transaction, (iv) to confirm the substantial controller in a transaction with corporate customers and confirm the applicability of Foreign PEPs, in particular, if the transaction is a high-risk transaction under the former clause of Article 4(2) of the Anti-Criminal Proceeds Act and each Item of Article 12 of the Anti-Criminal Proceeds Act Enforcement Order, to conduct identity verification upon transaction (more than once if necessary) in an appropriate manner, such as by applying a method that is more strict than the method applicable to an ordinary transaction, (v) to take measures which take into consideration the transaction mode (*e.g.,* transactions conducted over the internet without any face-to-face contact) when conducting identity verification upon transaction, (vi) upon hiring officers and employees, to carry out the selection including the viewpoint of appropriate implementation of counter-terrorism financing and anti-money laundering measures and to select and appoint appropriate persons as Supervising Manager, such as compliance personnel responsible for counter-terrorism financing and anti-money laundering measures at a managerial level, (vii) to regularly and continuously carry out training and education regarding identity verification upon transaction to officers and employees and to conduct proper evaluation and follow-up with respect to the status of understanding by officers and employees that took the training, etc. based on daily practice, and (viii) to understand and verify the status of the identity verification upon transaction through internal periodic inspections and internal audits and to review the method of implementation, etc., to ensure the effectiveness of identity verification upon transaction.

2 5 Notification of Suspicious Transactions

The Anti-Criminal Proceeds Act requires entities such as financial institutions, including Association Members, to report suspicious transactions as part of their money laundering regulations.

An Association Member shall determine whether or not it suspects that property (cash, securities or the like) that the Association Member receives in the course of carrying out its business constitutes property that arose from criminal activity, or whether or not it suspects that the party to the transaction in connection with the said business will commit an act such as concealing property or the like which is derived from criminal activity, and when it is found that such suspicion exists, the Association Member

must promptly submit a notification (notification of suspicious transactions) to the Commissioner of the Financial Services Agency (Anti-Criminal Proceeds Act, Article 8(1), Article 22(1)(i) and (5)). Moreover, the Association Member and its officers and employees are prohibited from revealing to the counterparty, or the related persons to the transaction in connection with the notification, that the Association Member will file or has filed the same (Anti-Criminal Proceeds Act, Article 8(4)).

In addition, whether or not a transaction falls under a suspicious transaction shall be determined upon considering the results of the identity verification upon transaction pertaining to the relevant transaction, the circumstances including the transaction mode and the content of the Investigation Report on the Risk of a Criminal Proceeds Transfer (Anti-Criminal Proceeds Act, Article 3(3)), and in accordance with the following <Verification Items> and by way of the following <Verification Method> (Anti-Criminal Proceeds Act, Article 8(3)):

<Verification Items> (Anti-Criminal Proceeds Act Enforcement Ordinance, Article 26(i)(a) to (c))

(i) Comparison between (a) the transaction mode pertaining to specified business and (b) the transaction mode pertaining to specified business that the Association Member normally conducts with other customers, etc.

(ii) Comparison between (a) the transaction mode pertaining to specified business and (b) the transaction mode pertaining to other specified business that the Association Member conducted with the relevant customer, etc.

(iii) Consistency between (a) the transaction mode pertaining to specified business and (b) the results of the identity verification upon transaction pertaining to such transaction and any other information held by Association Members regarding the results of the identity verification upon transaction.

<Verification Method> (Anti-Criminal Proceeds Act Enforcement Ordinance, each Item of Article 27(i)(a) to (c))

Type of Transaction	Verification Method
(i) Transaction pertaining to specified business (excluding transactions enumerated in (ii) and (iii) below.) → "One-time transaction by first-time customer"	Method of verifying whether or not there is any suspicious aspect to the relevant transaction in accordance with the <Verification Items> above.
(ii) Transaction pertaining to specified business conducted with customers, etc. whose verification records or transaction records have already been prepared and preserved (hereinafter referred to as the "Existing Customers") (excluding transactions enumerated in (iii) below) → "Transaction with Existing Customers"	Method of thoroughly reviewing the information concerning the relevant transaction, including the verification record of the relevant customer, etc., transaction record pertaining to the relevant customer, etc., information obtained through the measures set forth in the Anti-Criminal Proceeds Act Enforcement Ordinance, Article 32(1)(ii) and (iii), and verifying whether or not there is any suspicious aspect to the relevant transaction in accordance with the <Verification Items> above.

Type of Transaction	Verification Method
(iii) Among the specified transactions, transactions that are considered to have a high risk of involving a transfer of criminal proceeds considering the content of the Investigation Report on the Risk of a Criminal Proceeds Transfer, including the transactions stipulated in the preceding paragraph of Article 4(2) of the Anti-Criminal Proceeds Act, or a transaction stipulated in Article 5 of the Anti-Criminal Proceeds Act, or any transaction other than the foregoing conducted with customers, etc. that reside or are located in countries or regions that are considered to require care based on the development status of a system concerning the prevention of criminal proceeds transfers in the Investigation Report on the Risk of a Criminal Proceeds Transfer. → "High-risk transactions"	Method of having the Supervising Manager or any person equivalent thereto verify whether or not there is any suspicious aspect to the relevant transaction, after conducting necessary investigation to verify whether or not there is any suspicious aspect to the relevant transaction, including the method prescribed in (i) above (in the case of a transaction with Existing Customers, the method prescribed in (ii) above) and making inquiries to customers, etc. or representatives, etc.

Please refer to sample cases published by the Financial Services Agency for reference in determining whether a transaction is suspicious (https://www.fsa.go.jp/str/jirei/index.html).

The JSDA rules also state that an Association Member must determine a person who is responsible for reporting suspicious transactions, and must endeavor to improve its internal organization in order to prevent the transfer of proceeds from crime and to prevent funds from being provided for terrorism (Investment Solicitation Rules, Article 14).

Regular Member

Furthermore, the FIBO Supervision Guidelines III-2-6(1)(iii) demands the preparation of a system for accurately implementing the "notification of suspicious transactions" pursuant to the Anti-Criminal Proceeds Act.

Specifically, the following matters are required: (i) to clearly provide for internal systems and procedures to "report suspicious transactions," and to familiarize officers and employees with the contents thereof for their full understanding, (ii) the controlling department shall promptly report to the authorities if a transaction is determined to be a "suspicious transaction," (iii) upon determining the applicability of the "notification of suspicious transactions," to determine the necessity of notification upon overall consideration of the information for identity verification upon transaction obtained by the Regular Member, the customer's attributes, the form of the transaction, the circumstances of the transaction and other specific information concerning the transaction obtained or held by the Regular Member as well as the Investigation Report on the Risk of a Criminal Proceeds Transfer and upon appropriate examination under Article 8(3) of the Anti-Criminal Proceeds Act and Articles 26 and 27 of the Anti-Criminal Proceeds Act Enforcement Ordinance, and to adequately respond to and manage issues, etc. with the transaction, if any, (iv) to inspect, monitor and analyze suspicious customers and transactions, etc. in accordance with system, manuals, etc. depending on the business and operations conducted by the Regular Member, (v) upon hiring officers and employees, to carry out the selection

including the viewpoint of appropriate implementation of counter-terrorism financing and anti-money laundering measures and to select and appoint appropriate persons as Supervising Manager, such as compliance personnel responsible for counter-terrorism financing and anti-money laundering measures at a management level, (vi) to regularly and continuously carry out training and education regarding "notification of suspicious transactions" to officers and employees and to conduct proper evaluation and follow-up with respect to the status of understanding by officers and employees that took the training, etc. based on daily practice, and (vii) to understand and verify the status of notification of suspicious transactions through internal periodic inspections and internal audits and to review the method of implementation, etc. to ensure the effectiveness of "notification of suspicious transactions."

2 6 Prohibition Against Accepting Trading Under a False Name

An Association Member must not knowingly accept any order for trading under a false name for any sale and purchase or other transactions in securities or the like (Investment Solicitation Rules, Article 13(1); and Employees Rules, Article 7(ix)).

"Trading under a false name" here means a transaction in which the name of the account holder and the person to whom the fruits of the transaction conducted in that account belong to do not correspond. This would, for example, mean a transaction in which a customer uses a fictitious name or the name of another person, and attempts to obtain the legal effect of the transaction (see the Questions and Answers on "Prohibition Against Trading Under a False Name" among the Questions and Answers and Guidelines, etc. for Association Members). Transactions borrowing the name of others are sometimes called "trading under a borrowed name," but are included in trading under a false name.

This prohibition does not regulate the acceptance of orders of the account holder from an agent of the account holder or a person who merely communicates the intent of the account holder (the so-called messenger). However, even in such case, it is necessary to prepare an internal system to prevent the acceptance of trades under a false name through manuals providing for the procedures for acceptance of orders, etc. from the viewpoint of preventing the acceptance of trading under a false name (see the Questions and Answers on "Prohibition Against Trading Under a False Name." among the Questions and Answers and Guidelines, etc. for Association Members).

In addition, if the order is made by a person such as the spouse of the account holder, or the relative within the second degree of consanguinity, it is possible to state that there is a strong probability that the trading is not under a false name as meant by this section.

In this case, if it is confirmed that the person has a relationship such as being the spouse of the account holder or a relative within the second degree of consanguinity, it is understood that there is only a small possibility that accepting the order will violate the prohibition against trading under a false name, unless special circumstances apply such as being notified that the trade is a transaction under a false name (see the Questions and Answers on "Prohibition Against Trading Under a False Name" among the Questions and Answers and Guidelines, etc. for Association Members).

<Relevant Sections of this Manual> Chapter V. 7 Managing Acceptance of Orders from Trades Under a False Name;
Chapter V. 10 Prohibitions Against Trading with Antisocial Forces

3 Management of Book-Entry Transfer Accounts and Custodial Service Accounts

3 1 Book-Entry Transfer Account Agreements

Now that paperless system (digitalization) of securities issued in Japan has been promoted, a securities settlement system has been established whereby the entire process, *i.e.,* from the point of issuance up until the redemption (delivery) of securities, can be dealt with under a book-entry transfer system.

The statute which forms the basis of this securities settlement system is the Book-entry Transfer Act.

Securities, which are dealt with under the book-entry transfer system, are required to be managed in accordance with the Book-entry Transfer Act as well as the operational rules specified by the book-entry transfer institution.

With regard to Japanese government bonds, the Bank of Japan is designated as the book-entry transfer institution, and for shares, non-JGB bonds, and investment trusts, the Japan Securities Depository Center, Inc. is designated as such book-entry transfer institution.

Moreover, the Association Member which will serve as the account management institution, will be required to enter into a book-entry transfer account agreement that specifies certain matters concerning book-entry transfer with the customer, based on the operational rules specified by the relevant book-entry transfer institution, so as to establish the rights and obligations between itself and the customer.

3 2 Custodial Service Agreements

An Association Member shall conclude a contract concerning the deposit of securities (hereinafter referred to as “custodial service agreement”) under the terms and conditions of a safe custody master agreement (if the Associate Member is a Special Member, a safe custody master agreement means the safe custody rules prescribed in the document stating the method of conducting a Registered Financial Institution Business) with a customer in a case the customer will deposit securities or certificates issued for the deposited commodities set forth in Article 2(8)(xvi) of the FIEA, such as warehouse receipts, with the Association Member under a simple deposit contract or commingled deposit contract and the Association Member must obtain from the customer a written form application for opening a custodial service account (Deposit Rules, Article 3(1) and (3); applied *mutatis mutandis* to a Special Member

pursuant to Article 16 and to a Specified Business Member pursuant to Article 19). If a customer gives its consent in writing or by electromagnetic method, however, the Association Member is permitted to receive the information to be stated in the application, by a prescribed electromagnetic method (Deposit Rules, Article 14(2); applied *mutatis mutandis* to a Special Member pursuant to Article 16 and to a Specified Business Member pursuant to Article 19).

When an Association Member receives this written application, and accepts it, the Association Member shall without delay open the account, and notify the customer to that effect (Deposit Rules, Article 3(4); applied *mutatis mutandis* to a Special Member pursuant to Article 16 and to a Specified Business Member pursuant to Article 19). If an Association Member opens a custodial service account as provided above, all custody of payments and receipts for securities deposited by a customer through a simple deposit contract or a commingled deposit contract shall be handled from within this account (Deposit Rules, Article 5; applied *mutatis mutandis* to a Special Member pursuant to Article 16 and to a Specified Business Member pursuant to Article 19).

Under the following circumstances, however, conclusion of a custodial service agreement shall not be required (Deposit Rules, Article 6; applied *mutatis mutandis* to a Special Member pursuant to Article 16):

(i) Deposit of securities under an accumulative investment contract and a standing proxy contract;
(ii) Deposit of securities under the sale and purchase or other transactions in securities set forth hereunder:
    a. Securities as prescribed in Article 2(1)(xv) of the FIEA (*i.e.,* commercial paper);
    b. Rights recognized as securities pursuant to the FIEA, Article 2(2) (excluding those set forth in c.); or
    c. Foreign securities as prescribed in Article 2(1)(i) of the Foreign Securities Rules [Those securities set forth in the items of Article 2(1) of the FIEA,, or those that are deemed to be securities under Article 2(2) thereof (except those set forth in the items of the said paragraph), those that are stored outside of Japan (in the event that, under the governing law with respect to the issuing of the securities, handling without issuing the certificate is permitted in connection with the rights that are to be embodied in the securities, and these are rights that are to be embodied in securities in the case where the certificates are not issued, including the management of the quantity that is entered or recorded in the account)].

It should be noted that a custodial service agreement must be concluded upon the deposit of the securities, unless such securities are covered by the book-entry transfer system under the Book-entry Transfer Act in which case, they shall not be subject to the conclusion of such agreement (*i.e.,* a book-entry transfer account agreement must be concluded). In addition, among the Deposit Rules, the provisions relating to the custodial service agreement, etc. (Deposit Rules, Article 2, Article 3, Article 5, and Article 6-2) shall not apply to the Special Commodity Futures Member until the day separately specified by the JSDA (Article 4(iii) of the Commodity Derivatives Rules).

Regular Member

3 3 Entering into Agreements Pursuant to the General Contract for Mini Investment in Stocks

In the "General Contract for Mini Investment in Stocks," Mini Stock Investment refers to a means of trading shares of less than 1 trading unit as prescribed by the financial instruments exchange through a routine manner using the book-entry transfer systems for stocks, etc. Normally, it is conducted as trading in units of one-tenth of a trading lot of shares as prescribed by the financial instruments exchange.

When a Regular Member accepts an order from a customer for a mini investment in stocks, the Regular Member shall enter into an agreement concerning administration of the shares pursuant to the "Terms and Conditions for Management of Book-Entry Transfer Settlement Account for Shares, etc.," as well as a transaction agreement pursuant to the "General Contract for Mini Investment in Stocks" (Rules Concerning Handling of Cumulative Stock Investment and Mini Investment in Stocks, and the (Model) General Contract for Mini Investment in Stocks).

<Relevant Sections of this Manual> Chapter VI. 2 Registration and Examination of Seals

4 Delivery of Document to Be Delivered Prior to Conclusion of Contract and Document to Be Delivered upon Conclusion of Contract

4 1 Delivery of Document to Be Delivered Prior to Conclusion of Contract

When an Association Member will enter into a contract for financial instruments transaction, the Association Member must in advance deliver to the customer a Document to Be Delivered Prior to Conclusion of Contract stating a summary of the contract for financial instruments transaction, as well as particulars such as the fees and risks, and must also provide an explanation according to a method and to the extent necessary for the customer to understand these matters in view of the knowledge, experience and financial position of the customer, and the purpose of the customer for entering into the contract for financial instruments transaction (FIEA, Article 37-3(1) and Article 38(ix); and FIBCOO, Article 79 through Article 96, and Article 117(1)(i)(a)). The delivery of the Document to Be Delivered Prior to Conclusion of Contract may be made in paper form, or if consent from the customer to delivery by electromagnetic method has been obtained, it may be made to the customer through a prescribed electromagnetic method by providing the matters to be stated in the relevant Document to Be Delivered Prior to Conclusion of Contract (FIEA, Article 34-2(4), and Article 37-3(2); and FIEAEO, Article 15-22).

However, even upon entering into a contract for financial instruments transaction, it is not necessary to deliver the Document to Be Delivered Prior to Conclusion of Contract in the following circumstances (FIEA, Article 37-3(1), *proviso;* and FIBCOO, Article 80):

(i) Cases in which within one year prior to entering into the contract for a financial instruments transaction, a comprehensive document has been delivered in connection with trading, etc. (excluding derivative transactions and margin transactions) of securities (excluding covered warrants, etc.) that are listed on a domestic or foreign exchange (hereinafter referred to as a "Explanatory Document on Listed Securities, etc."). (If a contract for a financial instruments transaction has been entered into within one year after the date of delivery of the Explanatory Document on Listed Securities, etc. shall be deemed to have been delivered on the date of entering into this contract.)

(ii) Cases in which within one year prior to entering into the contract for a financial instruments transaction, a Document to Be Delivered Prior to Conclusion of Contract has been delivered in connection with a contract for a financial instruments transaction of the same type. (If a contract for a financial instruments transaction of the same type (excluding an OTC derivatives transaction) has been entered into within one year after the date of delivery of the Document to Be Delivered Prior to Conclusion of Contract, the Document to Be Delivered Prior to Conclusion of Contract shall be deemed to have been delivered on the date of entering into this contract).

(iii) If a prospectus (that states all of the matters that are to be set forth in the Document to Be Delivered Prior to Conclusion of Contract, including documents that are delivered as a single set) is delivered as well as cases in which delivery of a prospectus is not necessary pursuant to the FIEA, Article 15(2)(ii).

(iv) In the event that a contract is to be entered into to amend a portion of a contract for a financial instruments transaction that has already entered into, and there is no change to the matters that are set forth in the Document to Be Delivered Prior to Conclusion of Contract, or a contract amendment document (a document stating the matters to be amended) is delivered.

(v) In the event that a contract for a financial instruments transaction relating to the sale and purchase, etc. of listed securities, etc. will be entered into, where the matters to be stated in the Explanatory Document on Listed Securities, etc. are provided to the customer (limited to those who have received the Explanatory Document on Listed Securities, etc. from the financial instruments business operator, etc.) for inspection by using an electronic data processing system (only if certain requirements are fulfilled, excluding cases where the customer requests the delivery of the Explanatory Document on Listed Securities, etc.).

(vi) In the event that a contract is to be entered into for a financial instruments transaction relating to the sale and purchase or other transaction of certain securities (excluding transactions that fall under derivative transactions, margin transactions, issued transactions, or transactions similar thereto), where the matters to be stated in the Document to be Delivered Prior to the Conclusion of Contract are provided to the customer (limited to those who have received from the financial instruments business operator, etc. the delivery of the Document to be Delivered Prior to the Conclusion of Contract relating to a contract for a financial instruments transaction similar to the relevant contract for a financial instruments transaction) for inspection by using an electronic data processing system (only if certain requirements are fulfilled, excluding cases where the customer requests the delivery of the Document to be Delivered Prior to the

Conclusion of Contract).

(vii) Concise material information is provided to the customer, and an explanation regarding the matters set forth in Article 37-3(1)(iii) to (vii) of the FIEA (in the case prescribed in Article 80(1)(iv)(b) of the FIBCOO, limited to those concerning the change referred to in that item) is also provided to the customer by a method and to the extent necessary to enable the customer to understand these matters, in view of the knowledge, experience and financial position of the customer, and the purpose of the customer for entering into the contract for financial instruments transaction
(only if certain requirements are fulfilled, excluding cases where the customer requests the delivery of the Document to be Delivered Prior to the Conclusion of Contract).

(viii) A sale of securities that have been purchased (limited to cases where a contract for financial instruments transaction concerning the purchase of such securities has been entered into with the Association Member), or a buyback of beneficiary certificates of an investment trust or a foreign investment trust, or an offsetting trade, or a purchase under an agreement for cumulative investment, or acquisition of the same issues from revenues in investment trust beneficiary certificates, etc., or equity interests in a collective investment scheme, or trading in a money reserve fund (MRF) (excluding the first purchase), etc.

Moreover, the duty to deliver a document delivered prior to contract execution is not imposed in the event of a transaction with a professional investor (FIEA, Article 45(ii)).

4 2 Delivery of Document to Be Delivered upon Conclusion of Contract

If an Association Member has entered into a contract for financial instruments transaction, the Association Member must without delay prepare a Document to Be Delivered Upon Conclusion of Contract, which states matters such as the content of the contract for financial instruments transaction, and deliver this to the customer (FIEA, Article 37-4(1); and FIBCOO, Article 98 through Article 107). The delivery of the Document to Be Delivered Upon Conclusion of Contract may be made in paper form, or if consent from the customer to delivery by electromagnetic method has been obtained, the delivery may be made by using a prescribed electromagnetic method to deliver the matters that are to be stated in the relevant Document to Be Delivered Upon Conclusion of Contract (FIEA, Article 34-2(4) and Article 37-4(2); and FIEAEO, Article 15-22).

The FIBCOO states that for example in the following cases it is not necessary to deliver the Document to Be Delivered Upon Conclusion of Contract (FIEA, Article 37-4(1), *proviso;* and FIBCOO, Article 110):

(i) Cases such as a purchase under a cumulative investment agreement, or reinvestment of earnings in an investment trust, etc. (with the condition that a document stating the content of the contract for financial instruments transaction is periodically delivered to the customer, and that an organization is in place that is capable of promptly answering inquiries by a customer concerning a particular transaction);

(ii) Cases such as a Sale and Purchase of Bonds with Options, an OTC derivatives transaction, or underwriting securities (on condition that a written contract is delivered stating the terms of each transaction that is to be contracted); or

(iii) When amending a portion of a contract for financial instruments transaction that has already entered into, there is no change to the matters set forth in the Document to Be Delivered Upon Conclusion of Contract, or delivery is made of a document stating the matters to be amended (*i.e.,* a contract amendment document).

Moreover, the duty to deliver the Document to Be Delivered Upon Conclusion of Contract is not imposed in the event of a transaction with a professional investor (FIEA, Article 45(ii)), except in the event that a system is not in place which can promptly answer inquiries by a customer concerning a particular transaction (FIEA, Article 45, *proviso;* and FIBCOO, Article 156(i)).

<Relevant Sections of this Manual> Chapter IV. 4 Delivery of Document to Be Delivered Prior to Conclusion of Contract and Duty of Substantive Explanation
Chapter VI. 3 Document to Be Delivered upon Conclusion of Contract

5 Commencing Foreign Securities Transactions

When an Association Member accepts an order from a customer or another Association Member (including cases such as handling of a public offering or secondary distribution, or handling of a private placement) for transactions in foreign securities, the Association Member must conclude an agreement with such customer or such other Association Member concerning transactions of foreign securities (Foreign Securities Rules, Article 3(1)). When concluding an agreement concerning transactions of foreign securities, the Association Member must deliver to the customer (excluding professional investors, in the event of causing acquisition of foreign securities by means of handling of a private placement) the agreement on foreign securities trading account (hereinafter referred to as the "Agreement"), and must receive an application from the customer for opening a trading account in accordance with the Agreement (Foreign Securities Rules, Article 3(2)).

Furthermore, the Association Member must enable verification of the fact that it received an application to open a trading account from the relevant customer via receipt of an application form stating to the effect that the customer is applying for the opening of a trading account in accordance with the Agreement or by such other methods as specified by the Association Member (Foreign Securities Rules, Article 3(3)). If the Association Member has however, already delivered the Agreement to the customer intending to enter into an agreement concerning transactions of foreign securities, and the customer has not again requested the delivery of the Agreement, the Association Member is not required to deliver the Agreement (Foreign Securities Rules, Article 3(4)).

Moreover, when brokering the sale of foreign securities in response to a tender offer (meaning offering to effect purchase or soliciting offers to sell foreign shares, etc., foreign share option certificates,

foreign investment equity subscription right certificates or foreign bonds, from many and unspecified persons, and effecting the purchase of foreign shares, etc., foreign share option certificates, foreign investment equity subscription right certificates or foreign bonds outside of a financial instruments exchange market; the same applies hereinafter), the Association Member must explain certain matters to the customer, such as that the tender offer is not conducted through the procedure prescribed in the FIEA and that the offer to sell may not be cancelled on or after the date specified by the Association Member, as well as the amount of consideration for the sale in response to the tender offer, and must obtain oral or written consent from the customer(Foreign Securities Rules, Article 3(9)).

If written or electronic consent has been obtained from a customer, the delivery and submission of these documents may be made through a prescribed electromagnetic method stating the particulars to be set forth in each document (Foreign Securities Rules, Article 48).

The Association Member must explain to the customer concerning the Agreement or the abovementioned matters concerning a tender offer for foreign securities and comply with the content for which it has obtained consent from the customer when executing purchases and sales, etc. of foreign securities pursuant to an order from a customer, or when settling purchase or sales prices and performing such services as keeping custody of the foreign securities (Foreign Securities Rules, Article 4).

<Relevant Laws and Regulations> Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method; and TSE Brokerage Rules, Article 3-2(1) and Article 28-3

<Relevant Sections of this Manual> Chapter IV. 12 Cautions Concerning Solicitation for Foreign Securities Transactions

Regular Member

6 Commencing OTC Transactions

6 1 Regulations on OTC Transactions

The JSDA has established OTC Securities Rules and Phoenix Rules for the purpose of promoting fairness in and the unimpeded conduct of OTC transactions in shares, share option certificates, and bonds with share options that are issued by Japanese companies but are not listed on a financial instruments exchange market, thereby protecting investors. The Green Sheet Issues system was abolished as of March 31, 2018.

These regulations define OTC Securities, etc. as follows:

OTC Securities — OTC Securities mean share certificates, share option certificates and bonds with share options that are issued by a Japanese corporation within Japan, but are not listed on a financial instruments exchange market.

OTC Transaction — OTC Transaction means a sale and purchase or other transaction in OTC Securities which a Regular Member carries out for its own account or that of another.

Over-the-Counter Handled Securities — Over-the-Counter Handled Securities mean those share certificates, share option certificates, and bonds with share options for which the issuing company is either of (i) an issuer that must file a securities report (limited to those with a clean auditor's report with respect to all financial statements and consolidated financial statements attached to the most recent securities report or securities registration statement submitted by the issuer to the Prime Minister), or (ii) an issuer, etc. that prepares an explanatory note on business conditions (limited to explanatory notes on business conditions that satisfy the requirements in a manner such that an audit under the FIEA is conducted by a certified public accountant or audit corporation with regard to financial statements and consolidated financial statements, or an audit by an accounting auditor under the Companies Act or an audit equivalent thereto is conducted with regard to the financial statements, etc., and an audit report stating that the unqualified general opinion is fair or legal is attached to the financial statement or consolidated financial statement or financial statements, etc.).

Phoenix Issues — Phoenix Issues mean certain securities for which a Regular Member who intends to become a Handling Member makes a determination that it is necessary to provide persons, who have held the securities since the

time that they were listed on a financial instruments exchange, with an opportunity to distribute the same, and that the JSDA designates as being those for which Association Members and financial instruments intermediary service providers shall conduct investment soliciting (Phoenix Issues constitute "tradable securities" as set forth in the FIEA, Article 67-18(iv)).

Handling Member — A Handling Member means a Regular Member who is designated by the JSDA that may, after it has filed a notification with the JSDA for Over-the-Counter Handled Securities as Phoenix Issues, and the JSDA has designated such Over-the-Counter Handled Securities as Phoenix Issues, carry out investment solicitation in these Phoenix Issues, together with (i) a Special Member, and (ii) a financial instruments intermediary service provider for which the Regular Member consigns financial instruments intermediary services, and which at the same time incurs the obligations set forth by the rules of the JSDA.

Associate Handling Member — An Associate Handling Member means a Regular Member who is designated by the JSDA that may carry out investment solicitation in these Phoenix Issues together with (i) a Special Member, and (ii) a financial instruments intermediary service provider for which the said Associate Handling Member consigns financial instruments intermediary services, and which incurs the obligations set forth by the rules of the JSDA.

6 2 Transaction Commencement Standards, Etc.

An Association Member must determine standards for commencing sale and purchase or other transactions in Over-the-Counter Handled Securities (excluding sales other than by margin transactions for the account of a customer), and enter into contracts for the said transactions with customers who meet these standards. These standards shall be determined by each Association Member, and shall specify the requisite investment experience of customers, the property to be deposited by customers, and such other matters as the Association Member determines to be necessary (Investment Solicitation Rules, Article 6(1)(vii) and (2)).

Except under the circumstances set forth below, an Association Member must not solicit customers to make investments in connection with OTC securities (Investment Solicitation Rules, Article 12-2; and OTC Securities Rules, Article 3):

(i) Soliciting investment relating to a transaction or intermediating transaction of OTC securities (excluding Over-the Counter Handled Securities issued by the issuer of the listed securities) for the transfer, etc., of management rights (OTC Securities Rules, Article 3-2(1));

(ii) Soliciting investment in OTC securities, which have been acquired with a transfer restriction,

only to qualified institutional investors as set forth in Article 2(3)(i) of the FIEA (OTC Securities Rules, Article 4; and Phoenix Rules, Article 38);

(iii) Soliciting investment which is conducted targeting professional investors (as prescribed in Article 2(31) of the FIEA (including those deemed to be professional investors pursuant to the provisions of Article 34-3(4) of the FIEA, but excluding those deemed to be customers who are not professional investors under the provision of Article 34-2(5) of the FIEA)) that are acknowledged by the Association Member as having the ability to evaluate the corporate value at its own responsibility (OTC Securities Rules, Article 4-2);

(iv) Soliciting investment in Over-the-Counter Handled Securities (excluding Over-the-Counter Handled Securities that fall under the OTC Securities Rules, Article 2(iv)(b) or (d)) acquired (OTC Securities Rules, Article 6);

(v) Soliciting investment in Over-the-Counter Handled Securities (excluding Over-the-Counter Handled Securities that fall under the OTC Securities Rules, Article 2(iv)(b) or (d)) that have been issued by an issuing company of listed securities (excluding investment solicitation that constitutes a certain secondary distribution) (OTC Securities Rules, Article 7);

(vi) Soliciting investment in connection with a sale of Phoenix Issues for account of a customer (Phoenix Rules, Article 20(1)); and

(vii) Soliciting investment pursuant to the provisions of the Shareholders Community Rules, Crowdfunding Rules or Professional Investors Solicitation Rules.

6 3 Delivery of Explanatory Documents

(i) Delivering an Explanatory Document, pursuant to Article 7 of the OTC Securities Rules, upon soliciting investment in Over-the-Counter Handled Securities (excluding Over-the-Counter Handled Securities that fall under the OTC Securities Rules, Article 2(iv)(b) or (d)) that have been issued by a company issuing listed securities

An Association Member may engage in the investment solicitation (excluding investment solicitation that constitutes a certain secondary distribution) in Over-the-Counter Handled Securities that have been issued by a company issuing listed securities. When conducting such investment solicitation, the Association Member must prepare an Explanatory Document stating matters including a summary of the share certificates, etc. and the attributes which differ from the listed share certificates issued by the issuing company (this document is referred to as an "Explanatory Document on Securities Information"), deliver this to the customer and give the customer a full explanation of the content thereof (OTC Securities Rules, Article 7(1)). Delivery of the document may, however, be made by providing the matters to be described in such Explanatory Document on Securities Information to the customer by a prescribed electromagnetic method if written or electromagnetic consent has been obtained from the customer (OTC Securities Rules, Article 17(1)).

If the customer is a professional investor, the delivery of this Explanatory Document may be

omitted (OTC Securities Rules, Article 7(1)).

(ii) Delivering an Explanatory Document when receiving an order for Phoenix Issues

An Association Member must deliver to a customer who will enter into a trade in Phoenix Issues (excluding a professional investor), and give the customer a full explanation of the matters stated within, a Document to Be Delivered Prior to Conclusion of Contract containing a statement of, *inter alia*, the nature of Phoenix Issues the transaction structure, the method of transactions, the method of disseminating information in connection with Phoenix Issues, and the risks associated with investing in Phoenix Issues (Phoenix Rules, Article 19(1)), together with the matters to be stated in the Document to Be Delivered Prior to Conclusion of Contract as set forth in each Item of Article 37-3(1) of the FIEA. Delivery of such Document to Be Delivered Prior to Conclusion of Contract may, however, be made by providing the matters to be stated in such Document to Be Delivered Prior to Conclusion of Contract to the customer by a prescribed electromagnetic method if written or electromagnetic consent has been obtained from the customer (FIEA, Article 34-2(4), and Article 37-3(2); and FIEAEO, Article 15-22).

6 4 Collecting a Letter of Confirmation

(i) Collecting a Letter of Confirmation when engaging in soliciting for Over-the-Counter Handled Securities (excluding Over-the-Counter Handled Securities that fall under the OTC Securities Rules, Article 2(iv)(b) or (d)) (in the event of the investment solicitation of the OTC Securities Rules, Article 6)

If, as a result of soliciting investment by an Association Member, a customer (excluding a professional investor) will engage for the first time in trading in Over-the-Counter Handled Securities, the Association Member must provide a full explanation of matters including the characteristics of the said securities and the structure of the transaction. Moreover, the Association Member shall obtain from the customer a Letter of Confirmation concerning transaction in Over-the-Counter Handled Securities, in order to confirm that the trade in question is being performed at the judgment and responsibility of the customer (OTC Securities Rules, Article 6(5)).

With respect to the collection of the Letter of Confirmation, if a customer gives its consent in writing or by electromagnetic method, the Association Member is permitted to receive the information to be stated in such Letter of Confirmation by a prescribed electromagnetic method (OTC Securities Rules, Article 17(2)).

(ii) Collecting a Letter of Confirmation when engaging in solicitation of Over-the-Counter Handled Securities (excluding Over-the-Counter Handled Securities that fall under the OTC Securities Rules, Article 2(iv)(b) or (d)) that are issued by a company which issues listed securities (In the event of soliciting investment as set forth in Article 7 of the OTC Securities Rules)

If, as a result of soliciting investment by an Association Member, a customer (excluding a professional investor) will engage for the first time in Over-the-Counter Handled Securities that

are issued by a company which issues listed securities, the Association Member must provide a full explanation of matters including the characteristics of the said securities and the structure of the transaction. Moreover, the Association Member shall obtain from the customer a Letter of Confirmation concerning transaction in Over-the-Counter Handled Securities that have been issued by a company which issues listed securities, in order to confirm that the trade in question is being performed at the judgment and responsibility of the customer (OTC Securities Rules, Article 7(2)).

With respect to the collection of the Letter of Confirmation, if the customer gives its consent in writing or by electromagnetic method, the Association Member is permitted to receive the information to be stated in such Letter of Confirmation by a prescribed electromagnetic method (OTC Securities Rules, Article 17(2)).

(iii) Collecting, etc. a Letter of Confirmation in the course of accepting an order for Phoenix Issues

A Letter of Confirmation in a prescribed form in connection with trading in Phoenix Issues must be collected from a customer (excluding professional investors) who will engage in trading (excluding selling) in Phoenix Issues for the first time, in order to confirm that the trade in the Phoenix Issues is to be made at the judgment and responsibility of the customer (Phoenix Rules, Article 19(2)).

With respect to the collection of the Letter of Confirmation, if the customer gives its consent in writing or by electromagnetic method, the Association Member is permitted to receive the information to be stated in such Letter of Confirmation by a prescribed electromagnetic method (Phoenix Rules, Article 40).

Moreover, in principle, an Association Member must, when it solicits investment in Phoenix Issues, give a full explanation to the customer (excluding qualified institutional investors) stating the nature of the issue and the issuing company, using documents such as the most recent explanatory note on business conditions (excluding an extraordinary report), and documents including the content of the timely disclosure of corporate information that was reported by a prescribed means after the date of the most recent explanatory note on business conditions (excluding information that is stated in the most recent explanatory note on business conditions) (Phoenix Rules, Article 20(2)).

If when conducting investment solicitation in Phoenix Issues, an Association Member is requested by a customer to provide an explanation concerning the method of calculation, etc. of the transaction price, the Association Member must provide an explanation of the Phoenix Issues, by using quotations or sales prices, etc. published in a certain manner (Phoenix Rules, Article 20(3)).

6 5 Regulations Concerning Equity-based Crowdfunding Business

In regard to the so-called equity-based crowdfunding, etc., the FIEA stipulates the handling, etc. of offerings of small amounts (offerings of securities where the total issue price is less than 100 million

yen, and the amount paid in by each person who is to acquire securities (excluding professional investors) is under 500 thousand yen per person) by way of electronic offering handling business (handling, etc. of offerings of securities by using the internet) as type 1 small amount electronic offering handling business or type 2 small amount electronic offering handling business, and type 1 small amount electronic offering handling business is considered type 1 financial instruments business.

With respect to equity-based crowdfunding business conducted by a Regular Member, etc. (meaning a Regular Member and a Specified Business Member who only conduct business enumerated in the JSDA Articles of Association, Article 5(ii)(b); the same shall apply hereinafter) (a type 1 small amount electronic offering handling business in respect of share certificates and share option certificates among OTC securities (FIEA, Article 29-4-2(10))), the Crowdfunding Rules were established, which set forth obligations of the Regular Members, etc. to establish a system (*id.,* Article 17 and Article 18), strict examination of issuers (*id.,* Article 4), provision of information via websites (*id.,* Article 9), exclusion of anti-social forces (*id.,* Article 6), other requirements, etc. of equity-based crowdfunding business.

Regular Members, etc. must deliver, in advance, a prescribed document which includes certain matters in addition to the matters to be stated in the Document to Be Delivered Prior to Conclusion of Contract (*id.,* Article 10(1)) to a customer (excluding professional investors; hereinafter the same in this Section) who intends to acquire OTC securities through equity-based crowdfunding business for the first time, and obtain a Letter of Confirmation concerning acquisition of the OTC securities through equity-based crowdfunding business, in order to confirm that the customer understands the risks and fees in connection with conducting financial instrument transactions and that such acquisition will be performed at the judgment and responsibility of the customer (*id.,* Article 11).

A Letter of Confirmation may be collected by way of receiving the matters to be stated in such Letter of Confirmation by a prescribed electromagnetic method if written or electromagnetic consent has been obtained from the customer (*id.,* Article 28).

6 6 Regulations Concerning Shareholders Community

In lieu of the Green Sheet Issues system (abolished on March 31, 2018), the Shareholders Community Rules became effective and the "shareholders community system" was newly created as a new transaction system for unlisted shares. A "shareholders community" is a group to which investors who intend to invest in certain OTC securities belong (Shareholders Community Rules, Article 2(iii)), and the Operating Member (meaning the Regular Member designated by the JSDA to operate the shareholders community; the same shall apply hereinafter) shall not solicit those who are not participating in the shareholders community that it manages to make investments in the shareholders community issues (*id.,* Article 16). However, an Operating Member may engage in the handling of private offering to a small number of investors (meaning the solicitation of offers to acquire set forth in Article 2(3)(ii)(c) of the FIEA) who are not participants in the shareholders community for shareholders community issues (*id.,* Article 16-3(1)(i)) or may solicit customers who fall within any of the categories (i) to (v) below to invest in shareholders community issues (*id.,* Article 16-3(1)(ii)), provided that the

investors or the customers acquire the shareholders community issue on the condition of participating in the shareholders community. If a customer who is solicited for investment falls within category (i) below, an Operating Member may solicit the customer to invest for the sale of the shareholders community issues, without requiring the customer to particulate in the shareholders community (*id.,* Article 16-3(2).

(i) Holder of the shareholders community issue;
(ii) Officer or employee of the issuer of the shareholders community issue;
(iii) Person who used to be in the position of (i) or (ii);
(iv) Spouse or relative within the second degree of kinship of the person set forth in (ii); or
(v) Officer or employee of a controlled company, etc. (meaning a controlled company, etc. defined in Article 6(3) of the Definition Ordinance or an associated company (meaning an associated company defined in Article 7(2) of the Definition Ordinance) of the issuer of the shareholders community issue.

Operating Members are prohibited from soliciting any persons to participate in a shareholder community unless: the shareholders community issue falls within the category of Over-the-Counter Handled Securities (if the issuer of the issue is a company preparing an explanatory note on business conditions, limited to the case where the issuer posts the latest explanatory note on business conditions on its website) and the Operating Members are allowed to solicit the customers whose attributes are suitable to the purpose of the formation of the shareholders community regarding participation in the shareholders community through consultation with the issuer of the shareholders community issue (*id.,* Article 9(3)); or the Operating Members can confirm that the persons who are solicited are among those listed in (i) to (v) above or professional investors (*id.,* Article 9(2)). Please note that it is prohibited to set up a shareholders community regarding the Phoenix Issues (*id.,* supplementary provisions stipulated at the time of establishment, Paragraph (2)), and furthermore, if a Regular Member is conducting equity-based crowdfunding business, such Regular Member is prohibited from handling offerings, etc. in the shareholders community in regard to such issues (*id.,* Article 3). In addition, the Shareholder Community Rules set forth that, the Operating Member shall deliver and explain in advance to the investor (excluding professional investors) who intends to participate for the first time in the shareholders community operated by such Operating Member, a prescribed document which includes certain matters in addition to the matters to be stated in the Document to Be Delivered Prior to Conclusion of Contract, and obtain a Letter of Confirmation concerning OTC transactions in shareholders community issues, in order to confirm that the investor understands the risks and fees in connection with conducting financial instrument transactions and that the such transaction will be performed at the judgment and responsibility of the investor (*id.,* Article 10 and Article 15). A Letter of Confirmation may be collected by way of receiving the matters to be stated in such Letter of Confirmation by a prescribed electromagnetic method if written or electromagnetic consent has been obtained from the customer (*id.,* Article 31). In addition to the foregoing, the said Rules prescribe obligations of the Operating Members, etc. to establish an internal administration system (*id.,* Article 25), strict examination of issuers (*id.,* Article 5 and Article 8), provision of information to participants in the shareholders community (*id.,* Article 13 and Article 14), exclusion of anti-social forces (*id.,* Article 7), and other requirements, etc. of business pertaining to the shareholders community.

6 7 Solicitation of Professional Investors for Investment, Etc. in Over-The-Counter Securities, Etc.

For purposes including promoting the supply of growth funds by professional investors and creating opportunities for investment in diverse products such as unlisted shares, the Rules Concerning Solicitation of Professional Investors for Investment, Etc. in Over-The-Counter Securities came into effect and a new system named the JSDA Shares and Investment Trusts for Professionals (J-Ships) was launched in July 2022. Under this system, which is related to solicitation of professional investors for investment in OTC securities, etc., an Association Member may solicit a customer who is a professional investor for investment in OTC securities, etc. only when the Association Member confirms that the solicitation satisfies the following requirements (Professional Investors Solicitation Rules, Article 8):

(i) If the solicitation for investment falls within the category of private placement (limited to the case set forth in Article 2(3)(ii)(b) of the FIEA; hereinafter the same applies in this section) or handling of private placement, the solicitation must satisfy the requirements specified in Article 1-5-2(2) of the FIEAEO.

(ii) If the solicitation for investment falls within the category of exclusive offer to sell, etc. to professional investors or handling of exclusive offer to sell, etc. to professional investors, the solicitation must satisfy the requirements specified in Article 1-8-2 of the FIEAEO.

Furthermore, when soliciting professional investors for investment, an Association Member must deliver a written explanation specifying certain matters to the customer who is the party to be solicited for investment and provide sufficient explanation on these matters. The matters for which explanation is required include the scope of prospective customers, the details of the risk of loss, the conditions for cashing out or cancellation, important matters concerning securities that are different in kind from the OTC securities relevant to the solicitation for investment (limited to the case where the issuer issues a different kind of securities), and the method of providing or publishing issuer information (Professional Investors Solicitation Rules, Article 11(1)).

Instead of delivering this document to the customer, an Association Member may employ a method of using an electronic data processing system or other methods using information and communications technology to provide information that should be stated in that document (Professional Investors Solicitation Rules, Article 17(1)).

If a customer who is a professional investor (including a customer who is deemed to be a professional investor pursuant to the provisions of Article 34-3(4) of the FIEA as applied *mutatis mutandis* pursuant to Article 34-4(6) of the FIEA) intends to purchase any OTC securities and investment trusts, etc. for the first time as a result of solicitation for investment by an Association Member, the Association Member must deliver a document specifying the risks according to the category of securities and explain such risks to the customer. The Association Member must also collect a confirmation document from the customer to the effect that the customer understands the matters specified in the written explanation and conducts transactions according to the customer's own judgment and responsibility (Professional Investors Solicitation Rules, Article 10).

Instead of collecting this document from the customer, an Association Member may employ a method of using an electronic data processing system or other methods using information and

communications technology to receive information that should be stated in that document (Professional Investors Solicitation Rules, Article 17(2)).

<Relevant Laws and Regulations> FIEA, Article 45; JSDA Articles of Association, Article 5; OTC Securities Rules, Article 1 and Article 2; Phoenix Rules, Article 2 and Article 21; and Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method

Regular Member

7 Commencing Margin Transactions

7 1 Transaction Commencement Standards

An Association Member must determine transaction commencement standards in conducting margin transactions, and conclude an agreement on margin transactions with customers who meet these standards (Investment Solicitation Rules, Article 6(1)(i)). These standards must be determined by each Association Member, and specify the requisite investment experience of customers, the property to be deposited by customers, and such other matters as the Association Member determines to be necessary (Investment Solicitation Rules, Article 6(2)).

7 2 Confirmation of Intent

Upon receiving an order from a customer for margin transactions (excluding foreign stocks margin transactions), an Association Member must confirm each time the intent of the said customer regardless of whether it is a standardized margin transaction (including PTS standardized margin transactions stipulated in Article 2 (xi) of the Off-Exchange Trading Rules) or a general margin transaction (including PTS general margin transactions stipulated in Article 2(xii) of the Off-Exchange Trading Rules) (Investment Solicitation Rules, Article 7).

7 3 Receipt of Written Agreement for Establishment of an Account

When a customer wishes to establish a margin transaction account in listed issues, the Association Member must have the customer fill out the written agreement for establishment of a margin transaction

account, in the form specified by the financial instruments exchange on which the margin transaction is to be executed, and shall have the customer affix its signature or name and seal, and submit the same (TSE Brokerage Rules, Article 5(1) and (2)). The Association Member may receive this written agreement by electromagnetic method only if the customer has consented to this form of provision either in writing or through electromagnetic method (TSE Brokerage Rules, Article 5(3)). Moreover, when a customer wishes to establish a margin transaction account relating to PTS margin transactions, the Association Member shall receive the provision of an agreement relating to PTS margin transactions from the customer, in addition to the written agreement for the establishment of a margin transaction account (Off-Exchange Trading Rules, Article 6-9(1)). In lieu of such provision of an agreement, the Association Member may, pursuant to the provisions of the "Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method," receive the matters to be stated in the agreement by a method of an electronic data processing system or other methods using information and communications technology (Off-Exchange Trading Rules, Article 6-9(2)).

Regular Member

8 Commencing Foreign Stocks Margin Transactions

Foreign stocks margin transactions are margin transactions prescribed in Article 156-24(1) of the FIEA for which a Regular Member conducts the intermediary, brokerage or agency service for the sale and purchase of securities on a foreign financial instruments exchange by granting credit to a customer in Japan, and for which the Regular Member or the customer does not receive credit from the local securities dealer (meaning a foreign securities service provider prescribed in Article 58 of the FIEA acting as the counterparty with which a Regular Member conducts the intermediary, brokerage or agency service for the sale and purchase of securities on a foreign financial instruments exchange) (Foreign Securities Rules, Article 2(1)(xxiii)).

Foreign shares, etc. that are eligible to be traded in foreign stocks margin transactions are limited to those listed on a qualified foreign financial instruments market in the United States (Foreign Securities Rules, Article 31(1)). A Regular Member may not conduct foreign stocks margin transactions involving securities other than the eligible foreign shares, etc. (Foreign Securities Rules, Article 31(2)). In addition, a Regular Member must formulate and publish criteria for selection of issues it handles and the criteria for prohibiting new orders under the "Guidelines for Selection of Issues" established by the JSDA (Foreign Securities Rules, Article 31(3) and (5)), and must provide customers with information on the issues selected according to the criteria for selection of issues (Foreign Securities Rules, Article 31(4)).

8 1 Transaction Commencement Standards

If an Association Member conducts foreign stocks margin transactions, it must establish the transaction commencement standards and conclude a contract for such transactions with the customers who meet such standards (Investment Solicitation Rules, Article 6(1)(i)-2).

8 2 Acceptance of a Written Agreement for Establishment of Account

When conducting a foreign stocks margin transaction with a customer, a Regular Member must accept a "Written Agreement for Establishment of a Foreign Stocks Margin Transaction Account" from the customer, and establish a "foreign stocks margin transaction account" (Foreign Securities Rules, Article 32(1)). In lieu of collecting a "Written Agreement for Establishment of a Foreign Stocks Margin Transaction Account" in paper form from a customer, under the provisions of the Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method, an Association Member may use an electromagnetic method to receive the information regarding the matters to be recorded in that written agreement. In this case, the Association Member that has received such information by an electromagnetic method is deemed to have collected the written agreement (Foreign Securities Rules, Article 48(2)(iii)).

When a Regular Member intends to conclude an agreement concerning a transaction of foreign securities with a customer, the Regular Member must deliver the agreement on foreign securities trading account to the customer and receive an application for the establishment of a trading account submitted by the customer (Foreign Securities Rules, Article 3(2)). If a customer conducts foreign stocks margin transactions, the agreement must define the matters concerning foreign stocks margin transactions (Foreign Securities Rules, Article 3(5)(xxi)).

Regular Member

9 Commencing Transactions in Share Option Certificates (Warrants)/Investment Equity Subscription Right Certificates

9 1 Transaction Commencement Standards

An Association Member must determine transaction commencement standards in conducting sales and purchases or other transactions (excluding sales other than by margin transactions for the account of a customer) in share option certificates(Note 1) and in investment equity subscription right certificates,(Note 2) and shall conclude agreement on transactions thereof with customers who meet these standards. These standards must be determined by each Association Member, and specify the investment experience of customers, the property to be deposited by customers, and such other matters as the Association Member determines to be necessary (Investment Solicitation Rules, Article 6(1)(ii)(iii) and (2)).

(Notes) 1. Including securities or instruments issued by a foreign country or foreign company having the nature of share option certificates, and excluding share option certificates in connection with an allotment of share options without contribution as prescribed in Article 277 of the Companies Act, which are listed or are to be listed on a financial instruments exchange market; hereinafter the same in this Chapter.

2. Including those similar to investment equity subscription right certificates among foreign investment securities, and excluding investment equity subscription right certificates in connection with an allotment of investment unit subscription rights without contribution, as prescribed in Article 88-13 of the Investment Trust Act, which are listed or are to be listed on a financial instruments exchange market; hereinafter the same in this Chapter.

9 2 Collecting a Letter of Confirmation

When an Association Member intends to enter for the first time into a contract with a customer to engage in a sale and purchase or other transaction in share option certificates and investment equity subscription right certificates (excluding sales other than by margin transactions for the account of a customer), the Association Member shall obtain a Letter of Confirmation concerning the transactions in order to confirm that the customer understands particulars such as the risks and fees in connection with conducting financial instrument transactions as stated in, *inter alia*, the Document to Be Delivered Prior to Conclusion of Contract with respect to such contract (meaning the document set forth in Article 117(1)(i)(a) through (d) of the FIBCOO) and that the transaction, etc. in question will be performed at the judgment and responsibility of the customer (Investment Solicitation Rules, Article 8(1)).

If the customer consents in paper form or by electromagnetic method, this Letter of Confirmation

may be received from the customer in a prescribed electromagnetic method stating the matters to be set forth in the Letter of Confirmation (Investment Solicitation Rules, Article 29(2)).

Moreover, collection of the Letter of Confirmation is not required if the customer is a professional investor (Investment Solicitation Rules, Article 5(1) and Article 8).

<Relevant Laws and Regulations> Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method

Regular Member

10 Commencing Transactions in Covered Warrants

When an Association Member intends to enter for the first time into a contract with a customer for a sale and purchase or other transaction in covered warrants (excluding sales other than by margin transactions for the account of a customer), the Association Member shall obtain from the customer a Letter of Confirmation concerning the transaction in order to confirm that the customer understands particulars such as the risks and fees in connection with conducting financial instrument transactions as set forth in the Document to Be Delivered Prior to Conclusion of Contract with respect to such contract (meaning the document set forth in Article 117(1)(i)(a) through (d) of the FIBCOO), and that the transaction, etc. in question is performed at the judgment and responsibility of the customer (Investment Solicitation Rules, Article 8(1)).

If the customer consents in paper form or by electromagnetic method, this Letter of Confirmation may be received from the customer in a prescribed electromagnetic method stating the matters to be set forth in the Letter of Confirmation (Investment Solicitation Rules, Article 29(2)).

Moreover, collection of the Letter of Confirmation is not required if the customer is a professional investor (Investment Solicitation Rules, Article 5(1) and Article 8).

<Relevant Laws and Regulations> Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method

11 Securities-Related Derivatives Transactions, Etc., Specified OTC Derivatives Transactions, Etc., and Brokerage, Etc. of Commodity-Related Market Derivatives Transactions

11 1 Transaction Commencement Standards

An Association Member must determine respective transaction commencement standards in engaging in securities-related derivatives transactions, etc., specified OTC derivatives transactions, etc., and brokerage, etc. of commodity-related market derivatives transactions and enter into contracts for these transactions, etc. with customers who meet these standards. These standards must be determined by each Association Member, and shall specify the requisite investment experience of customers, the property to be deposited by customers, and such other matters as the Association Member determines to be necessary (Investment Solicitation Rules, Article 6(1)(iv), (v), and (vi) and (2)).

11 2 Collecting a Letter of Confirmation

When an Association Member intends to enter for the first time into a contract with a customer for securities-related derivatives transactions, etc., specified OTC derivatives transactions, etc., or brokerage, etc. of commodity-related market derivatives transactions, the Association Member shall obtain from the customer a Letter of Confirmation concerning the transaction, in order to confirm that the customer understands particulars such as the risks and fees in connection with conducting financial instrument transactions as set forth in the Document to Be Delivered Prior to Conclusion of Contract with respect to such contract (meaning the document set forth in Article 117(1)(i)(a) through (d) of the FIBCOO), and that the transaction in question is performed at the judgment and responsibility of the customer (Investment Solicitation Rules, Article 8(1)).

If the customer consents in writing or by electromagnetic method, the Association Member is permitted to receive the information to be stated in the Letter of Confirmation by a prescribed electromagnetic method (Investment Solicitation Rules, Article 29(2)).

If the customer is a professional investor, the Association Member need not obtain the Letter of Confirmation (Investment Solicitation Rules, Article 5(1) and Article 8).

See Chapter IV. “3.6 Points of Concern Regarding the Investment Solicitation for OTC Derivatives Transactions and Transactions on Complex Structured Bonds, Etc.”

<References and Definitions>

Definitions of securities-related derivatives transactions, etc., OTC derivatives transactions, etc., specified OTC derivatives transactions, etc., and brokerage, etc. of commodity-related market derivatives transactions are set forth in, *inter alia*, the Articles of Association of the JSDA as follows (Articles of Association, Article 3(iv), (v), (vii) and (x)):

Terms	Definitions
Securities-related derivatives transactions, etc.	The securities-related derivatives transactions, etc. as set forth in the main clause of Article 33(3) of the FIEA, (excluding those relating to the rights set forth in each Item of Article 2(2) of the FIEA, that are deemed to be securities pursuant to the same paragraph).
OTC derivatives transactions, etc.	OTC derivatives transactions, etc. as defined in Article 2(8)(iv) of the FIEA (excluding those that fall under Article 1-8-6(1)(ii) of the FIEAEO).
Specified OTC derivatives transactions, etc.	Among OTC derivatives transactions, etc., those categorized as specified OTC derivatives transactions (meaning the OTC derivatives transactions as defined in Article 2(22) of the FIEA (excluding those that fall under Article 1-8-6(1)(ii) of the FIEAEO), which do not fall under the following), or intermediary, brokerage or agency service thereof: (i) Transactions related to the rights set forth in each Item of Article 2(2) of the FIEA that are deemed to be securities as set forth in the same paragraph; (ii) Securities-related derivatives transactions, etc. (meaning the securities-related derivatives transactions defined in Article 28(8)(vi) of the FIEA (excluding those related to the rights set forth in each Item of Article 2(2) of the FIEA that are deemed to be securities as set forth in the same paragraph)); (iii) OTC financial futures transactions; (iv) Transactions defined in Article 2(22)(iv) of the FIEA (limited to transactions pertaining to the financial indices as set forth in Paragraph (25)(i) or (iv) of the same Article (limited to those relating to the financial instruments as set forth in Paragraph (24)(iii) of the same Article)); or (v) OTC derivative transactions related to cryptoassets, etc. (meaning the cryptoassets, etc. defined in Article 1(4)(xx) of the FIBCOO) or financial indices (limited to the prices and interest rates, etc. of cryptoassets, etc. and figures calculated based on them).
Brokerage, etc. of commodity-related market derivatives transactions	Brokerage, etc. of commodity-related market derivatives transactions set forth in Article 43-2-2 of the FIEA.

<Relevant Laws and Regulations> Investment Solicitation Rules, Article 5-2, Article 6-2 and Article 29; and the Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method.

12 Commencing Transactions for Sale and Purchase of Bonds with Options (Bond OTC Options Transactions)

12 1 Transaction Commencement Standards

An Association Member shall determine transaction commencement standards with respect to the Sale and Purchase of Bonds with Options, and must not conduct the Sale and Purchase of Bonds with Options with customers who do not meet these standards. The transaction commencement standards shall specify the requisite investment experience of the customer, the property to be deposited by the customer, and each Association Member shall determine such other matters as the Association Member determines to be necessary depending on the size and the business circumstances of the Association Member (Bonds with Options Rules, Article 21).

12 2 Delivering Explanatory Documents

When an Association Member intends to enter into an agreement with a customer concerning Sale and Purchase of Bonds with Options, the Association Member shall in advance deliver to the customer an Explanatory Document which states a summary of the transactions, the risks of loss that are involved in the transaction, as well as matters of which the customer should exercise caution, and must give a full explanation concerning the same (Bonds with Options Rules, Article 22(1)).

In case the customer consents by paper form or electromagnetic method, the Association Member may use a prescribed electromagnetic method to furnish to the customer the matters to be stated in the Explanatory Document (Bonds with Options Rules, Article 29(1)(v)).

Furthermore, if the Association Member has already delivered an Explanatory Document to a customer within one year prior to the conclusion of the contract in connection with the Sale and Purchase of Bonds with Options, the Association Member will not be required to redeliver the document. In determining whether an Association Member has delivered an Explanatory Document within one year, the Association Member shall be deemed to have delivered the Explanatory Document on the conclusion date of an agreement in connection with a transaction, if the transaction has taken place within one year after the previous delivery of the Explanatory Document.

Moreover, if the customer is a professional investor, the Association Member need not deliver the Explanatory Document.

12 3 Collecting a Letter of Confirmation

When an Association Member commences Sale and Purchase of Bonds with Options with a customer, the Association Member shall obtain a Letter of Confirmation in connection with these transactions in order to obtain confirmation to the effect that the customer engages in these transactions a t the customer's own judgment and responsibility (Bonds with Options Rules, Article 22(2)).

If the Association Member receives consent from the customer by paper form or electromagnetic method, the Association Member may use the prescribed electromagnetic method to receive delivery from the customer of the matters to be stated in the Letter of Confirmation (Bonds with Options Rules, Article 29(2)).

Collection of a Letter of Confirmation shall not be required in the event that the customer is a professional investor.

12 4 Entering into Agreements

In commencing the Sale and Purchase of Bonds with Options, an Association Member must first conclude with the counterparty to a transaction a "Master Agreement on the Sale and Purchase of Bonds with Options" (hereinafter referred to as the "Master Agreement"), and must manage/retain such agreement (Bonds with Options Rules, Article 6(1)). The Association Member must then enter into an "Individual Transaction Agreement Concerning the Master Agreement on the Sale and Purchase of Bonds with Options" (hereinafter referred to as the "Individual Agreement"), each time an individual trade is made (Bonds with Options Rules, Article 6(2)).

Provided, however, that the Association Member has concluded a "Letter of Consent Concerning the Master Agreement on the Sale and Purchase of Bonds with Options" (hereinafter referred to as the "Letter of Consent") with the counterparty to a transaction, the Association Member may deliver an "Individual Transaction Statement Concerning the Master Agreement on the Sale and Purchase of Bonds with Options" (hereinafter referred to as the "Individual Transaction Statement") in place of the Individual Agreement (Bonds with Options Rules, Article 6(2)). If the Association Member receives consent from the customer by paper form or electromagnetic method, this Individual Transaction Statement may be delivered using a prescribed electromagnetic method stating the matters to be set forth therein (Bonds with Options Rules, Article 29(1)(i)).

These agreements (the Master Agreement and the Individual Agreements) and the Letter of Consent may be entered into by electromagnetic method instead of in paper form (Bonds with Options Rules, Article 30(1)(i), (ii) and (iii)).

13 Commencing Transactions of Tokenized Securities

When conducting the sale and purchase or other transactions (excluding sales other than by margin transactions for the account of customer) of tokenized securities (meaning, among the securities set forth in Article 2(i) of the Investment Solicitation Rules, those that fall under electronically recorded and transferable rights, etc. to be indicated on securities set forth in Article 1(4)(xvii) of the FIBCOO), Association Members must determine transaction commencement standards and enter into a contract for such transaction with customers who meet such standards. Each Association Member must stipulate such standards regarding customers' investment experience, assets to be received from the customers, and other matters that the Association Member deems necessary (Investment Solicitation Rules, Article 6(1)(x) and (2)).

When an Association Member intends to enter into a contract for the first time with a customer regarding the sale and purchase or other transactions of tokenized securities (excluding sales other than by margin transactions for the account of customer), the Association Member shall obtain from the customer a Letter of Confirmation concerning the transactions in order to confirm that the customer understands the important matters set forth in Article 3(4) of the Investment Solicitation Rules and that the transaction will be performed at the judgement and responsibility of the customer (Investment Solicitation Rules, Article 8(4)).

If the customer consents in writing or by electromagnetic method, the Association Member is allowed to receive the matters to be described in the Letter of Confirmation from the customer via the prescribed electromagnetic method (Investment Solicitation Rules, Article 29(2)).

Moreover, collection of the Letter of Confirmation is not required if the customer is a professional investor (Investment Solicitation Rules, Article 5(1) and Article 8).

Regular Member

14 Commencement and Management of Discretionary Trading

14 1 Discretionary Trading

The term discretionary trading (*torihiki ichinin kanjō torihiki*) is defined in Article 16 of the Investment Solicitation Rules as "sale and purchase or other transactions, etc. in securities that are conducted pursuant to a contract as set forth in FIBCOO, Article 123(1)(xiii)", and more specifically means the following transactions (FIBCOO, Article 123(1)(xiii)):

(i) A sale and purchase in securities or derivatives transaction that is carried out by an Association Member based on a contract to the effect that the relevant Association Member may determine the quantity and price (or the equivalent to these in the case of a derivatives transaction) after

obtaining consent from a related foreign financial instruments business operator concerning whether to buy or to sell and the issues (or the equivalent to these in the case of a derivatives transaction). A related foreign financial instruments business operator as discussed here shall mean a corporation or other association that is governed by law and regulation of a foreign country, and carries out the type 1 financial instruments business or the type 2 financial instruments business, and which is, *e.g.,* a subsidiary or a parent or a subsidiary of the parent, etc. of the Association Member (the same in (ii) below) (Definition Ordinance, Article 16(1) (viii) and (3));

(ii) A sale and purchase in securities or derivatives transaction that is conducted by the Association Member based on a discretionary trading agreement in which prior to entering into the discretionary trading agreement the Association Member files a notification with the Commissioner of the Financial Services Agency or other relevant supervising government agency stating: (a) its trade name or name, (b) its date of registration and registration number, and (c) the trade name or name and address of the related foreign financial instruments business operator that will be the counterparty to the discretionary trading agreement. A discretionary trading agreement here means a contract of an agreement to the effect that the Association Member may determine whether to buy or sell, the issue(s), the quantity and the price (or the equivalent to these in the case of a derivatives transaction) in connection with a transaction that is for the account of a related foreign financial instruments business operator;

(iii) A sale and purchase in securities or derivatives transaction that is carried out based on an agreement of a content to the effect that the Association Member may, after obtaining consent from the customer concerning whether to buy or to sell, the issue and quantity (or the equivalent to these in the event of a derivatives transaction), determine the price (or the equivalent to the price in the event of a derivatives transaction) within the scope of a consent (referred to in Item (iv) below as a "specified consent") that allows an appropriate range in consideration of the market price as of the time of the consent first stated above (meaning the market price as of the most recent time to the consent in the event that there is no market price at the time of the consent);

(iv) A sale and purchase in securities or derivatives transaction that is carried out based on an agreement of a content to the effect that the Association Member may after obtaining consent from the customer concerning whether to buy or sell, the issue and the total amount of the individual transaction (or the equivalent to these in the case of a derivatives transaction), and either the quantity or price (or the equivalent to these in the case of a derivatives transaction) (and with respect to the price, including a specified consent) determine the other;

(v) A sale and purchase in securities or derivatives transaction that is carried out based on a contract of a content to the effect that after obtaining consent from the customer in connection with the total amount of funds with respect to a trade in securities or a derivatives transaction or the acceptance of the consignment thereof, those for which consent has not been obtained out of the decision to buy or sell, the issue, the quantity or price (or the equivalent to these in the case of a derivatives transaction) shall be decided through computer processing or other predetermined process in the event that certain events occur and the Association Member shall

execute the transaction in accordance therewith. Moreover, entering into this contract must be made in paper form or by means of a method that uses an electronic data processing system or other technology in information telecommunication (FIBCOO, Article 117(1)(xxi)); or

(vi) A sale and purchase in securities or a derivatives transaction based on an agreement to the effect that the Association Member may determine the price (or the equivalent to the price in the event of a derivatives transaction) after obtaining consent concerning whether to buy or sell, the issue and quantity (or the equivalent these in the event of a derivatives transaction) from the relative (limited to a spouse or a blood or marital relation within the second degree of consanguinity or affinity) of an officer (including the equity member who will carry out the relevant duties in the event that the officer is a corporation) or an employee of the Association Member.

14 2 Putting in Place Internal Administration

If an Association Member will engage in discretionary trading as set forth above, as a type 1 financial instruments business or a type 2 financial instruments business, the Association Member must in advance put in place an internal administration framework that is sufficient to prevent the said action from being insufficient in the protection of investors, being damaging to the fairness of transactions or undermining the reputation of the financial instruments (FIEA, Article 40(2); and FIBCOO, Article 123(1)(xiii)).

This is interpreted as being an indication to the effect that the aforementioned discretionary trading may be conducted as a type 1 financial instruments business or a type 2 financial instruments business (without registering for the investment management business) on the condition that a sufficient framework of internal administration is in place.

The Investment Solicitation Rules of the JSDA also require Association Members to put in place an internal administration framework for discretionary trading and to enact internal regulations (Investment Solicitation Rules, Article 16 and Article 24).

<Relevant Sections of this Manual> Chapter VII. 2 Regulation of Transactions Pursuant to Discretionary Trading

15 Proper Management of Trust Account Trading

Association Members shall accurately understand the condition of a customers' transactions using an account under a trust agreement (including a Specified Monetary Trust (*Tokkin*) Agreement, as well as a Specified Non-Monetary Trust Agreement), and endeavor to manage them appropriately (Investment Solicitation Rules, Article 26).

A trust involves a structure in which a trustor (customer) transfers assets to a trustee (*e.g.,* a trust bank) and has the trustee invest and manage the assets for specified purposes. A monetary trust refers to a trust in which the customer entrusts the investment and management of property that is in cash form from the start. Monetary trusts are classified as follows according to whether the trust assets are to be converted back to cash for return to the customer at the time the contract expires, as well as according to the method of investment.

(i) Monetary Trusts

Trusts for which the trustee is to deliver the trust assets to the trustor in cash form at the expiration of the trust.

a. Specified Monetary Trusts (*tokutei kinsen shintaku*)

Trusts in which the trustor specifies the investments (if, for example, this is to be in shares, the customer specifies the issues, numbers of shares, unit prices and purchase or sale), and the trustee has no discretion.

b. Designated Monetary Trusts (*shitei kinsen shintaku*)

Trusts in which the trustor makes a general designation of the investment method and investments, while the trustee determines the specific method and investment targets at the trustee's discretion.

(ii) Trusts Other Than Monetary Trusts (non-monetary trusts)

Trusts for which the trustee is to deliver the trust assets to the trustor in the form that they are in at the expiration of the trust.

a. Specified Non-Monetary Trusts (*tokutei kingai shintaku*)

Trusts in which the trustor specifies the investments, and the trustee has no discretion.

b. Designated Non-Monetary Trusts (*shitei kingai shintaku*) (sometimes known as Fund Trusts)

Trusts in which the trustor makes a general designation of the investment method and investments, while the trustee determines the specific method and investments at the trustee's discretion.

<Relevant Sections of this Manual> Chapter V. 4 Managing Trust Account Trading

<Note> Table of Transaction Commencement Standards and Letters of Confirmation, Etc.
(Stated in Chapter III. 6 through 13)

Type of Securities or Transaction	Transaction Commencement Standards	Collecting Letters of Confirmation
OTC Transaction of Over-the-Counter Handled Securities (excluding Over-the-Counter Handled Securities that fall under the OTC Securities Rules, Article 2(iv)(b) or (d))	○	○*1
OTC Transaction of Phoenix Issues	○	○*2
Acquisition of OTC Securities through Equity-based Crowdfunding Business	○	○
OTC Transactions in Shareholders Community Issues	○	○
Transactions in OTC Securities, etc. under the Professional Investors Solicitation Rules	×	○
Margin Transactions	○	—
Foreign Stocks Margin Transactions	○	—
Share Option Certificates (Foreign Share Option Certificates) and Investment Equity Subscription Right Certificates (Foreign Investment Equity Subscription Right Certificates)	○	○
Covered Warrants	—	○
Securities-Related Derivatives Transactions, Etc.	○	○
Specified OTC Derivatives Transactions, Etc.	○	○
Brokerage, Etc. of Commodity-Related Market Derivatives Transactions	○	○
Sale and Purchase of Bonds with Options	○	○
Tokenized Securities	○	○

*1: OTC Securities Rules, Article 6(5) and Article 7(2)
*2: Excluding selling of Phoenix Issues (Phoenix Rules, Article 19(2))

Chapter IV. Managing Investment Solicitation

1 Principle of Honesty and Fairness

Principle of honesty and fairness refers to the principle that Association Members and their officers and employees must be fair and honest in the performance of their operations with relation to customers (FIEA, Article 36(1)). This corresponds to the first principle (honesty and fairness) of the seven principles for conduct of business approved by the International Organization of Securities Commissions (IOSCO) in November of 1990. The FIEA also prescribes a principle of honesty and fairness from the perspective of enhancing the soundness of the securities markets and the protection of investors.

This principle of honesty and fairness constrains all actions in connection with business, and is the fundamental constraint on activity that should be kept first in mind when an Association Member or an officer or employee thereof engages in the soliciting of investment.

Acts conducted by financial instruments business operators to seek their own profits at the expense of profits for their customers are likely to be in breach of their duty of honesty and fairness. In this connection, the FIBO Supervision Guidelines, III-2-3-1 (1)(iv), clarify the content of the "good faith and fair dealing" by providing the following examples of "inappropriate or unfaithful investment solicitation": "an act to solicit purchases and sales of financial instruments with a high frequency contrary to the attributes and investment purpose of a customer seen from the developments of a series of transactions with the customer as a result of the Financial Instruments Business Operator's efforts to seek profits, and to cause said customer to bear excessive fees"; "with the aim of soliciting investment in a financial instrument contrary to the attributes and investment purpose of a customer, an act to request the customer to change his/her investment purpose in line with the relevant financial instrument without making the customer accurately understand the meaning of and the reason for that change"; and "under a circumstance where investment in multiple financial instruments is likely to match a customer based on his/her attributes and investment purpose, an act to solicit the customer to invest in a financial instrument that requires higher fees without any rational reason."

<**Relevant Sections of this Manual**> Chapter I. 3 IOSCO International Conduct of Business Principles

2 Raising Awareness of Principle of Self-Responsibility, and Duty to Explain

2 1 Meaning of Principle of Self-Responsibility

The principle of self-responsibility means that investments should be made at the judgment of the investor and the investor's responsibility. This is a basic principle for transactions. Although this duty is not stipulated in law or regulation, when soliciting investment an Association Member must make sure that a customer understands this principle of self-responsibility (Investment Solicitation Rules, Article 4).

2 2 Duty to Explain

The principle of self-responsibility relies on an assumption that the customer has made a decision to purchase which is based on a full understanding of the structure of the financial instruments and the various risks, etc. associated therewith. In connection with this presumption, an Association Member must, prior to entering into a contract for financial instruments transaction, deliver to customers other than professional investors, a Document to Be Delivered Prior to Conclusion of Contract stating important matters that may influence decisions on the part of the customer, including a summary of the financial instrument, the charges and other consideration, the market risk and credit risk and the risk that losses will exceed principal, as well as grounds for termination of the contract for financial instruments transactions (FIEA, Article 37-3).

It is also necessary to be aware that the duty to explain may not be fulfilled simply by delivering the Document to Be Delivered Prior to Conclusion of Contract, etc.

The FIEA prohibits acts on the part of an Association Member or its officers or employees of entering into a contract for financial instruments transaction without providing an explanation to customers other than professional investors in accordance with a method and to that extent that is necessary to be understood by the customer in light of the customer's knowledge, experience, financial standing and purpose for entering into the contract for financial instruments transaction (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(i)).

Under the Financial Services Act., an Association Member must, when it intends to conduct sales, etc. of financial instruments, explain to customers, during the period prior to such sales of financial instruments, matters such as, in cases where a risk of incurring a loss in the principal or a loss exceeding the initial principal is involved, such risk, the direct cause of a loss of principal, such as fluctuations in the indicator (market risk) or the status of the business operations or property of the person carrying out that sale of the financial instruments or any other persons (credit risk), and the important portions of the structure of transactions pertaining to the sales of the financial instruments which generate such risk (Financial Services Act, Article 4(1)). Such explanation shall be provided by such method and to such extent as necessary for the customer to understand, in light of his/her knowledge, experience, financial

standing and the purpose of concluding a contract regarding the sales of financial instruments (*id.,* Paragraph (2)). In cases where the customer is a professional investor (including the cases where such customer was formerly a general investor but subsequently became a professional investor) or where the customer has manifested his/her intention not to require any explanation on the abovementioned matters, the abovementioned explanation will be unnecessary (*id.,* Paragraph (7)).

Further, the Investment Solicitation Rules contain provisions to the effect that an Association Member must endeavor to adequately explain and have the customer understand the essential matters of Sale and Purchase or Other Transactions of Securities, etc. (Investment Solicitation Rules, Article 3(4)).

3 Investment Solicitation Based on the Principle of Suitability

3 1 Meaning of Principle of Suitability

The principle of suitability means that a financial instruments business operator, etc. must not solicit in a manner that can be recognized to be improper in light of the customer's knowledge, experience, financial standing and purpose for entering into the contract for financial instruments transaction (FIEA, Article 40(i)). Investment decisions based on the principle of self-responsibility is on the premises that the customer fully understands the structure and risks, etc. of the financial instruments; however, if there is a lack of suitability, a full understanding cannot be expected. Accordingly, compliance with the principle of suitability at the time of investment solicitation has a significant implication.

Since investment solicitation by an Association Member frequently has a substantial effect on customer investment decisions, an Association Member must only solicit in a manner that fits the investment intentions and actual circumstances of the customer, based on a sufficient understanding of matters such as the investment experience, purpose and financial capacity of the customer (Investment Solicitation Rules, Article 3(2)).

With regard to the principle of suitability, the FIBO Supervision Guidelines provide as follows: "Prior to conducting investment solicitation for financial instruments, whether the Financial Instruments Business Operator reviews and evaluates a rational reason to consider that individual financial instruments, and the frequency and amounts of a series of transactions with a customer are suited to the attributes and investment purpose of the relevant customer that the Financial Instruments Business Operator has ascertained." (III-2-3-1(1)(iii)A.)

3 2 Narrow Definition and Broad Definition of Principle of Suitability

The principle of suitability under the FIEA can be divided into the narrowly-defined principle and the broadly-defined principle. The narrowly-defined principle of suitability is a rule that certain

instruments must not be sold nor solicited to certain customers regardless of the extent to which an explanation has been made.

The broadly-defined principle is a rule that soliciting must be conducted in a manner that is consistent with the knowledge and experience of the customer in connection with investments, the customer's financial standing and the customer's investment purposes.

In order to carry out appropriate soliciting in accordance with the principle of suitability, an Association Member must first appraise, before engaging in soliciting, such matters as the knowledge and experience of its customers in connection with investments, their financial standing, their investment purposes, and the nature of their funds. The Association Member must, therefore, pay attention to collection and management of customer information, as well as preparation of customer cards (Investment Solicitation Rules, Article 3(2) and Article 5(1)).

An Association Member must establish respective standards for commencing (i) margin transactions; (ii) foreign stocks margin transactions (Note 1); (iii) sales and purchases or other transactions(Note 2) in share option certificates; (iv) sales and purchases or other transactions(Note 3) in investment equity subscription right certificates; (v) securities-related derivatives transactions, etc.; (vi) specified OTC derivatives transactions, etc.; (vii) brokerage, etc. of commodity-related market derivatives transactions; (viii) sales and purchases or other transactions in OTC handled securities; (ix) transactions, etc. pertaining to equity-based crowdfunding business as prescribed in Article 2(ii) of the "Crowdfunding Rules"; (x) transactions, etc. in respect of shareholders community issues as prescribed in Article 2 (v) of the "Shareholders Community Rules"; (xi) sale and purchase and other transactions of tokenized securities; and (xii) any other transactions, etc. deemed necessary for each Association Member, and enter into agreements for these transactions, etc. only with customers who meet those standards (Investment Solicitation Rules, Article 6(1))(Note 4). The standards for commencing transactions shall include sections related to the investment experience and the situation of the customer's deposited assets as well as other matters that the Association Member considers necessary (*id.,* Paragraph (2)), and obedience to the principle of suitability requires that an Association Member give sufficient consideration to whether or not a customer meets these standards.

(Notes) 1. Meaning foreign stocks margin transactions prescribed in Article 2(xxiii) of the Foreign Securities Rules.
2. Including securities or instruments issued by a foreign country or foreign person having the nature of share option certificates, and excluding share option certificates in connection with an allotment of share options without contribution as prescribed in Article 277 of the Companies Act, which are listed or are to be listed on a financial instruments exchange market.
3. Including those similar to investment equity subscription right certificates among foreign investment securities, and excluding investment equity subscription right certificates in connection with an allotment of investment equity subscription right without contribution, as prescribed in Article 88-13 of the Investment Trust Act, which are listed or are to be listed on a financial instruments exchange market.
4. The "sales and purchases or other transactions" in (ii), (iii) (vii) and (x) excludes sales

other than by margin transactions for the account of a customer.
The "transactions, etc." in (xi) excludes sales of securities, other than by margin transactions on the customer's account.

3 3 Suitability with Reasonable Grounds

An Association Member shall fully understand the characteristics and risks of securities, etc. (securities, securities-related derivatives transactions, etc., specified OTC derivatives transactions, etc. and brokerage, etc. of commodity-related market derivatives transactions) that are new for an Association Member upon selling or trading such securities, etc., and must not sell those for which customers suitable for such securities, etc. cannot be identified (Investment Solicitation Rules, Article 3(3)). This is referred to as suitability with reasonable grounds, and Association Members are required to conduct verification regarding this point before selling new products to customers. In general, the verification of suitability with reasonable grounds refers to the verification, prior to the commencement of sale, of whether the suitability of a financial instrument can be envisaged not with respect to a specific investor but to a certain extent of investors. For example, the new product committee may conduct prior verification from such viewpoint and verify whether the product is suitable not to investors of a special attribute but to other investors of attributes that can be reasonably assumed within a certain extent.

<Relevant Laws and Regulations> Concept under Investment Solicitation Rules, Article 3(3); Foreign Securities Rules, Article 5; Foreign Futures Trading Rules, Article 6; and FIBO Supervision Guidelines III-2-3-1 and IV-3-3-2(11)(i) (applied *mutatis mutandis* to Special Members under VIII-1)

3 4 Points of Concern Regarding Solicitation Targeting Elderly Customers

In general, even when elderly persons have ample investment experience, they may face a short-term decline in their ability to remember and understand. Therefore, investment solicitation targeting elderly customers must be conducted carefully under the principle of suitability. Accordingly, Association Members must establish and comply with internal rules that provide standards for transactions with certain elderly customers, in accordance with the "Concept under Investment Solicitation Rules, Article 5-3 (Guidelines for Sale through Solicitation of Elderly Customers) (hereinafter referred to as the "Guidelines for Elderly Customers"), which require Association Members to formulate internal rules regarding the sale of financial products to elderly customers by solicitation.(Note) The Guidelines for Elderly Customers must include the following matters.

(i) The definition of "elderly customers"

Basically, customers aged 75 or older; customers aged 80 or older may be defined as

customers who require more care in solicitation for sale. However, although a customer's age can serve as a certain guide, it is not an absolute standard. It may be possible to exclude customers from the scope of subjects of these Guidelines irrespective of their age if it is confirmed that (1) they have sufficient ability to remember and understand and (2) they have no problem in engaging in investment in light of the status of their income and assets held, provided that internal rules set forth specific methods to determine the suitability of customers and procedures to solicit elderly but suitable customers (*e.g.,* obtaining approval of the officers in charge). For example, if elderly customers are currently company owners or executive officers, etc., and if the relevant officers, etc. such as branch managers, meet with the customers at regular intervals and fully understand the customers' attributes, financial literacy and investment intentions, such elderly customers are considered to meet the requirements (1) and (2) above and they may be excluded from being subject to the Guidelines upon approval of the officers in charge, etc. However, even in the case of elderly customers who have been excluded from the scope of subjects of the Guidelines, more careful handling would be required, such as having officers (*e.g.,* branch managers) re-confirm the customers' investment intentions or their ability to remember and understand, as deemed necessary, if: (i) they intend to purchase products for which they do not have previous investment experience; (ii) they wish to make purchases that are of drastically larger amounts compared to the previous investment amounts; (iii) there has been a significant change in the status of their income or assets held; or (iv) their ability to remember or understand has changed to a level where their investment decision can be adversely affected,)

(ii) The scope of products which may be offered to elderly customers and the method of offering "products requiring attention in solicitation"

Products which may be offered to elderly customers include products with relatively small price fluctuations, simple structures, and high liquidity.

On the other hand, when soliciting elderly customers to purchase products with relatively large price fluctuations, complex structures or low liquidity (referred to as "products requiring attention in solicitation"), it is necessary to pay attention to whether the offered products are suitable to the targeted customers.

Specifically, when sales personnel intend to engage in solicitation of customers aged 75 or older with regard to "products requiring attention in solicitation," for each solicitation, they are generally required to obtain approval of officers, such as the branch managers, in advance. Before giving approval, the officer should interview or talk on the phone with the elderly customers to confirm the matters, including the following, rather than relying only on the sales personnel's reports:

- Whether the customer is healthy;
- Whether the customer makes sense in conversations;
- Whether the customer has sufficient ability to understand the financial products; and
- Whether the customer truly intends to invest in the financial products.

In addition to the above, it should also be provided in the internal rules that when soliciting customers aged 80 or older to purchase "products requiring attention in solicitation," their orders should generally not be received on the day of solicitation, but should be received by

officers (not by the sales personnel who solicited the customers) on the next day or later. In addition, after the execution of the contract, communication and confirmation of the content of the transaction with the customers must be conducted by personnel other than the sales personnel who solicited them in order to confirm their understanding.

(iii) The solicitation suitable for the place or method of solicitation (door-to-door, by phone, over the counter)

(iv) The method of communication and confirmation of the content of the transaction and continuous assessment of the situation

Association Members do not need to communicate and confirm the content of the transaction with all elderly customers for each transaction. They are required to conduct communication and confirmation in light of the attributes and status of transactions of the elderly customers through a risk-based approach, and provide in internal rules the definition of subject customers, frequency, method (including the recording method), and the person in charge, regarding such communication and confirmation. Communication and confirmation of the content of the transaction with elderly customers must be carried out by persons other than the sales personnel who have solicited the customers; however, the sales personnel are allowed to inform the elderly customers beforehand that the officers will communicate with them, and are allowed to be present when the officers visit or make a phone call to the elderly customers.

Continuous assessment of the situation can be conducted by confirming the following points: (1) whether the elderly customers fully understand and have no complaints about the current status of their transactions and products held (*e.g.,* market price, loss or gain on valuation, and market trend); (2) the trend of changes in the elderly customers' health conditions and their ability to remember and understand required to make investment decisions; and (3) whether there has been any change in the elderly customers' cash flow and assets held or their investment polity for the future. As in the case of communication and confirmation of the content of the transaction: (1) Association Members are required to conduct continuous assessment of the situation in light of the attributes and status of transactions of the elderly customers through a risk-based approach, and provide in internal rules the definition of subject customers, frequency, method (including the recording method), and the person in charge, regarding continuous assessment of the situation; and (2) the sales personnel who have solicited the elderly customers are allowed to make communication with the customers before the communication by the officers and are allowed to be present at the visit or phone call by the officers.

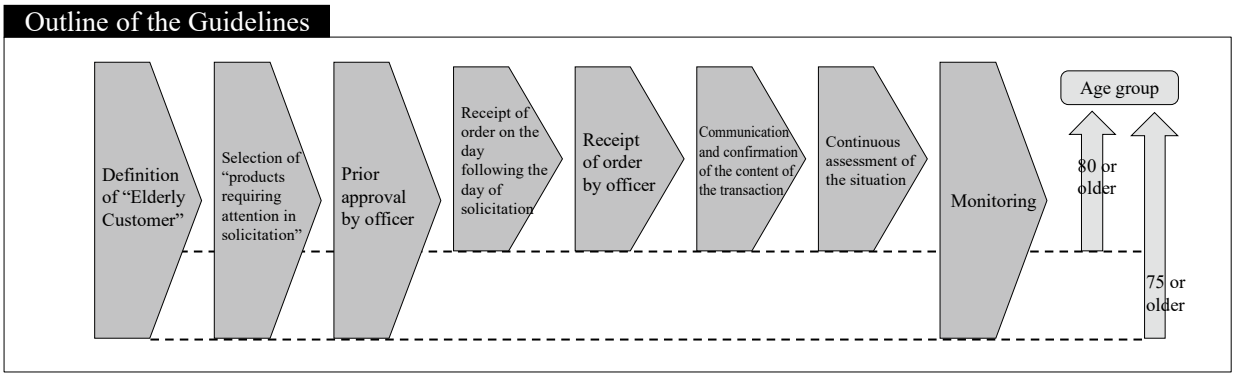
(v) The procedure and method of monitoring.

Association Members are supposed to conduct monitoring depending on the type and scale of their business, mainly focusing on whether transactions are being carried out in accordance with the prescribed approval and agreement process and whether there are any inappropriate transactions in terms of suitability and rationality.

The FIBO Supervision Guidelines also require financial instruments business operators to develop internal rules in accordance with the Guidelines for Elderly Customers, monitor compliance with such rules, and to provide elderly customers with meticulous after-sales services.

(Note) Under the Guidelines for Elderly Customers, the term "solicitation" is defined as, "an explanation concerning the purchase of individual products." With regard to the acts where an elderly customer, after being solicited by sales personnel, chooses to conduct an internet transaction based on his/her voluntary intent and places orders, the Guidelines do not apply to the acceptance of such orders, and officers are not required to accept such orders the following day or later, nor are procedures required to communicate and confirm the content of the transaction and continuously assess the situation. However, such acts need to be examined by focusing on whether there was any act that may fall under "sale by solicitation" provided for under Article 5-3 of the Investment Solicitation Rules at a phase prior to placing orders, and not by focusing on the fact that an order was placed via the internet in itself. The issue of whether or not sales personnel induced the internet transaction should be monitored.

[Reference]



<Relevant Laws and Regulations> FIBO Supervision Guidelines IV-3-1-2(3) (applied *mutatis mutandis* to Special Members under VIII-1)

3 5 Points of Concern Regarding Prevention of Excessive Trading

An Association Member is prohibited from recommending to its customers the securities of specific issues or the options related to the sale and purchase of such securities in an across-the-board and intensive manner, as this represents a subjective or arbitrary supply of information (Investment Solicitation Rules, Article 12).

As the factors for consideration regarding whether a financial instrument business operator is engaged in across-the-board, intensive sales (across-the-board and excessive solicitation targeting a large number of customers conducted by identifying shares that are traded by the business operator in a large volume, and are intensively purchased by its specific sales offices or blocs or by all of its business offices, in a manner that may result in affecting fair pricing for the specific shares), the following matters should be verified:

(i) Are there shares that are being sold or bought intensively by specific sales offices or sales personnel? If so, what kinds of investment solicitations are being executed?
(ii) How are decisions made on recommended shares at the head office or other sales offices? What solicitation materials are being produced for them?
(iii) Are there problems in the reasons for recommendation?
(iv) Are intensive sales organized to get rid of shares held by specific customers or the operator's own account?
(v) Is there any instance of orders having identical placement time and terms?
(vi) Is there any transaction in which order time and agreement time are in reverse order, thus making it a purchase that was based on pending sales?
(vii) After receiving a purchase order from a customer, does the operator solicit that customer to sell shares held by the customer?
(viii) Is there inordinate concentration of third-party payments to cover purchases or shortfalls in guaranteed deposits for specific shares? Also, to what extent have improvements been made?
(ix) Are there instances of specific shares being purchased for a number of customers, followed by offsetting trade resulting in losses in a short period of time and later switching to other specific shares?
(x) Are there concentrations of actions such as agreement modifications and agreement rejections on specific shares?

In addition, as the factors for consideration regarding whether excessive sale and purchase transactions, etc. are conducted, the following matters should be verified:

(i) Have there been excessive solicitations to the customer, overlooking a customer's fund capacity and fund attributes?
(ii) Are there suspicious transactions in terms of a customer's fund attributes and transaction flow?
(iii) Are there suspicious transactions in terms of order time, with attention to customer attributes?
(iv) Are there peculiarities in the state of transactions for specific shares? Are there transactions that appear to be aimed at churning? Is there deliberate price formation activity? If so, what kind of investment solicitation is being executed?
(v) What is the ratio of trade volume for customers engaged in frequent trading, compared to trading volume for the sales office or the sales personnel?
(vi) Is there a trend of dependence on trading by specific customers? Are there transactions that are unauthorized or transactions by sales personnel disguised as conducted for customers?
(vii) If there is trading loss (valuation loss) resulting from churning, does the customer approve of the trade results? Moreover, are there disputes with customers?
(viii) Are there third-party payments to specific customers or noticeable shortfalls in guaranteed deposits for credit transactions or in guaranteed deposit levels?
(ix) Does a single person receive orders from a number of customers at an identical time? Are there signs of artificiality in agreement conclusions in terms of order time?
(x) Are there signs of synchronous action in shares regarding transactions for a number of clients by an identical person?

3 6 Points of Concern Regarding the Investment Solicitation for OTC Derivatives Transactions and Transactions on Complex Structured Bonds, Etc.

(1) Standards for Commencing Solicitation

An Association Member must determine respective standards for commencing solicitations in engaging in the solicitation to a customer who is an individual (excluding professional investors) for sale set forth below (limited to solicitation for sale through visits or telephone to customers who have not requested such solicitation for sale, and solicitation for sale conducted at the head office or other business office or office of the Association Member to customers who have not requested such solicitation for sale), and must not solicit customers who do not meet these standards. (Investment Solicitation Rules, Article 5-2):

a. Sale of complex structured bonds similar to OTC derivatives transactions;
b. Sale of complex investment trusts similar to OTC derivatives transactions;
c. Sale of leveraged investment trusts; and
d. Sale of bond certificates subject to the examination provisions set forth in Article 2(ii) of the "Rules Concerning Dealing, Etc. of Private Placement, Etc. of Corporate Bonds" (limited to those falling under the handling, etc. of private placement, etc. set forth in Article 2 (iii)).

(2) Prohibition of Uninvited Solicitations

With respect to certain transactions (or for individual customers, OTC derivatives transactions in general) among OTC derivatives transactions, the act of soliciting customers (excluding professional investors) who have not requested to be solicited in relation to the relevant transaction through visits or telephone is prohibited (FIEA, Article 38(iv) and Article 45(i); FIEAEO, Article 16-4). Some exceptions apply such as solicitation of customers in a continuing transaction relationship and solicitation of corporate customers for hedging purposes (FIBCOO, Items of Article 116(1)).

(3) Delivery of Alerting Document

An Association Member must, upon entering into a contract for the sale of securities, etc. as listed below with a customer (excluding professional investors), deliver an alerting document to the customer in advance, and provide explanation with respect to the matters stated therein in an manner and to the extent necessary for the customer's understanding in light of the customer's knowledge, experience, financial standing and the purpose for entering into the contract (Investment Solicitation Rules, Article 6-2(1) and (3)):

a. Securities-related derivatives transactions, etc. (excluding transactions as prescribed in the FIBCOO, Article 116(1)(iii)(a) or (b));
b. Specified OTC derivatives transactions, etc.;
c. Brokerage, etc. of commodity-related market derivatives transactions;
d. Complex structured bonds similar to OTC derivatives transactions; and
e. Complex investment trusts similar to OTC derivatives transactions.

The alerting document shall clearly and accurately indicate the following matters (Investment Solicitation Rules, Article 6-2(2)):

a. Application of the uninvited solicitation rules, if applicable;
b. Warning regarding risk; and
c. That the use of the structure for complaint processing and dispute resolution by the designated dispute resolution organization is available and its contact details.

Such alerting document may be provided to the customer by providing the matters to be stated in the alerting document in a prescribed electromagnetic method (Investment Solicitation Rules, Article 29(1)).

(4) Collecting a Letter of Confirmation

If an Association Member enters for the first time into a contract with a customer (excluding professional investors) for securities-related derivatives transactions, etc., a specified OTC derivatives transactions, etc. or brokerage, etc. of commodity-related market derivatives transactions, the Association Member is required to obtain from the customer a letter of confirmation regarding such transaction, etc. in order to confirm that the customer understands the details of risks and fees, etc. regarding financial instruments trading acts stated in the Document to Be Delivered Prior to Conclusion of Contract, etc. (document provided for in FIBCOO, Article 117(1)(i)(a) through (d)) concerning the contract, and that the customer is conducting the said transaction, etc. at the judgment and responsibility of the customer (Investment Solicitation Rules, Article 8(1)).

If an Association Member is to enter into a contract with a customer (excluding professional investors) for the sale of OTC derivatives transactions, etc., the Association Member shall obtain from the customer a letter of confirmation regarding such OTC derivatives transaction, etc. in order to confirm that the customer understands the matters set forth below and is conducting the said transaction, etc. at the judgment and responsibility of the customer (Investment Solicitation Rules, Article 8(2)):

a. Details of material matters prescribed by the Investment Solicitation Rules, Article 3(4);
b. Based on the amount of losses estimated under the contract (including the withdrawal settlement money (estimate) upon midterm cancellation), that the amount of losses acceptable by the customer and the amount of estimated losses are such that the customer can transact in light of the impact on the conditions of the customer's business, finance or assets;
c. Based on business conditions or competition in the market, the transaction will serve as an effective means of hedging over continuous business operations until the termination of the said transaction (limited to cases where the contract with the customer (excluding individuals) is for the purpose of hedging);
d. That the transaction shall not cause the view of future management to be difficult (limited to cases where the contract with the customer (excluding individuals) is for the purpose of hedging); and
e. Even if the customer does not accept the OTC derivatives transaction, etc. solicited, it shall not affect future loan transactions (limited to cases where there are loan transactions with the customer (excluding individuals)).

In addition, if an Association Member enters into a contract with a customer (excluding professional investors) for the sale of complex structured bonds similar to OTC derivatives transactions or complex investment trusts similar to OTC derivatives transactions, the Association Member shall obtain from the said customer a letter of confirmation regarding such sale in order to confirm that the customer

understands the matters set forth below and is purchasing the same by accepting such sale at the judgment and responsibility of the customer (Investment Solicitation Rules, Article 8(3)):

a. Details of material matters prescribed by Investment Solicitation Rules, Article 3(4);
b. Based on the amount of losses estimated under the contract (including the amount of sale (estimate) upon midterm sale), that the amount of losses acceptable by the relevant customer and the amount of estimated losses are such that the relevant customer can transact in light of the impact on the conditions of the relevant customer's business, finance or assets; and
c. Even if the customer does not accept the sale of complex structured bonds similar to OTC derivatives transaction, etc. or complex investment trusts similar to OTC derivatives transaction, etc. solicited, it shall not affect future loan transactions (limited to cases where there are loan transactions with the customer (excluding individuals)).

Such letter of confirmation may be provided to the customer by describing the matters to be stated in the letter of confirmation in a prescribed electromagnetic method if the customer has given its consent in writing or by electromagnetic method (Investment Solicitation Rules, Article 29(2)).

If an Association Member enters into an OTC derivatives transaction agreement and delivers a Document to Be Delivered Prior to Conclusion of Contract, matters provided for in Article 37-3(1)(i) through (vi) of the FIEA and Items of Article 82 of FIBCOO as well as matters provided for in the Items of Article 93(1) and Article 94(1) of FIBCOO, must be stated in the said document.

<Relevant Laws and Regulations> Concept under Investment Solicitation Rules, Article 5-2; Concept under Investment Solicitation Rules, Article 6-2; FIBO Supervision Guideline IV-3-3-2(11) (applied *mutatis mutandis* to Special Members under VIII-1); and Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method

<Relevant Sections of this Manual> Chapter III. 11.2 Collecting a Letter of Confirmation

3 7 Revision of Rules for Appropriate Sale and Solicitation to Customers Regarding Complex Structured Bonds, Etc.

Based on the notice issued by the Financial Services Agency in September 2010, titled "Desired Regulations for Unrequested Solicitation for Derivatives Transactions," and with a view to further enhancing investor protection, the JSDA partially revised its Rules, including the Investment Solicitation Rules, along with the review of the regulations for solicitation for investment in derivatives transactions, etc. With regard to complex structured bonds similar to OTC derivatives transactions and complex investment trusts similar to OTC derivatives transactions (hereinafter referred to as "complex structured bonds, etc."), the JSDA presented guidelines concerning verification of reasonable basis suitability, establishment of solicitation commencement standards, and explanation of important matters. By these actions, the JSDA required Association Members to develop appropriate systems for sale and solicitation.

While more than ten years have passed since the revision of the JSDA Rules, significant changes

have been observed in the environment surrounding complex structured bonds, etc., such as expansion of the scope of Association Members that deal with complex structured bonds, etc., diversification of product characteristics, and emergence of styles of sale that had not been assumed at that time. Along with these changes, the increase in the number of complaints from investors about the sale of and solicitation for complex structured bonds, etc. and the problems with such activities have been pointed out.

Under such circumstances, in order to realize the appropriate sale and solicitation to customers regarding complex structured bonds, etc., the Investment Solicitation Rules and related guidelines (including the advertisement guidelines) were partially revised as of April 18, 2023, and the revision came into effect (started to apply) as of July 1, 2023.

This revision covered the "Interpretation of Article 3(3) of the Rules Concerning Solicitation for Investments and Management of Customers, Etc. by Association Members (Guidelines for Reasonable Base Suitability), the "Interpretation of Article 5-2 of the Rules Concerning Solicitation for Investments and Management of Customers, Etc. by Association Members (Guidelines for Solicitation Commencement Standards), the "Guidelines for Advertisement, Etc.", and the "Interpretation of Article 3(4) of the Rules Concerning Solicitation for Investments and Management of Customers, Etc. by Association Members (Guidelines for Explanation of Important Matters). Toward realizing appropriate sale and solicitation to customers regarding complex structured bonds, etc., measures have been taken to address challenges, such as promoting customer-oriented business operation, requiring appropriate selection of customers, improving customers' understanding of product characteristics and risks, enhancing in-house education, and addressing diversification of styles of sale.

In addition, through the revision of the Investment Solicitation Rules, an Association Member is required to deliver an alert document to the customer whenever it concludes a contract with the customer for complex structured bonds, etc. even where it has sold the same type of securities to the customer within one year (Investment Solicitation Rules, Article 6-2).

Main Points to Be Checked for Investment Solicitation

Upon soliciting investments, it is important that the salespersons conduct sales activities in compliance with various laws and regulations. Major points to be checked thoroughly by salespersons which are useful for guidance and supervision by Internal Administration Supervisor, etc. are as follows:

1. Clear Explanation of Structure of Transaction, Etc.

Has a full explanation been given to the customer (assuming customers other than professional investors) of the terms of transaction, including rules applicable to the transaction pursuant to the brokerage agreement standards or other regulations, as well as structure of transaction, process and commissions related to the transaction? In particular, are structures explained fully to and understood by customers who will engage in transactions such as margin transactions or futures transactions?

2. Solicitation in a Manner that Matches Such Factors as the Investment Purposes, Financial Capacity and Investment Experience of the Customer

(i) Is the customer competent to correctly understand the details of the investment? Are

solicitations made to customers who are suspected of significantly lacking judgment due to causes such as dementia or age, etc.? If the customer falls within the scope of elderly customers, is solicitation being conducted carefully after confirming the customer's ability to understand, through the procedures provided in the internal rules?

(ii) Are any issues being solicited that are not appropriate in view of the customer's investment purposes or financial capacity, or are investments being solicited in an inappropriate quantity or frequency?

(iii) In the event that an investment is clearly inappropriate in view of such factors as the investment purposes and financial capacity of the customer, is proper advice given proactively to encourage the customer to rethink his investment?

(iv) If a customer is to engage in margin transactions, securities-related derivatives transactions, etc., specified OTC derivatives transactions, etc., brokerage, etc. of commodity-related market derivatives transactions or other certain transactions, is confirmation made as to whether the customer meets the conditions for commencing the respective transaction?

(v) If an individual customer is to engage in transactions in complex structured bonds similar to OTC derivatives transactions, complex investment trusts similar to OTC derivatives transactions or leveraged investment trusts, does the customer meet the standards for commencing solicitation?

3. Proper Provision of Information

(i) Is any false information being given to customers? Does the information mislead customers in any way concerning material facts, through means such as stressing only some of the facts, using exaggerated language, or failing to present material facts?

(ii) Have any definitive predictions been made of an increase or decrease in prices for securities, etc. in the course of investment solicitation?

(iii) Are there grounds that make the securities, etc., for which investment by customers is solicited, worthwhile for soliciting? If so, have the material facts constituting the bases for investment been accurately conveyed to the customer?

4. Determination of Investment Intent Through an Independent Decision of the Customer

(i) Is the customer made thoroughly aware that all orders for transactions, etc. in securities must be performed on the instructions of the customer on the basis of the customer's independent judgment and responsibility?

(ii) Are customers being solicited through aggressive, hard-sell tactics?

(iii) Has the intention of the customer been fully confirmed when accepting orders?

(iv) Are orders for discretionary trading being personally accepted from customers?

(v) Are any trades, etc. performed on the joint account of the securities company and the customer?

5. Maintaining Fair and Equitable Transactions

(i) Has any solicitation been made to customers by promising compensation for losses or guarantee profits?

(ii) Has any solicitation involved a promise to a customer to provide a special gain?
(iii) Are any customer orders accepted with knowledge that they would constitute improper transactions, such as market manipulation?
(iv) Have any acts been committed that would undermine a fair and equitable price structure, through soliciting customers for excessive transactions in a few specific issues?

<Supplement> Professional Investor Regime Under the FIEA

The FIEA classifies investors into "specified investors" (hereinafter referred to as "professional investors") and "customers other than specified investors (hereinafter referred to as "general investors") (meaning amateur investors) and enables flexibility in regulation, such as the non-application of certain regulations on activities of financial instruments business operators, etc. in the course of trading with professional investors.

Supplement 1 Detailed Classifications of Investors

The FIEA classifies investors into four categories: (i) professional investors that cannot transfer into the status of a general investor, (ii) professional investors that are able to elect to transfer their status into that of a general investor, (iii) general investors that are able to elect to transfer their status into that of a professional investor, and (iv) general investors that cannot transfer into the status of a professional investor (FIEA, Article 2(31), and Article 34 through Article 34-5; Definition Ordinance, Article 23; and FIBCOO, Article 61 and Article 62).

Scope of Professional Investors and General Investors

Classification of Investors Investor	Scope of Investors Included in This Category
(1) Professional Investor (Cannot Transfer to General Investor Status)	・ Qualified institutional investors ・ The Government of Japan ・ The Bank of Japan
(2) Professional Investor (May Elect to Transfer to General Investor Status)	・ Corporations that have been established in accordance with a special establishment pursuant to a special law (*i.e.,* special corporations (*tokushu hōjin*) and independent administrative agencies (*dokuritsu gyōsei hōjin*)) ・ The Investors Protection Fund, the Deposit Insurance Corporation of Japan, the JA Deposit Insurance Corporation, or an Insurance Policyholder Protection Corporation ・ A specified purpose corporation as prescribed in the Asset Securitization Act ・ An issuer of shares that are listed on a financial instruments exchange ・ A joint stock company (*kabushiki kaisha*), which on the basis of reasonable judgment of the transaction conditions and other circumstances, can be expected to have an amount of capitalization of at least 500 million yen ・ A corporation that is a financial instruments business operator, notifier of specially permitted services for qualified institutional investors, etc. or notifier of specially permitted services for foreign investors, etc. ・ A foreign corporation

Classification of Investors Investor	Scope of Investors Included in This Category
(3) General Investor (May Elect to Transfer to Professional Investor Status)	・ A corporation other than (1) or (2) above ・ An individual that is either of the following (excluding an individual that is a qualified institutional investor): a. An operator of an anonymous partnership (*tokumei kumiai*) with at least 300 million yen in equity contribution, or an executive partner of a Civil Code partnership (*kumiai*), or a partner that is involved in the execution or itself executes important matters of business of a limited liability business partnership (limited to cases in which the consent of all other partners is obtained in connection with the transfer of status to that of a professional investor); b. An individual who satisfies any of the requirements (i) to (iv) below. (i) The individual satisfies all of the following. [i] On the basis of reasonable judgment of transaction conditions and other circumstances, the individual can be expected to have net assets of at least 300 million yen in total. [ii] On the basis of reasonable judgment of transaction conditions and other circumstances, the individual can be expected to have investment-type financial assets of at least 300 million yen in total. [iii] At least one year has elapsed since the date that the individual initially entered into an agreement of the type of the agreement in connection with the application for change of status. (ii) The individual satisfies any of the following, and also satisfies (i)[iii]. [i] On the basis of reasonable judgment of transaction conditions and other circumstances, the individual can be expected to have net assets of at least 500 million yen in total. [ii] On the basis of reasonable judgment of transaction conditions and other circumstances, the individual can be expected to have investment-type financial assets of at least 500 million yen in total. [iii] On the basis of reasonable judgment of transaction conditions and other circumstances, the individual can be expected to have had income of at least 100 million yen in the previous year. (iii) The individual had at least four agreements on average for transactions related to securities and derivatives per month within one year preceding the date of acceptance, and the individual satisfies (i)[i] or [ii], and also satisfies (i)[iii]. * In the case of an individual who has become a professional investor by satisfying (iii), even if the individual does not have at least four agreements on average for transactions related to securities and derivatives per month in the subsequent period, the individual is deemed to have at least four agreements on average provided that it is appropriate to treat the individual as a general investor in light of their knowledge and experience. (iv) The individual is a person with specific knowledge and experience, and the individual satisfies any of the following and also satisfies (i)[iii]. [i] On the basis of reasonable judgment of transaction conditions and other circumstances, the individual can be expected to have net assets of at least 100 million yen in total. [ii] On the basis of reasonable judgment of transaction conditions and other circumstances, the individual can be expected to have investment-type financial assets of at least 100 million yen in total. [iii] On the basis of reasonable judgment of transaction conditions and other circumstances, the individual can be expected to have had income of at least 10 million yen in the previous year.

Classification of Investors Investor	Scope of Investors Included in This Category
	* A "person with specific knowledge and experience" is a person falling under any of the following: (a) a person who has engaged in duties in financial industry for one year or more in total; (b) a person who has held a faculty or researcher position in economic science or business science for one year or more in total; (c) a person who is a securities analyst, securities sales representative (Type 1 or Type 2), Class 1 or Class 2 financial planner or SME consultant, and who has engaged in the duties of any of these roles for one year or more in total; or (d) a person who has engaged in duties in management consultant service for one year or more in total or any other person who has knowledge and experience that are equal to or greater than those of the persons set forth in (a) to (c).
(4) General Investor (Cannot Transfer to Professional Investor Status)	・ Individuals excluding qualified institutional investors and other than those set forth in (3) above.

Supplement 2 Procedures for a Status Transfer by Choice

A transfer of status of a professional investor to that of a general investor or of a general investor to that of a professional investor shall be carried out in accordance with the following procedures:

(i) Procedures to Transfer From the Status of a Professional Investor into the Status of a General Investor (FIEA, Article 34 and Article 34-2)

A professional investor that may choose to transfer his/her status to that of a general investor may make a request to an Association Member with which it engages in transactions, for each respective "type of contract" (i.e., four types consisting of those related to securities transactions, those related to derivatives transactions, those related to investment advisory agreements, and those related to discretionary investment agreements), to be treated as a general investor. If an Association Member has received such a request, the Association Member must deliver a letter of acceptance (which may be delivered electronically) stating matters such as the date of acceptance and the type of contract, in advance, before the first solicitation for or entering into a contract in connection with the said request. If the Association Member has not previously entered into a contract of the same type as that for which the request has been received from the professional investor, the Association Member must inform the professional investor that the professional investor may make a request to transfer its status to that of a general investor. Moreover, an Association Member that has received the request of this nature from a professional investor has a duty to accept and cannot refuse it.

There is no effective period of transfer of status to that of a general investor and the customer will be treated as a general investor until a separate request to revert to the status of a professional investor is made by the customer. Moreover, written consent from the customer must be obtained when accepting such request by the customer.

In addition, local governments were professional investors that may transfer to general investor status by election, but from April 1, 2011, it was changed to a general investor that may

transfer to a professional investor.

(ii) Procedures to Transfer From the Status of a General Investor into the Status of a Professional Investor (FIEA, Article 34-3, and Article 34-4)

A corporation that is not a professional investor or an individual who meets certain requirements may make a request to an Association Member with which it engages in transactions, for each respective "type of contract," to be treated as a professional investor. If an Association Member which has received a request of this nature will accept this request, the Association Member must in advance obtain written consent stating, *inter alia*, the date of acceptance, the expiration date (the last date of the effective period of transfer of status to that of a professional investor), the type of contract and the content of the special exceptions for professional investors as well as the risks associated with the transfer of status are understood (i.e., that protection will not be sufficient if a person becomes a professional investor who is not suited to being a professional investor in view of that person's knowledge, experience or financial standing).

More strict procedures are prescribed if a request is received from an individual, including procedures such as requiring an Association Member to deliver a document stating the nature of the special exceptions for professional investors as well as the risks associated with the transfer of status, and must also confirm that the individual satisfies certain requirements (FIEA, Article 34-4(2)).

The effective period of transfer to the status of a professional investor is one year dating from the date of acceptance, but the customer may return to the status as a general investor prior to that date by making a request to revert to that status. An Association Member who has received a request to revert to that status must deliver a document stating the date of acceptance and other matters and accept the application, before either the first soliciting or entering into a relevant contract after receiving the request.

Care is necessary because an act by an Association Member of soliciting a customer (general investor) to transfer its status to that of a professional investor would violate the principle of suitability if the customer is not suited to being a professional investor in view of the customer's knowledge, experience, financial standing and purposes for entering into the transaction.

Supplement 3 Exclusions from Restriction Under Certain Conduct Control Regulations

In order to enable the professional investor system to facilitate both the protection of users and the provision of risk capital, a flexible approach to the content of regulation has been adopted in which the protection of professional investors is placed in the hands of market discipline rather than administrative regulation. In particular, the following exclusions have been stipulated from normative conduct control regulations that have as their main objective the correction of the information gap between users and financial instruments business operators, etc. (FIEA, Article 45):

Major Exclusions from Restrictions under Certain Conduct Control Regulations

(i) Regulations on advertisement, etc. (FIEA, Article 37);
(ii) Duty of Prior Clarification of Form of Transaction (FIEA, Article 37-2);
(iii) Duty to deliver the Document to Be Delivered Prior to Conclusion of Contract (FIEA, Article 37-3);
(iv) Duty to deliver the Document to Be Delivered Upon Conclusion of Contract (FIEA, Article 37-4)(Note 1);
(v) Duty to deliver the document in connection with receipt of margin deposits (FIEA, Article 37-5)(Note 1);
(vi) Cooling-off period (FIEA, Article 37-6);
(vii) Prohibition against uninvited solicitation (FIEA, Article 38(iv));
(viii) Duty to confirm the intent to receive solicitation (FIEA, Article 38(v));
(ix) Prohibition against subsequent solicitation (FIEA, Article 38(vi));
(x) Duty of explanation in connection with Document to Be Delivered Prior to Conclusion of Contract (FIEA, Article 38(ix), and FIBCOO, Article 117(1)(i));
(xi) Prohibition against gathering customers without explicit statement of the purposes of soliciting (FIEA, Article 38(ix), and FIBCOO, Article 117(1)(viii));
(xii) Prohibition against an act of soliciting a customer who has made an expression of intent in advance that the customer does not intend to enter into an agreement (including an expression of intent of refusing solicitation) (FIEA, Article 38(ix), FIBCOO, Article 117(1)(ix));
(xiii) Principle of suitability (FIEA, Article 40(i))(Note 2);
(xiv) Duty of prior delivery of statement of best execution policy (FIEA, Article 40-2(4)); and
(xv) Restrictions on, *inter alia*, acts of offering securities of customers as collateral (FIEA, Article 43-4).

(Notes) 1. Unless a framework is in place under which a prompt reply can be made to an inquiry from a customer (professional investor), the exclusion from this restriction will not apply even in the event of a transaction with a professional investor (FIEA, Article 45, *proviso*; and FIBCOO, Article 156).
2. An act of soliciting a customer who is not suited to being a professional investor to transfer its status to that of a professional investor may violate the principle of suitability.

<Relevant Laws and Regulations> FIEAEO, Article 15-22, and Article 15-23; FIBCOO, Article 53 through Article 60 and Article 63; and Questions and Answers Concerning the Obligation to Deliver Documents to be Delivered Prior to Conclusion of Contract (Revised Fourth Edition)

4 Delivery of Document to Be Delivered Prior to Conclusion of Contract and Duty of Substantive Explanation

If an Association Member intends to enter into a contract for financial instruments transaction, it must, in advance, deliver, to any customer that is not a professional investor, a document (hereinafter referred to as "a Document to Be Delivered Prior to Conclusion of Contract") that sets forth certain particulars (FIEA, Article 37-3 and Article 45(ii)).

It is also necessary to be aware that simply delivering the Document to Be Delivered Prior to Conclusion of Contract to the customer other than a professional investor is not sufficient, and that with respect to the delivery of this document, an explanation of particulars such as a summary of the contract and charges and the risks, etc. is required in advance, in a manner that is proper in light of the customer's knowledge, experience, financial standing and purpose for entering into the contract for financial instruments transaction and to the extent that is necessary for the customer to understand the same (a duty to provide a substantive explanation; FIBCOO, Article 117(1)(i)).

4 1 Contents and Method Stated in the Document to Be Delivered Prior to Conclusion of Contract

The particulars to be stated in the Document to Be Delivered Prior to Conclusion of Contract are prescribed by law and regulation in detail for each type of financial instruments transaction (FIEA, each Item of Article 37-3(1); and FIBCOO, Article 81 through Article 96). The common matters that are to be stated in connection with all financial instruments transactions are as set forth below:

Common Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract (Each Item of Article 37-3(1) of the FIEA,)

1. **Trade name or name and address of the financial instruments business operator, etc.:**
2. **That the dealer is a financial instruments business operator, etc., and the registration number of the said financial instruments business operator, etc.:**
3. **Summary of the contract for financial instruments transaction:**
4. **Matters concerning commissions, etc.:**
   The total amounts payable by the customer or maximum amounts or methods of calculation thereof classified by fees, remunerations, expenses or by any other name that is to be paid in connection with the contract for financial instruments transaction (including the percentage of the price of the securities, transaction amount or earnings that occur from the transactions in connection with the contract for financial instruments transaction). If it is not possible to state these, a statement to that effect and the reason for the same must be made.

5. Risks of loss on principal as a result of fluctuations in interest rates, prices of currency, or the market prices or other indicators:
   If there is a risk of loss as a result of fluctuations in interest rates, prices of currency, or the market prices or other indicators in connection with acts of financial instruments transactions that are carried out by the customer, a statement to that effect.
6. Risks of loss in excess of principal as a result of fluctuations in interest rates, prices of currency or the market prices or other indicators:
   If the amount of loss under 5. above may exceed the margin deposit, other security deposit or other amount placed by a customer or those prescribed by Cabinet Office Ordinance, a statement to that effect.
7. In addition to each of the preceding, such matters concerning the contents of the financial instruments business determined by Cabinet Office Ordinance as having a material impact on the decisions of investors (FIBCOO, Article 82):
   (i) That the content of the relevant Document to Be Delivered Prior to Conclusion of Contract is to be read thoroughly;
   (ii) The amounts of margin deposits or other security deposits, etc. to be placed by a customer or the method of calculation thereof;
   (iii) In the event that there is a possibility of a loss on the principal occurring as a direct result of fluctuations in an index, the index, as well as the reason that a possibility exists of a loss as a result of a fluctuation in this index;
   (iv) In the event that there is a possibility of a loss in excess of the principal as a direct result of fluctuations in an index, the index that would be the direct cause of the possibility of a loss in excess of the principal as well as the reason that a possibility exists of a loss in excess of the principal as a direct result of a fluctuation in this index;
   (v) In the event that there is a possibility of a loss to the principal as a direct result of a change in the business or financial position of the financial instruments business operator, etc., or other person (credit risk), the counterparty, as well as that there is a possibility of loss on the principal as a result of the credit risk, and the reason for the same;
   (vi) In the event that there is a possibility of a loss in excess of the principal as a direct result of credit risk, the counterparty that presents the direct cause of the possibility of a loss in excess of the principal, to the effect that as a result of the credit risk there is a possibility of a loss in excess on the principal as well as the reason thereof;
   (vii) A summary of the taxes in connection with the contract for financial instruments transaction;
   (viii) In the event that there is a cause for terminating the contract for financial instruments transaction, the contents;
   (ix) Whether or not cooling off regulations apply to the contracts for financial

instruments transaction;

(x) If cooling off regulations apply, the contents of the said cooling off regulations;

(xi) A summary of the financial instruments business operator, etc.;

(xii) A summary of the contents and method of the financial instruments business that the financial instruments business operator, etc. conducts (or registered financial institution business in the case of a registered financial institution) (limited to those relating to the contract for financial instruments transactions);

(xiii) The method by which the customer will communicate with the financial instruments business operator, etc.;

(xiv) Whether or not the financial instruments business operator, etc. is a member of a financial instruments business operators association (limited to associations where the main Association Members and Regular Members are those who conduct business pertaining to such contract for financial instruments transaction) and if the financial instruments business operator, etc. is a member, the name of the association, and whether or not the financial instruments business operator, etc. is a dealer that is covered by a certified investor protection organization (limited to a certified investor protection organization in the event that the relevant contract for financial instruments involves the certified operations (meaning the certified operations as set forth in Article 79-10(1) of the FIEA) of the certified investor protection organization), and if the dealer is a member so covered, the name of the association and organization; and

(xv) Trade name or name of the designated dispute resolution organization, if any, or the details of the complaint processing measure and dispute resolution measure in lieu thereof.

The above are matters to be commonly stated in connection with all contracts for financial instruments transaction. It is also necessary to be aware, however, that stipulations are made that require special entries depending on the type of financial instruments transaction, in addition to the above (FIBCOO, Article 83 through Article 96).

The method of statement of the Document to Be Delivered Prior to Conclusion of Contract requires that the entries enclosed in the frame above must be stated clearly and accurately using letters and numbers that are at least eight points in size.

In addition, the statement of 7.(i) "that the content of the relevant Document to Be Delivered Prior to Conclusion of Contract is to be read thoroughly," as well as those statements of particularly material significance that would have a material impact on the decisions of customers out of the entries must be entered at the start of the Document to Be Delivered Prior to Conclusion of Contract in a simple form using letters and numbers that are at least 12 points in size, and then the matters that are underlined out of the above entries (and in connection with matters concerning commissions, etc., a summary thereof)

must be stated clearly and accurately within the margins using letters and numbers that are at least 12 points in size (FIBCOO, Article 79).

4 2 Method of Delivery

The Document to Be Delivered Prior to Conclusion of Contract must in principle be delivered in advance to a customer in paper form, but if consent from the customer is obtained it may be furnished using information telecommunications technology pursuant to stipulation by law and regulation (FIEA, Article 37-3(2)).

4 3 Waiver of Delivery

In the following circumstances, an Association Member shall not be required to deliver a Document to Be Delivered Prior to Conclusion of Contract to a customer (FIEA, Article 37-3(1), *proviso*; and FIBCOO, Article 80).

(i) If the Association Member has delivered a "Explanatory Document on Listed Securities, etc." (a document that states the matters set forth in 1. through 5. as well as 7.i., iii., v., xi., xiv., and xv. in the table stated in 4.1 above and the matters set forth in Article 83(1)(viii) of the FIBCOO (the matters to be stated in the case where the securities in question are securities related to leveraged indicators, etc.)) to the customer within one year prior to entering into a contract for financial instruments transaction in connection with a sale and purchase or other transaction in listed securities (excluding derivative transactions, margin transactions or when-issued transactions, etc.);

* If a contract for financial instruments transaction in connection with sale and purchase, etc. in listed transactions, etc., has been entered into within one year from the date of delivery of the Explanatory Document on Listed Securities, etc. (including a deemed delivery date), the Explanatory Document on Listed Securities, etc. shall be deemed to have been delivered on the date of entering into the contract.

(ii) If the Association Member has delivered a Document to Be Delivered Prior to Conclusion of Contract to a customer in connection with the financial instruments transaction of the same content within one year prior to entering into a contract for financial instruments transaction regarding a sale and purchase or other transaction in securities or a derivatives transaction;

* If a contract for the financial instruments transaction of the same content (excluding OTC derivatives transactions contracts) in connection with the Document to Be Delivered Prior to Conclusion of Contract has been entered into within one year from the date of delivery of a Document to Be Delivered Prior to Conclusion of Contract (including a deemed delivery date), the Document to Be Delivered Prior to Conclusion of Contract shall be deemed to have

been delivered on the date of entering into the contract.

(iii) If a prospectus has been delivered to a customer (limited to a prospectus in which all of the matters to be stated in the Document to Be Delivered Prior to Conclusion of Contract are stated in a manner that is equivalent to the manner of statement in the said document)(Note), or a person who owns securities of the same issue or a person for whom someone in the same residence has already received or is reliably expected to receive the prospectus agrees not to receive the delivery of the prospectus.

(Note) If all of the matters to be prescribed in the Document to Be Delivered Prior to Conclusion of Contract are not stated in the prospectus, it is also permissible to deliver a document stating all of these matters, together with the prospectus. The prospectus and the document delivered with the prospectus of an investment trust or a foreign investment trust are not required to have the same method of statement as in the Document to Be Delivered Prior to Conclusion of Contract (FIBCOO, Article 80(5)).

(iv) If a contract will be entered into which amends a portion of a contract for financial instruments transaction that has been already concluded, and there are no matters to be changed in matters that are stated in the Document to Be Delivered Prior to Conclusion of Contract in connection with the existing contract, or if a contract amendment document (document that states such matters to be amended) has been delivered;

(v) In the event that a contract for a financial instruments transaction relating to the sale and purchase, etc. of listed securities, etc. will be entered into, where the matters to be stated in the Explanatory Document on Listed Securities, etc. are provided to the customer (limited to those who have received the delivery of the Explanatory Document on Listed Securities, etc. from the financial instruments business operator, etc.) for inspection by using an electronic data processing system, and when all of the following requirements are satisfied:

* Excluding cases where the customer requests the delivery of the Explanatory Document on Listed Securities, etc.

a. Association Member has explained to the customer in advance, by delivery of documents or any other appropriate method, that the relevant matters will be made available for inspection by the relevant method, and that if the customer so requests, the Explanatory Document on Listed Securities, etc. will be delivered.

b. Association Member has provided the customer with the information necessary for receiving the provision of the relevant matters in writing or by other appropriate methods within one year prior to the conclusion of the contract for financial instruments transaction relating to the sale and purchase, etc. of the listed securities, etc.

c. The relevant matters are displayed in an easily viewable place on the image screen of the computer used by the customer in accordance with the method set forth in Article 79 of the FIBCOO.

d. Association Member has taken measures to ensure that the customer can easily access the

relevant matters at all times for five years (if a complaint pertaining to said matters is filed during the period before the date on which said period ends, for a period until the later of (i) the date on which said period ends or (ii) the date on which said complaint is resolved) after the date of the sale and purchase, etc. of the listed securities, etc.

(vi) In the event that a contract is to be entered into for a financial instruments transaction relating to the sale and purchase or other transaction of certain securities(Note), such as government bond securities, municipal bond securities, etc., (excluding transactions that fall under derivative transactions, margin transactions, issued transactions, or transactions similar thereto; hereinafter referred to as the "Sale and Purchase, etc. of Bond Certificates" in this paragraph (vi)), where the matters to be stated in the Document to be Delivered Prior to the Conclusion of Contract are provided to the customer (limited to those who have received from the financial instruments business operator, etc. the delivery of the Document to be Delivered Prior to the Conclusion of Contract relating to a contract for a financial instruments transaction similar to the relevant contract for a financial instruments transaction) for inspection by using an electronic data processing system, and when all of the following requirements are satisfied:

* Excluding cases where the customer requests the delivery of the Document to Be Delivered Prior to Conclusion of Contract.

(Note) Securities listed in Article 2(1)(i) through (iii) or (v) of the FIEA (excluding bonds with share options; hereinafter the same in this (vi)) or those listed in Article 2(1)(xvii) that have the nature of securities listed in Article 2(1)(i) through (iii) or (v) (securities designated by the Commissioner of the FSA, limited to those with redemption deadline (limited to the definite deadline) and redemption amount (limited to the definite amount) and without condition that all or part of the reimbursement amount will not be redeemed when the reimbursement deadline arrives, shall be excluded).

a. Association Member has explained to the customer in advance, by delivery of documents or any other appropriate method, that the relevant matters will be made available for inspection by the relevant method, and that if the customer so requests, the Document to Be Delivered Prior to Conclusion of Contract will be delivered.

b. Association Member has provided the customer with the information necessary for receiving the provision of the relevant matters in writing or by other appropriate methods within one year prior to the conclusion of the contract for financial instruments transaction relating to the Sale and Purchase, etc. of Bond Certificates.

c. The relevant matters are displayed in an easily viewable place on the image screen of the computer used by the customer in accordance with the method set forth in Article 79 of the FIBCOO.

d. Association Member has taken measures to ensure that the customer can easily access the relevant matters at all times for five years (if a complaint pertaining to said matters is filed during the period before the date on which said period ends, for a period until the later of (i)

the date on which said period ends or (ii) the date on which said complaint is resolved) after the date of the Sale and Purchase, etc. of Bond Certificates.

(vii) Concise material information has been provided to the customer(Note 1), and explanation has also been provided to the customer on the matters specified in Article 37-3(1)(iii) through (vii) of the FIEA (in cases where a contract amendment document mentioned in (iv) above is delivered, limited to the matters concerning the amendment), according to a method and to the extent necessary for the customer to understand the transaction, in light of the customer's knowledge, experience, financial standing and purpose for entering into the contract for financial instruments transaction(Note 2), where the matters to be stated in the Document to be Delivered Prior to the Conclusion of Contract (in cases where a contract for a financial instruments transaction relating to the sale and purchase, etc. of listed securities, etc. is to be entered into: a Document to be Delivered Prior to the Conclusion of Contract or an Explanatory Document on Listed Securities, etc.; in cases where a contract amendment document mentioned in (iv) above has been delivered: a Document to be Delivered Prior to the Conclusion of Contract and the contract amendment document; hereinafter the same in this (vii)) are made available to the customer for inspection by using an electronic data processing system, and when all of the following requirements are satisfied:

* Excluding cases where the customer requests the delivery of the Document to Be Delivered Prior to Conclusion of Contract.

a. The matters to be stated in the Document to Be Delivered Prior to Conclusion of Contract are displayed in an easily viewable place on the image screen of the computer used by the customer in accordance with the method set forth in Article 79 of the FIBCOO (excluding cases where the method for inspection conforms to the criteria set forth in Article 56(2)(i) of the FIBCOO).

b. Association Member has taken measures to ensure that the customer can easily access the matters to be stated in the Document to Be Delivered Prior to Conclusion of Contract at all times for five years (if a complaint pertaining to said matters is filed during the period before the date on which said period ends, for a period until the later of (i) the date on which said period ends or (ii) the date on which said complaint is resolved) after the last date of the transaction set forth in the relevant matters.

(Notes) 1. "Providing concise material information" means delivering a document in which the matters set forth in (i) to (iii) below are stated concisely or providing the matters to be stated in that document by an electromagnetic method, and providing explanation on these matters (including answering questions from the customer based on the sample questions mentioned in (i) below) (Article 80(6) of the FIBCOO):

(i) an outline and sample questions concerning the matters set forth in the items of Article 37-3(1) of the FIEA (in the case prescribed in Article 80(1)(iv)(b) of the FIBCOO, limited to those concerning the amendment referred to in that item), which contribute to the customer's decision on

entering into a contract for financial instruments transaction;

(ii) necessary information in order for the customer to receive the matters to be stated in a Document to Be Delivered Prior to Conclusion of Contract which are provided thereto, and an instruction that the customer must fully read the content of these matters;

(iii) a notice that a Document to Be Delivered Prior to Conclusion of Contract is to be delivered upon the request of the customer.

2. "Explanation provided according to a method and to the extent necessary for the customer to understand the transaction, in light of the customer's knowledge, experience, financial standing and purpose for entering into the contract for financial instruments transaction" is the same level of explanation as that required under Article 117(1)(i) of the FIBCOO (for details, see the FSA's announcement of the results of the public comments dated February 15, 2021, "FSA's Responses to Public Comments").

(viii) In the event of a contract for financial instruments transaction as set forth below:

a. A sale of securities to a financial instruments business operator, etc. from which a purchase of the securities is made;
b. Intermediary or agency service in the purchase of securities involving a tender offer, in which the tender offeror is the other party to the transaction;
c. A purchase that is not for the purpose of reselling beneficiary certificates in an investment trust, by the financial instruments business operator, etc. that has sold the beneficiary certificates;
d. An offsetting trade prescribed in Article 33-14(3) of the FIEAEO;
e. A purchase of securities pursuant to an agreement for cumulative investment, or a periodic sale of securities pursuant to an agreement for cumulative investment;
f. Acquiring the same issue by reinvestment of earnings from an investment trust, etc. owned by a customer;
g. A trade (excluding the first purchase) or redemption of a public and corporate bond investment trust (MRF or MMFs) of a daily settlement type;
h. Underwriting of securities; and
i. Handling of a public offering or secondary distribution of securities or a private placement of securities or handling an exclusive offer to sell, etc. to professional investors (limited to cases in which a customer in connection with the contract for financial instruments transaction is the issuer or owner of the said securities).

4 4 Duty to Explain to Customers

The above document must not just be delivered as a formality to the customer, but rather the customer must understand the content thereof in order to determine whether to enter into a contract for financial instruments transaction.

For this reason, in connection with the delivery of the Document to Be Delivered Prior to Conclusion of Contract, Explanatory Document on Listed Securities, etc., prospectus or contract amendment document, an Association Member or its officer or employee must give, in advance, an explanation to the customer other than professional investor, on certain matters among items set forth in those documents, including a summary of the contract and charges and the risks, etc., according to a method and to the extent necessary for the customer to understand, in light of the customer's knowledge, experience, financial standing and purpose for entering into the contract for financial instruments transaction. Otherwise, the Association Member or its officer or employee cannot enter into a contract for financial instruments transaction relating to the said document (FIBCOO, Article 117(1)(i)).

Caution is necessary as the obligation to explain under FIBCOO, Article 117(1)(i) will not be waived even in the event that the customer has made an expression of intent to the effect that explanation of important matters is not required.

4 5 Filing of Document to Be Delivered Prior to Conclusion of Contract

If an Association Member carries out solicitation (limited to those that are a public offering or secondary distribution or handling of a public offering or secondary distribution, and for which at least 500 persons will enter into a contract for financial instruments transaction as a result of acceding to the solicitation) to enter into the said contract for financial instruments transaction in connection with deemed securities as set forth in each Item of Article 2(2) of the FIEA, the Association Member must, in principle, file in advance contents of the Document to Be Delivered Prior to Conclusion of Contract relating to a contract for financial instruments transaction with the Prime Minister (FIEA, Article 37-3(3), main clause; and FIEAEO, Article 16-2).

<Relevant Laws and Regulations> Questions and Answers Concerning the Obligation to Deliver Document to Be Delivered Prior to Conclusion of Contract (Revised Fourth Edition)

5 Public Offering or Secondary Distribution

5 1 Public Offerings or Secondary Distributions, and Disclosure of Securities Information

(1) Disclosure of Securities Information upon Public Offerings or Secondary Distributions

The FIEA requires issuers of corporate type securities such as shares or corporate bonds to disclose, *e.g.,* information concerning the securities as well as the condition of accounts on the part of the corporate group to which the issuer belongs, as well as the issuer itself and other material matters concerning the contents of the business, by filing registrations with the Prime Minister and by public inspection (indirect disclosure) when making a public offering or secondary distribution of a substantial quantity of securities to the general public (FIEA, Article 5(1)).

In case of asset finance type securities such as investment trust beneficiary certificates or asset securitization certificates ("regulated securities" FIEAEO, Article 2-13) (information in connection with, *inter alia*, the management of assets by the issuer will have a material impact on an investment decision in such securities), a duty is imposed on the issuer of the regulated securities to disclose, *e.g.,* information concerning the securities, as well as the condition of asset management conducted by the issuer and other matters of the condition of accounts involving a business that is similar thereto, as well as other material matters concerning the contents of the assets, by means of a registration statement and by making the same available for public inspection (FIEA, Article 5(5)).

(2) Creating Flexibility in the Disclosure System Under the FIEA

Under the FIEA, trust beneficiary interests and rights to collective investment schemes such as shares in partnerships are added to the scope of "securities" (FIEA, each Item of Article 2(2)), in order to broaden the scope of regulation. At the same type steps have been taken to achieve flexibility in the disclosure system to focus on the nature and market liquidity of the securities. As a practical step, since securities certificates are not issued for rights to a collective investment scheme and as in general, they do not have high market liquidity, it is believed that there is little necessity for a widespread disclosure of information in connection therewith through means such as the filing of securities registration statements or making annual securities reports, etc. available for public inspection. For this reason, those such as rights in a collective investment scheme are excluded from the disclosure regulations (FIEA, Chapter II.), and the providing of information to investors is to be made by way of the duty to deliver a Document to Be Delivered Prior to Conclusion of Contract, which is a regulation on the acts of a financial instruments business operator, etc. (FIEA, Article 37-3). Even in the event of the rights to a collective investment scheme or the like, however, if the main business is that of investing in securities (rights in securities investment business, etc.), the information in connection therewith would constitute material information not only for the direct investors thereof but also for the investment decisions of other investors in the securities markets, and consequently would be covered by the disclosure regulations of the FIEA (FIEA Article 3(iii); and the FIEAEO, Article 2-9 and Article 2-10).

The disclosure regulations under the FIEA also do not apply to securities such as JGBs, since in principle problems from the perspective of protecting investors would not occur in connection with those securities for which the issuer has strong credibility or for which filing to or approval by a supervising government agency is required by special law, even if information is not required to be disclosed (FIEA, Article 3).

The following are the securities that are excluded from application of the disclosure regulations under the FIEA (FIEA, Article 3; and FIEAEO, Article 2-8 through Article 2-11):

Securities Excluded from Application of the Disclosure Regulations

(i) Japanese government bonds (JGBs);
(ii) Municipal bonds;
(iii) Bonds issued by a corporation established under a special act (special corporation bonds or bank bonds);

(Note) The disclosure regulations do apply to social medical corporation bonds that are prescribed under the Medical Care Act

(iv) Investment securities issued by a corporation established under a special act (subscription certificates in the Bank of Japan, etc.);
(v) Beneficiary certificates of loan trusts;
(vi) Rights set forth in each Item of Article 2(2) of the FIEA, that are deemed to be securities (including rights to a collective investment scheme);

(Note) The disclosure regulations do apply to rights in connection with invested businesses which make securities investments allocating in excess of 50% of the investment or contribution, or beneficiary rights in a trust which makes securities investments allocating in excess of 50% of the trust assets (rights in securities investment business, etc.).

(vii) Bonds guaranteed by the government of Japan; and
(viii) Those foreign securities that are bonds issued by an institution established under a treaty to which Japan is a signatory, and for which the consent of the Japanese government is required under the said treaty in order to make a public offering or secondary distribution of the bonds within Japan (bonds in the World Bank or the Asian Development Bank).

5 2 Definition of Public Offering or Secondary Distribution

A variety of restrictions (including registration statements and delivery of prospectuses) apply to investment solicitation under a public offering or secondary distribution, in order to ensure the effectiveness of information disclosure to investors.

(1) Definition of Public Offering

A public offering involves the solicitation for applications to acquire newly issued securities (including similar acts; hereinafter referred to as "solicitation of offers to acquire"), and which are covered under any of the following, while a solicitation of offers to acquire which is not covered under the following is called a private placement (FIEA, Article 2(3)). The requirements for a public offering differ between "Paragraph 1 Securities" (securities with a certificate that are as set forth in Article 2(1) of the FIEA, as well as those rights that are to be embodied in securities and electronically recorded transferable rights, both of which are deemed to be securities as set forth in Article 2(2) thereof) which have high market liquidity, and "Paragraph 2 Securities" (rights that are set forth in each Item of Article 2(2) of the FIEA, except for electronically recorded transferable rights) which are, *inter alia*, rights to collective investment schemes that have low market liquidity:

(i) If Numerous Parties Are Solicited (in the case of Paragraph 1 Securities)

In principle, a public offering refers to a solicitation of offers to acquire targeting 50 or more persons (FIEA Article 2(3)(i); and FIEAEO, Article 1-5). It is necessary to be aware that a public offering in connection with Paragraph 1 Securities refers to the act of solicitation, and is not related to the number of persons who actually acquire the securities. However, if persons specified by Cabinet Office Ordinance (Definition Ordinance, Article 10) as having specialized knowledge and experience in securities investments (qualified institutional investors) are included and certain conditions are satisfied as presenting little risk of assignment to general investors from the qualified institutional investors who have acquired the securities, the quantity of qualified institutional investors shall be excluded (FIEAEO, Article 1-4). In this event, the offering shall not constitute a public offering if the number of persons to whom the solicitation of offers to acquire is made minus the number of qualified institutional investors is less than 50 (a "private placement for small number of investors"). Moreover, if certain requirements are satisfied, a solicitation to acquire that is to be made only to professional investors (exclusive solicitation of offers to acquire targeting professional investors) will not constitute a public offering regardless of the number of other parties to the solicitation to acquire (FIEA, Article 2(3)(ii)(b); for details, see "8. Regulations Concerning Solicitation to Professional Investors, Etc." of this Chapter).

Moreover, it is necessary to be aware that the requirements of a private placement for small number of investors will not be satisfied if newly issued certificates of the same type have been issued within three months prior to the date of issue of the relevant securities, and the total of the parties solicited in the relevant previous issue or issues and those solicited in the present issue amount to 50 or more (FIEA, Article 2(3)(ii)(c); and FIEAEO, Article 1-6).

(ii) If No Restrictions Are Made Against Transfer Even Though Less than 50 Persons Are Solicited,

or Only Qualified Institutional Investors Are Solicited (in the case of Paragraph 1 Securities)

If an offering is made to less than 50 persons (if the securities acquired by the qualified institutional investors are, as specified in the Cabinet Order, not likely to be transferred to any person other than a qualified institutional investor (if resale is prohibited to any person other than a qualified institutional investor or if resale is prohibited except for a block resale of the entirety of the purchased issue), such qualified institutional investors shall be excluded), it will be treated as a private placement (FIEA, Article 2(3)(i)). Furthermore, if an offering is made only to qualified institutional investors and if the securities acquired by such qualified institutional investors, as specified in the Cabinet Order, not likely to be transferred to any person other than a qualified institutional investor (FIEA, Article 2(3) (ii)(a)), it shall also be treated as a private placement; however, if these conditions are not satisfied, it shall constitute a public offering and shall be subject to the registration statement system.

(iii) If a Considerable Number of Persons Will Become Holders in Acceptance of the Solicitation to Acquire (in the case of Paragraph 2 Securities)

If 500 or more persons will become holders of Paragraph 2 Securities in connection with the solicitation of offers to acquire, the offer will be a public offering. In this event the number of persons shall be based on the number of persons who actually acquire the financial instruments.

When an issuer makes a disposition of treasury shares as set forth in Article 199 of the Companies Act, such disposition would constitute a public offering if solicitation of offers to acquire securities that had been previously issued is made to numerous and unspecified persons. (act similar to a solicitation of offers to acquire) (FIEA, Article 2(3); and Definition Ordinance, Article 9(i)).

(2) Definition of Secondary Distribution

A secondary distribution is defined as an offer to sell, or a solicitation for application to purchase securities which have already been issued (offer to sell, etc.), and which is respectively the following for Paragraph 1 Securities or Paragraph 2 Securities.

(i) Paragraph 1 Securities

This is an offer to sell, etc. to 50 or more persons (FIEA, Article 2(4); and FIEAEO Article 1-8). It is important to understand that a secondary distribution in this case indicates the act of solicitation itself, and consequently, does not depend on the number of persons who actually acquire the securities. If qualified institutional investors are included within the other parties, and if certain conditions are satisfied as presenting little risk of assignment to general investors from the qualified institutional investors who have acquired the securities, the quantity of qualified institutional investors shall be excluded (FIEA, Article 2(4)(i); and FIEAEO Article 1-7-4). Moreover, it is necessary to be aware that the requirements of a private secondary distribution for small number of investors will not be satisfied if an offer to sell, etc. securities of the same type has been made within one month prior to the date of offer to sell, etc. the relevant securities, and the total number of the other parties to which the offer to sell, etc. the securities is made and those involved in the offer to sell, etc. in connection with the present securities amounts to 50 or more, and the offering will constitute a secondary distribution (FIEA, Article 2(4)(ii)(c); and FIEAEO, Article 1-8-3).

(ii) Paragraph 2 Securities

This is the making of an offer to sell, etc., in which 500 or more persons will come to own Paragraph 2 Securities in connection with the offer to sell, etc. (FIEA, Article 2(4) (iii); and FIEAEO, Article 1-8-5). This is based on the number of persons who actually acquire the securities.

(3) Those Not Constituting Secondary Distribution

With the diversification in the forms of transactions in securities it has been decided that the following would not constitute a "secondary distribution" so that excessive disclosure requirements will not constitute a barrier to the smooth conduct of transactions:

(i) An offer to sell in which the counterparties are exclusively qualified institutional investors, if certain requirements are satisfied (FIEA, Article 2(4)(ii)(a));

(ii) An offer to sell in which the counterparties are exclusively professional investors, if certain requirements are satisfied (FIEA, Article 2(4)(ii)(b)) (for details, see "8. Regulations Concerning Solicitation to Professional Investors, Etc." of this Chapter.);

(iii) Cases set forth in Article 2(4)(i) of the FIEA as well as cases other than (i) and (ii) above (excluding cases falling under the requirements that are prescribed by the Cabinet Order in consideration of, *inter alia*, the conditions of issuing and soliciting of securities that are of the same type as the securities in question) that are prescribed by the Cabinet Order as presenting little risk that the securities will be owned by numerous persons (FIEA, Article 2(4)(ii)(c));

(iv) Sale and purchase in securities on a financial instruments exchange market (FIEAEO, Article 1-7-3(i));

(v) Sale and purchase in securities on an over-the-counter securities market (FIEAEO Article 1-7-3(ii));

(vi) Sale and purchase in listed securities, OTC traded securities, or securities for professional investors in the activities of a proprietary trading system (PTS) (FIEAEO, Article 1-7-3(iii));

(vii) Sale and purchase in securities that a financial instruments business operator, etc., or a professional investor conducts with other financial instruments business operator, etc., or professional investors, off a financial instruments exchange market, and which is carried out for the purpose of forming a fair price or facilitating unimpeded distribution of the relevant securities, and which is conducted at a reasonable price that takes into consideration trading conditions based on the trading price of the relevant securities on the financial instruments exchange market (*e.g.,* block trading) (FIEAEO, Article 1-7-3(iv));

(viii) Sales of securities issued overseas without a restriction on assignment pursuant to the *proviso* of Article 58-2 of the FIEA (FIEAEO, Article 1-7-3(v));

(ix) A sale to another financial instruments business operator, etc., for the purpose of resale of securities issued overseas without a restriction on resale, for which the financial instruments business operator, etc. who is making the sale has made a report to the JSDA (FIEAEO, Article 1-7-3(vi));

(x) Sale and purchase of securities for which there is no restriction on assignment, and that are held by a person other than the issuer of the securities, an officer, etc. of the issuer, a major shareholder or an officer, etc. of a major shareholder of the issuer, a subsidiary, etc. of the issuer or an officer, etc. of a subsidiary, etc., or a financial instruments business operator, etc.

(FIEAEO, Article 1-7-3(vii));

(xi) In the event of sale and purchase in securities for which there is no restriction on assignment, for which both parties are the issuer of the securities, an officer, etc. of the issuer, a major shareholder or an officer, etc. of a major shareholder of the issuer, a subsidiary, etc. of the issuer or an officer of a subsidiary, etc., or a financial instruments business operator, etc. (excluding cases in which both of the parties are financial instruments business operator, etc.) (FIEAEO, Article 1-7-3(viii));

(xii) Sale and purchase with a repurchase or sell-back condition in connection with corporate bonds, etc. (meaning those for which the price and date of the repurchase or sell-back is specified in advance) (repurchase agreement (*gensaki* transactions)) (FIEAEO, Article 1-7-3(ix));

(xiii) Sale of securities to the issuer or a person who intends to sell the same to the issuer (FIEAEO, Article 1-7-3(x)); and

(xiv) Sale and purchase in securities that is associated with brokerage conducted by a financial instruments business operator, etc. for a customer in the sale and purchase of securities on a financial instruments exchange market or a foreign financial instruments market (transaction based on brokerage orders to the market) (FIEAEO, Article 1-7-3(xi)).

5 3 Examples of Public Offering or Secondary Distribution

The following acts would constitute specific examples of acts constituting a public offering or secondary distribution since they would be deemed to constitute soliciting many persons. Consequently, they must not be conducted until after a notification has been made (Guidelines Concerning Corporate Affairs Disclosure 4-1):

- Distributing documents (including notices of new share allotments, and applications for new shares) concerning a public offering or secondary distribution (excluding specified procedures relating to securities delivery for reorganization);
- Giving an oral explanation at a meeting with shareholders, etc. to explain an increase in capitalization, etc.;
- Advertising in connection with a public offering or secondary distribution, by means of newspapers, magazines, billboards, television, radio or the Internet, etc.

However, the notification is not required in the case of solicitation by means of advertisement on the internet where the advertisement can be viewed only by qualified institutional investors or professional investors and the appropriate use thereof is ensured (*e.g.,* where a financial instruments business operator, etc. places advertisement on the dedicated webpage managed so that only qualified institutional investors or professional investors can access the webpage and the financial instruments business operator, etc. takes responsibility for such management).

Meanwhile, acts such as providing information in connection with securities in the course of giving notice as prescribed in Article 67-19 of the FIEA or performing any other duty under law or regulation will not constitute an offer to sell, etc. (Definition Ordinance, Article 13-2).

5 4 Filing to the Prime Minister and Restrictions on Solicitation

(1) Basic Principle

In principle, no one may solicit investments in a manner that is covered under a public offering or secondary distribution without filing a registration statement with the Prime Minister (although acceptance of the registration statement, etc. is delegated by the Prime Minister to the Commissioner of the Financial Services Agency, and is further delegated to the Director-General of the Local Finance Bureau) (FIEA, Article 4(1)). After filing the registration statement with the Prime Minister, it is permitted to solicit investors, but may not have the investors actually acquire the securities or sell the securities through the solicitation until the filing becomes effective (FIEA, Article 15(1)). By allowing solicitation but prohibiting the conclusion of a transaction contract during the period until the filing becomes effective, this regulation is designed to enable investors to make a fully informed decision of whether to accept the offer and to invest.

In principle, the registration will have effect once 15 days have expired from the time the Prime Minister accepts the filing (FIEA, Article 8(1)). The Prime Minister may, however, shorten the waiting period essentially to the date on which seven days have elapsed (and may further reduce the waiting period of an amended registration statement in connection with securities information, such as to the extent that it will have effect on the same day or on the following day in the event of an amended registration statement of an undecided issue price, offering price or interest rate in the case of book-building, etc.) if the Prime Minister determines that the offering would present no particular problems in protecting investors because the corporate information in connection with the filing is already widely known to the public, or for other similar reason (FIEA, Article 8(3); and Guidelines Concerning Corporate Affairs Disclosure 8-2, 8-4 (b)). In addition, with respect to a securities registration statement filed by particularly well-known entities that meet certain requirements such as having both a three-year average trading amount and three-year average total market value of 100 billion yen or more, if all the requirements provided for in the Guidelines Concerning Corporate Affairs Disclosure 8-3 are satisfied, such registration may take effect immediately.

(2) Exceptions (Waiver of Requirement to File Registration Statement)

Under the following circumstances, the filing of the registration statement with the Prime Minister will be waived, and as an exception, investments may be solicited for the public offering or secondary distribution without any registration statement having been filed (FIEA, Article 4(1), *proviso*):

a.-(i) A solicitation of offers to acquire or an offer to sell, etc. involving certain restricted shares with a restricted transfer period that is made to certain directors, etc. of the issuer, etc. (FIEA, Article 4(1)(i); and FIEAEO Article 2-12(i));

a.-(ii) A solicitation of offers to acquire or an offer to sell, etc., involving certain share options that is made to an officer or employee (FIEA, Article 4(1)(i); and FIEAEO Article 2-12(ii));

b. A public offering or secondary distribution of securities that is made under certain conditions among the procedures relating to securities issuance for reorganization or procedures relating to securities delivery for reorganization that involve a public offering or secondary distribution of these securities (FIEA, Article 4(1)(ii));

c. A secondary distribution for which a registration statement has been filed under a previous public offering or secondary distribution or the like involving the same securities, and for which disclosure has already been made through means such as continuous filing of annual securities reports (FIEA, Article 4(1)(iii));

d. A secondary distribution of securities that have already been issued overseas or have already been issued within Japan, but for which at the time of their issue a solicitation for newly issued securities, etc. was not made within Japan, and for which information concerning the trading prices of the said securities can be easily obtained within Japan and that satisfy certain other prescribed requirements (FIEA, Article 4(1)(iv); and FIEAEO, Article 2-12-2, as well as Article 2-12-3); and

e. Primary offering or secondary distribution for which the total issue or offer value is less than 100 million yen (FIEA, Article 4(1)(v)).

To prevent abuse through exploiting a loophole in the law by issuing securities in installments, the obligation to file a registration statement will not be waived under certain circumstances even if the public offering or secondary distribution is for under 100 million yen. These circumstances would include instances in which the total amount of the issue price is 100 million yen or more within a three-month period for new share issues of the same type, cases in which a secondary distribution of securities of the same type has been made within a one month (excluding those made by another person) and for which the grand total of the secondary distribution prices is 100 million yen or more, as well as if it is intended to make a new listing on the market (Corporate Affairs Disclosure Ordinance, Article 2(5)).

5 5 Shelf Registration System

A “shelf registration system” allows an issuer planning to make public offering or secondary distributions for securities to submit shelf registration documents that state entries such as the projected issue amount for the securities within a planned issue period stipulated under Cabinet Office Ordinance and the type of the projected issue, etc. and by doing so the issuer need not submit the registration statement at the time it issues the securities. Use of this system, however, is restricted to well-known entities which meet certain requirements including the filing of annual securities reports, and for which the trading prices and total market value are at least a certain amount, etc. (FIEA, Article 5(4) and Article 23-3; and Corporate Affairs Disclosure Ordinance, Article 9-4). With respect to corporate bonds, it provides that the total amount of the par value of bonds or the total amount of book-entry transfer bonds involved in public offerings or secondary distributions for which issue disclosure was made in the past five years must be at least 10 billion yen (Corporate Affairs Disclosure Ordinance, Article 9-4(5)).

By filing supplemental documents to shelf registration documents with the Prime Minister stating the total value of the issue (or secondary distribution) and the terms and conditions of the issue (or secondary distribution) for each public offering or secondary distribution in connection with securities for which the public offering or secondary distribution has been registered under this system, an issuer can allow investors to acquire or offer the securities for sale to investors (FIEA, Article 23-8; Corporate Affairs

Disclosure Ordinance, Article 14-8). By allowing to state "maximum issue balance" instead of "projected monetary amount of issue" in the shelf registration document, the shelf registration system employs a method in which the permissible amount of issue may be increased if the issue balance has declined as a result of redemption, etc. (program amount method) (FIEA, Article 23-4; Corporate Affairs Disclosure Ordinance, Article 14-5).

5 6 Deemed Securities Registration Statement System

With respect to certain regulated securities (domestic investment trust beneficiary certificates, foreign investment trust beneficiary certificates, domestic trust beneficiary certificates, foreign trust beneficiary certificates, domestic trust beneficial interests, foreign trust beneficial interests and beneficiary certificates of regulated securities in trust for which these regulated securities are treated as entrusted securities, as well as specified deposit securities indicating the rights related to these regulated securities), when a public offering or secondary distribution of such regulated securities has continued for one year, a statement for supplemental matters of the offering (*boshūjikō tō kisai shomen*) may be filed in lieu of a securities registration statement (FIEA, Article 5(10), main clause; Ordinance on Disclosure of Regulated Securities, Article 11- 6); provided, however, that it is necessary for such public offering or secondary distribution to be made continuously until immediately prior to the filing of such statement for supplemental matters of the offering (*proviso* of the same paragraph).

The purpose with respect to certain regulated securities for which public offerings were continuously conducted was (i) to ease the burden of disclosures where many of the contents of the disclosures of securities registration statements and annual securities reports to be simultaneously submitted were substantially overlapping, and (ii) to make disclosures easier for investors to understand. The statement for supplemental matters of the offering shall be filed together with such annual securities report related to the specified period immediately preceding the specified period that the filing date of such regulated securities falls under and its attachments (FIEA, Article 5(11)), and when such filing is made, such statement for supplemental matters of the offering and such annual securities report shall be deemed to be a securities registration statement, and by the filing thereof, a securities registration statement will be deemed to be filed (FIEA, Article 5(12)).

If a company, which filed a regulated securities registration statement pursuant to the deemed securities registration statement system, files an amendment report regarding such annual securities report, such amendment report will be deemed to be an amendment statement (FIEA, Article 7(3)). Furthermore, when a semiannual securities report is filed, such semiannual securities report shall be deemed to be an amendment statement, and by the filing of such report, such amendment statement will be deemed to be filed (FIEA, Article 7(4)).

<Relevant Laws and Regulations> FIEAEO, Article 1-5-2, Article 1-7, Article 1-7-4, and Article 1-8-2; and Corporate Affairs Disclosure Ordinance, Article 14-3, Article 14-4 and Article 14-9

Regular Member

5 7 Rules Concerning Provision of Demand Information and Purchaser Information for Public Offering of Corporate Bond Certificates, Etc.

As of January 1, 2021, the JSDA's "Rules Concerning Provision of Demand Information and Purchaser Information for Public Offering of Corporate Bond Certificates, Etc." came into effect. The purpose of these Rules is to set forth matters that are necessary for the provision, etc., of demand information and purchaser information pertaining to corporate bond certificates, etc., to issuers when Regular Members are underwriting corporate bond certificates, etc., for public offering, thereby ensuring fair business operations that respect the actual market so as to be conducive to the sound development of capital markets. The corporate bond certificates, etc. to which these Rules apply ("Applicable Corporate Bond Certificates, etc.") are: corporate bond certificates, etc. issued by Lead Managing Regular Member Underwriting (municipal bonds, bonds issued by a juridical person under a special law (*e.g.,* generally called "FLIP agency bonds"), corporate bond certificates (excluding bonds with share options), specified company bonds (*e.g.,* bonds issued by a specified purpose company (fund) of a mutual life insurance company), investment corporation bonds (*e.g.,* REIT bonds), bonds or certificates issued by a foreign state or foreign person within Japan and having the same nature as those mentioned above (*e.g.,* Samurai bonds), and sovereign bonds issued in Japan), except for retail bonds (bonds underwritten by the Lead Managing Regular Member (Note 1) primarily for the purpose of having an individual acquire the securities) (*id.,* Article 2(i); Q1 in the Q&A on the Concepts on the "Rules Concerning Provision of Demand Information and Purchaser Information for Public Offering of Corporate Bond Certificates, Etc."). These Rules do not apply to Japanese governments bonds which are issued by the auction method and underwriting of secondary distribution of bonds is also excluded from the application of these Rules. However, in accordance with Article 24 of the Underwriting Rules, Regular Members must determine proper terms and conditions on secondary distribution (Q1 and Q3 in the Q&A).

The Representing Lead Managing Regular Member Underwriter must provide the issuer with the Demand Information (meaning the name of the customer of each condition of issuance of Applicable Corporate Bond Certificates, etc., or the number of customers by business type, and the demand amount (excluding those related to individuals); unless otherwise specified, hereinafter the same in this Section) it obtained through Pre-Marketing (hearing of opinions from investors regarding the standard of the conditions of issuance conducted by the Regular Member Underwriters upon their underwriting of Applicable Corporate Bond Certificates, etc.) for every business day or by the closest business day before the date of determination of the conditions of issuance (if this is not possible for a reason beyond the Representing Lead Managing Regular Member Underwriter's control, by the determination of the conditions on the date of determination of the conditions of issuance) (Rules Concerning Provision of Demand Information and Purchaser Information for Public Offering of Corporate Bond Certificates, Etc., Article 3(1)). When there are Co-acting Lead Managing Regular Member Underwriter(s)(Note 2) or Other Regular Member Underwriter(s) (limited to Other Regular Member Underwriter(s) in cases where the estimated total underwriting amount of all the Other Regular Member Underwriters exceed 10% of the estimated issue amount), the Representing Lead Managing Regular Member Underwriter must collect Demand Information that the Co-acting Lead Managing Regular Member Underwriter(s) and the Other

Regular Member Underwriter(s) obtained through Pre-Marketing and include it in the Demand Information to be provided to the issuer (*id.,* Article 3(2)).

The Representing Lead Managing Regular Member Underwriter must provide Purchaser Information (meaning the name of the customer who is the purchaser of Applicable Corporate Bond Certificates, etc., or the number of customers by business type, and the sale amount (excluding that related to individuals); unless otherwise specified, hereinafter the same in this Section) to the issuer without delay, and if there are Co-acting Lead Managing Regular Member Underwriter(s) or Other Regular Member Underwriter(s), the Representing Lead Managing Regular Member Underwriter must collect Purchaser Information from the Co-acting Lead Managing Regular Member Underwriter(s) and Other Regular Member Underwriter(s) and include it in the Purchaser Information to be provided to the issuer (*id.,* Article 4(1) and (2)).

If a customer (excluding individuals) falls under any of the categories set forth in the items of Article 5(1) of the Rules, "Demand Information" and "Purchaser Information" mentioned above are replaced respectively with "Demand Information (meaning the customer's name and their demand amount for each condition of issuance)" and "Purchaser Information (meaning the purchasing customer's name and their purchase amount)," thus information to be provided must contain the real name of the customer. The categories mentioned above include: (a) entity that is able to accept deposits or savings as business (including foreign corporations having a branch in Japan); (b) financial instruments business operator (including foreign corporations having a branch in Japan); (c) investment corporation; (d) insurance company (including foreign corporations having a branch in Japan); and (e) entity that is none of the above and has a demand amount or sale amount of 1 billion yen or more (including foreign corporations) (*id.,* Article 5(1)). Regular Member Underwriters shall inform beforehand the customers listed in the items of Article 5(1) of the Rules, unless any such customers have refused to provide their names, that Demand Information (meaning the name of the customer of each condition of issuance and the demand amount) and Purchaser Information (meaning the name of the customer who is the purchaser and the sale amount), both of which contain the real name of the customer, will be provided to the issuer and Lead Managing Regular Member Underwriter(s), and when a Regular Member Underwriter receives an indication of the customer's refusal to provide its name, the Regular Member shall keep the name of the customer anonymous when providing information to the issuer and Lead Managing Regular Member Underwriter(s) (*id.,* Article 5(2) and (3)).

If the issuer is to receive Demand Information and Purchaser Information provided thereto, Regular Member Underwriters shall receive a firm commitment from the issuer that it will properly manage the Information above so as to ensure no leakage thereof (*id.,* Article 6).

Before underwriting Applicable Corporate Bond Certificates, etc., Regular Member Underwriters must establish internal rules on the provision of Demand Information and Purchaser Information pertaining to Applicable Corporate Bond Certificates, etc. and must comply with the Internal Rules (*id.,* Article 7). Regular Member Underwriters must conduct periodic inspections regarding whether or not the issuance procedures, etc., of Applicable Corporate Bond Certificates, etc., have been conducted properly, by means of comparison, etc., of Demand Information and Purchaser Information pertaining to the Applicable Corporate Bond Certificates, etc. (*id.,* Article 8). Regular Member Underwriters must create records pertaining to Applicable Corporate Bond Certificates, etc. such as records of Demand

Information and records of Purchaser Information to ensure that external audits and inspections, etc. are conducted properly, and retain such records for five years starting from the date of issue of the Applicable Corporate Bond Certificates, etc. (*id.,* Article 9).

(Notes) 1. Representing Lead Managing Regular Member Underwriter: If there is only one Lead Managing Regular Member Underwriter, this term shall mean this one Lead Managing Regular Member Underwriter. If there is more than one Lead Managing Regular Member Underwriter, the one representing the Lead Managing Regular Member Underwriters shall be the Representing Lead Managing Regular Member Underwriter. The same shall apply in this Section.
2. Co-acting Lead Managing Regular Member Underwriter: When there is more than one Lead Managing Regular Member Underwriter, the Lead Managing Regular Member Underwriters other than the Representing Lead Managing Regular Member Underwriter. The same shall apply in this Section.

6 Regulations Concerning Solicitation for Small Number of Investors

6 1 Solicitation for Small Number of Investors

An issuer is exempted from the filing requirement at the time of issuance if the issue is a private placement to only a few persons (hereinafter referred to as a "private placement for small number of investors"), which means that solicitation is made, under certain conditions, to only a few (less than 50) persons, excluding qualified institutional investors, and that resale is restricted or for other reason there is little likelihood that the securities will be resold to many persons.

Securities that are issued through a private placement for small number of investors incur a requirement of there being little risk of assignment from the acquirers to numerous persons, including a prohibition against resale by the person who acquired or purchased the securities other than a resale of the entire block of the securities as a single transaction. A filing is also not required for soliciting purchases of securities that have already been issued in this manner, if the solicitation on the distribution market is for less than fifty persons (FIEA, Article 2(3)(ii)(c), Article 4(1), *proviso*; FIEAEO, Article 1-7; and Definition Ordinance, Article 13). Moreover, filing of registration statement at the time of the secondary distribution is also waived if the other parties to the offer to sell, etc. the securities previously issued amount to less than 50, and because of, *e.g.,* certain restrictions on resale there is little risk that the securities will be sold to many persons (hereinafter referred to as a "secondary distribution for small number of investors"). These types of offerings are referred to as a solicitation for small number of investors (FIEA, Article 23-13(4)). Since there is believed to be little likelihood of assignment to many

persons, there is no restriction against resale in the event of the following: if solicitation is to be made to less than fifty persons for share certificates, etc., for which submission of an annual securities report (FIEA, Article 24(1)) is not required for reasons such as that the share certificates, etc. are not listed (including preferred equity investment certificates, such as those in the Norinchukin Bank, preferred equity investment certificates for a specified purpose corporation under the Act on Securitization of Assets, as well as investment securities, etc. for investment corporations; hereinafter these instruments are referred to as "unlisted shares, etc.") or in the event of a single issue of CP in the form of commercial paper that cannot be divided, and which consists of less than fifty certificates in a single issuance (FIEAEO, Article 1-7; and Definition Ordinance, Article 13(3)).

Regular Member

Since listed share certificates, etc. are easily sold, there is a strong possibility that they will be resold to numerous persons, and consequently a solicitation for small number of investors, etc. is only permitted for share certificates, etc. that are unlisted or similar securities. In the case of share option certificates, investment equity subscription right certificates, bonds with share options, covered warrants or depository receipts (DRs), a solicitation for small number of investors, etc. is only permitted if the underlying securities represented by share option certificates, options or the like stated on the aforementioned instruments are unlisted shares, etc. (FIEA, Article 2(3)(ii)(c); and FIEAEO, Article 1-7).

<Relevant Laws and Regulations> FIEAEO, Article 1-5 and Article 3-3

6 2 Notice to Customers and Delivery of Documents

Since no filing to the Prime Minister is required in the event of being covered under solicitation for small number of investors, the solicitation of offers to acquire or the offer to sell, etc. may be performed without making a registration (FIEA, Article 4(1), *proviso*).

Nevertheless, in order to ensure the effectiveness of resale restriction, the prospective investors must be informed prior to the fact of certain matters, unless disclosure has already been made for the securities in question or the total issue price or assignment price is less than 100 million yen. In principle, the following restrictions shall be imposed:

(i) Any person who engages in a solicitation for small number of investors, etc. must inform the counterparty(ies) that registration was not made with the Prime Minister in connection with the solicitation for newly issued securities, etc., or the solicitation for delivery of existing securities, etc., as well as inform the counterparty(ies) of such matters as the restrictions on resale against the said securities (FIEA, Article 23-13(4); Corporate Affairs Disclosure Ordinance, Article 14-15). However, no obligation to notify is required with regard to securities representing preemptive rights for new preferred equity investment certificates, commercial paper or short-term corporate bonds or the like, as well as shares for which there is no restriction on resale and

share option certificates (FIEAEO, Article 3-3);

(ii) Any person making a solicitation pursuant to (i) above must, prior to or at the time the securities are actually acquired or sold, deliver to the counterparty documents containing entries of the matters for which notification to the counterparty is required under (i) above (FIEA, Article 23- 13(5)).

However, that the person making the solicitation is permitted to provide the matters that must be notified to the counterparty under (i) above, through electromagnetic method if the said person has stated the type and nature of the electronic method as prescribed by Cabinet Office Ordinance, and receives prior consent from the other party in written or electronic form (FIEA, Article 27-30-9).

If Association Members intend to have qualified institutional investors acquire securities (in the case of a Regular Member, including share certificates, etc. (meaning securities such as share certificates, preferred equity investment certificates such as those of the Norinchukin Bank, preferred equity investment certificates of a specified purpose corporation, share option certificates, investment equity subscription right certificates, bonds with share options, bonds that promise redemption through securities issued by another company (such as bonds convertible to shares of another company), or investment securities in an investment corporation)) through a solicitation to small number of investors, etc. that is a solicitation to qualified institutional investors, they are required to: (i) take technical measures to make it impossible to transfer the property value of the securities concerned to persons other than professional investors, etc., depending on the type of the securities and whether the relevant property value can be transferred by using an electronic data processing system; (ii) conduct the solicitation of offers to acquire on condition of concluding a contract for transfer which provides that the transfer of the securities to persons other than qualified institutional investors is prohibited; and (iii) impose other restrictions on the resale of the securities. If it is required to conclude a contract for transfer which provides for the prohibition of the transfer of securities, and the qualified institutional investor that acquired the securities will assign the share certificates, etc. to another qualified institutional investor, the assignor must give the purchaser written notice stating that registration statements have not been filed, either prior to or simultaneously under the assignment, and that assignment to any other person other than a qualified institutional investor is prohibited (FIEAEO, Article 1-4; and Definition Ordinance, Article 11(1)).

A qualified institutional investor who intends to assign the securities may, if it has obtained consent from the counterparty in written or electronic form, substitute the providing of information in electronic form for the delivery of the aforementioned written notice (Definition Ordinance, Article 11(4) through (6)).

6 3 Compliance Requirements in the Course of Soliciting Sale and Purchase Transaction of Domestic CP, Etc., or Private Placement Bonds

The following have been determined as compliance requirements for an Association Member in connection with acts such as soliciting, etc. of sale and purchase and other transactions (hereinafter

referred to as "sales and purchase or other transactions" in this Section) in instruments such as domestic commercial paper and private placement corporate bonds (Rules Concerning Solicitation, Etc. of Sale and Purchase, Etc. of Domestic CPs, Etc. and Private Placement Corporate Bonds).

(i) An Association Member shall make an effort to fully explain information concerning the issuer and the securities in the course of soliciting customers to conduct a sale and purchase or other transaction in domestic CP or short-term corporate bonds, etc. (excluding short-term bonds and short-term Norinchukin Bank bonds), through means such as delivering to the customer an "Explanatory Note on Issuers, Etc." on request by the customer as set forth in an agreement concluded with the issuer and the Association Member, at the request by the customer (*id.,* Article 6).

(ii) An Association Member shall make an effort to fully explain information concerning the issuer and the securities when the Association Member engages in the business of handling private placement bonds, through means such as delivering materials that state information concerning the issuer and the securities that have been prepared by the issuer, on request by the customer. When an Association Member engages in sale and purchase transactions, etc. in private placement bonds, and if the issuer has made a commitment to provide information concerning the issuer and the securities either directly or through the holder of the said securities, at the request of a holder of private placement bonds, or the planned purchaser of the said bonds designated by the holder thereof pursuant to the summary of bonds, etc., the Association Member shall also make an effort to fully explain information concerning the issuer and the securities to the customer by delivering documents, etc. stating the said information to the customer at the customer's request (*id.,* Article 9).

(iii) An Association Member must prepare a record to the effect that the order is based on the intention of the customer when the Association Member sells or intermediates in (including intermediating for consignment of) the selling of domestic CP, short term corporate bonds, etc., or private placement bonds without soliciting the said customer, and organize, keep and otherwise properly manage the said record. This shall not be necessary, however, if the purchase order of the customer is through a financial instruments intermediary service provider, etc., or is made pursuant to solicitation by a financial instruments intermediary service provider, etc. (*id.,* Article 7 and Article 10).

6 4 Rules Concerning Dealing, Etc. of Private Placement, Etc. of Corporate Bonds

On April 1, 2017, the "Rules Concerning Dealing, Etc. of Private Placement, Etc. of Corporate Bonds" of the JSDA came into force. These Rules require, with respect to the handling, etc. by an Association Member of the private placement etc. of securities that fall under "bond certificates subject to examination provisions," the Association Member to examine and monitor the issuer of such bond certificates subject to examination provisions, provide information to customers, set standards for commencing solicitation, and establish, etc. internal rules. It is provided that, if, as a result of the

examination of the bond certificates subject to examination provisions, it is considered inappropriate to handle private placement, or the ability to monitor the bond certificates subject to examination provisions cannot be confirmed, the handling of the private placement of such bond certificates subject to examination provisions is not allowed. In addition, a duty to report to the JSDA is stipulated when the Association Member handles, etc. the private placement, etc. of the bond certificates subject to examination provisions.

7 Regulations Concerning Solicitation to Qualified Institutional Investors

7 1 Solicitation to Qualified Institutional Investors

(1) Qualified Institutional Investors

The term "qualified institutional investor" refers to persons designated by Cabinet Office Ordinance as having specialized knowledge and experience in securities investments. The categories of qualified institutional investors are listed in the Definition Ordinance, Article 10, and include financial instruments business operators (limited to those who engage in the type 1 financial instruments business or the investment management business), banks, insurance companies, financial services cooperatives such as credit cooperatives, call loan dealers, venture capital companies, limited liability investment partnerships, survivor employee pension funds and the Pension Fund Association (see the table below).

Qualified Institutional Investors (Definition Ordinance, Article 10)

Scope of Qualified Institutional Investor	Remarks
Financial Instruments Business Operator	Limited to those who engage in the type 1 financial instruments business (limited to case falling under the securities-related business and excluding those who only engage in type 1 small amount electronic offering handling business) or the investment management business. In relation to an offer to sell, etc. set forth in Article 2(4), FIEA (hereinafter referred to as the "offer to sell, etc." in this Section), excluding type 1 financial instruments business operators intending to acquire or purchase securities in their own name in order to broker the orders for acquisition or purchase of securities by general investors (limited to those that fall under securities-related businesses) and financial instruments business operator intending to acquire securities pursuant to a discretionary investment contract with general investors (Guidelines Concerning Corporate Affairs Disclosure 2-5(ii) and (iii)).
Investment Corporation, Foreign Investment Corporation	
Banks	In relation to the offer to sell, etc., excluding trust banks which intend to acquire or purchase securities pursuant to a trust indenture, which presents the possibility that the securities will be delivered to general investors (Guidelines Concerning Corporate Affairs Disclosure 2-5(i)).
Insurance Companies, Foreign Insurance Companies, etc.	
Shinkin Bank, and the Federation of Shinkin Banks	Including the Shinkin Central Bank.

Scope of Qualified Institutional Investor	Remarks
Labor Banks and the Rokinren Bank	
The Norinchukin Bank	
The Shoko Chukin Bank, Ltd.	
Shinkumi Banks, and the Shinkumi Federation Bank	For Shinkumi Banks this shall be limited to those that have made a filing with the Commissioner of the Financial Services Agency.
Federations of Credit Agricultural Cooperatives and National Mutual Insurance Federation of Fishery Cooperatives	Limited to those engaged in the business of accepting deposits or savings, or those who can conduct business of facilities that engage in the mutual self-assistance business.
Regional Economy Vitalization Corporation of Japan (REVIC)	Limited to cases where conducting businesses enumerated in Article 22(1)(i), (ii)(a) and (c), (iii), (vii) and (viii) of the Regional Economy Vitalization Corporation of Japan Act are conducted.
Corporation for Revitalizing Earthquake affected Business	Limited to cases where conducting business enumerated in Article 16(1)(i) and (ii) (a) and (c) of the Corporation for Revitalizing Earthquake affected Business Act are conducted.
Managers and Investors of the Fiscal Loan Fund	Persons who administer and manage fiscal loan funds and execute fiscal loan plans (excluding those that fall under administration and management of fiscal loan funds).
Government Pension Investment Fund	
Japan Bank for International Cooperation, The Okinawa Development Finance Corp.	
The Development Bank of Japan	
Agricultural Cooperatives and the Federation of Fisheries Cooperatives	Limited to those who are eligible to receive deposits and savings as business.
Among those who mainly extend loans for call monies or mediate such lending as business, those who are designated by the Commissioner of the Financial Services Agency	Limited to persons who are registered pursuant to Article 33-2 of the FIEA.
Venture Capital Companies	Among the companies that engage in business enumerated in Banking Act Enforcement Ordinance, Article 17-3(2)(xii), those companies that stipulate in their Articles of Incorporation that they engage in such business and have made a filing with the Commissioner of the Financial Services Agency to the effect that they have capital of 500 million yen or more at the time of filing of the said item.
Limited liability investment partnerships	In relation to the offer to sell, etc., excluding the limited liability investment partnership that was structured only for acquiring specified securities for the purpose of distributing in kind to members other than qualified institutional investors of the limited liability investment partnership (Guidelines Concerning Corporate Affairs Disclosure 2-5(v)).
Survivor employee pension funds, corporate pension funds and the Pension Fund Association	For survivor employee pension funds and corporate pension funds, limited to those who have made a filing with the Commissioner of the Financial Services Agency as having a total net assets of 10 billion yen or more as of the end of the most recent business year.
The Private Organization for Promoting Urban Development	
Trust company, foreign trust company	Excluding management type trusts corporations and limited to persons who have made a filing with the Commissioner of the Financial Services Agency.
Corporations or individuals who have a retained balance of securities of 1 billion yen or more as of the most recent date	Limited to persons who have made a filing with the Commissioner of the Financial Services Agency, and for individuals limited to those persons for whom a year has expired since opening the account.

Scope of Qualified Institutional Investor	Remarks
Corporations or individuals who are an executive partner, etc. of a Civil Code partnership, an anonymous partnership, or a limited liability partnership that has a retained balance of securities of 1 billion yen or more as of the most recent date	Limited to persons who have obtained consent from all of the partners, etc. in the said partnership, etc., and have made a filing with the Commissioner of the Financial Services Agency. For individuals, limited to those persons for whom a year has expired since opening the account. In relation to the offer to sell, etc., excluding the executive partner, etc. of partnership, etc. that was structured only for acquiring specified securities for the purpose of distributing in kind to partnership members other than qualified institutional investors of the partnership, etc. (excluding investment limited partnership; hereinafter the same in this column) (Guidelines Concerning Corporate Affairs Disclosure 2-5(iv)).
Foreign financial instruments business operators (type 1 financial instruments business (limited to those that fall under securities-related business and excluding those that only engage in business similar to type 1 small amount electronic offering handling business) and investment management business), banks, insurance companies, and trust companies	Limited to those that have made a filing with the Commissioner of the Financial Services Agency as having capitalization of 50 million yen (which in the case of a bank shall be 2 billion yen, in the case of an insurance company shall be 1 billion yen, and in the case of a trust company shall be 100 million yen) or more at the time of filing.
Foreign governments, foreign government institutions, foreign local governments, foreign central banks, and international institutions	Limited to those that have made a filing with the Commissioner of the Financial Services Agency.
Funds established pursuant to the laws of foreign countries similar to employee pension funds or corporate pension funds	Limited to persons managed in foreign countries whose purpose is mainly management or payment of remuneration such as retirement pension or retirement benefits, and persons who have made a filing in relation thereto with the Commissioner of the Financial Services Agency as having total net assets of 10 billion yen or more as of the end of the most recent business year.
Specified purpose company	Limited to persons who have made a filing with the Commissioner of the Financial Services Agency as those that fall under any of the following (i) through (iii): (i) securities are included in the specified assets of the asset securitization plan under the Asset Securitization Act, and the value of such securities is at least 1 billion yen; (ii) a trust agreement related to the specified assets is concluded with a trust company, etc. in order to have such company conduct the business pertaining to the management and disposition of the specified assets, and it has been resolved at a general meeting of members of the specified purpose company that such filing will be made; or (iii) the business pertaining to the management and disposition of the specified assets are delegated to an investment management business operator who is an assignor of the specified assets, or to an investment management business operator that has a financial basis and personnel structure sufficient for properly carrying out such management and disposition of such specified assets, and it has been resolved at a general meeting of members of the specified purpose company that such filing will be made. In relation to the offer to sell, etc., excluding the special purpose company (meaning the special purpose company stipulated in Article 2(3)) that issue asset-backed securities (meaning the asset-backed securities stipulated in Article 2(11) of the Act on Securitization of Assets) that represent substantially the same rights as those of securities which one intends to acquire or purchase, and have the general investors acquire them (Guidelines Concerning Corporate Affairs Disclosure 2-5(vi)).

(2) Solicitation Only for Qualified Institutional Investors

A solicitation only for qualified institutional investors refers to a soliciting for which filing to the Prime Minister is not required because of reasons including that only qualified institutional investors are to be solicited (FIEA, Article 23-13(1)).

Specifically, this type of solicitation involves instances covered under (i) solicitation solely for qualified institutional investors to acquire newly issued securities, and for which the subject securities

are restricted as to resale, to prevent them from being transferred from the acquirer to any person other than a qualified institutional investor (FIEA, Article 2(3)(ii)(a); FIEAEO, Article 1-4; and Definition Ordinance, Article 11) as well as (ii) offer to sell, etc. securities that have already been issued through a solicitation only for qualified institutional investors, and which is to be made only to qualified institutional investors, or is otherwise covered by an Item of Article 23-13(1) of the FIEA.

Regular Member

In principle, treatment as a solicitation for share certificates, etc. only to qualified institutional investors is permitted for share certificates, etc., on condition that: (a) the share certificates, etc., and share certificates, etc. of the same type do not constitute a requirement to submit an annual securities report (see FIEA, each Item of Article 24(1)); and (b) in cases in which rights associated with the share certificates, etc. are indicated on property value which can be transferred by using an electronic data processing system, technical measures have been taken to make it impossible to transfer that property value to persons other than qualified institutional investors; and in other cases, solicitation for application for acquisition is made with a condition under the conclusion of an agreement of assignment which specifies that the person acquiring the share certificates, etc. must not resell the same to any person other than a qualified institutional investor (FIEAEO, Article 1-4). A solicitation only for qualified institutional investors other than of share certificates, etc. will not require conditions to the extent of entering into the agreement of assignment as set forth in (b) above.

7 2 Notice to Customers and Delivery of Documents

No registration statement is required to be filed with the Prime Minister to solicit qualified institutional investors, and thus, investment solicitation can be performed without any filing being made (FIEA, Article 4(1) and (2)).

Having said that, certain information must be disclosed to prospective investors, which in principle would be the following, except in instances in which disclosure with respect to the securities has already been performed, or when the total issue price is less than 100 million yen:

(i) Any person who engages in solicitation, etc. to qualified institutional investors must notify the prospective investors that registration statement was not filed with the Prime Minister regarding the solicitation for newly issued securities, etc., or the solicitation for delivery of existing securities, etc., and concerning such matters as the restrictions against resale of the said securities (FIEA, Article 23-13(1); and Corporate Affairs Disclosure Ordinance, Article 14-14).

(ii) Any person making a solicitation pursuant to (i) above must, prior to or at the time the securities are actually acquired or sold, deliver to the counterparty documents containing entries of the matters required to be notified under (i) above (FIEA, Article 23-13(2)).

However, the person making the solicitation is permitted to provide the matters that must be notified to the counterparty under (i) above through electromagnetic method if the said person has stated the type and nature of the electronic method as prescribed by the Cabinet Office Ordinance, and receives prior

consent from the counterparty in written or electronic form (FIEA, Article 27-30-9).

7.3 Compliance Requirements in the Course of Soliciting Sale and Purchase Transaction of Domestic CP, Etc., as well as Private Placement Bonds

Even when soliciting qualified institutional investors, it is necessary to be aware that there are particulars for which compliance is required that are set forth by the regulations of the JSDA concerning solicitation with respect to sale and purchase transaction of domestic CP, etc., or private placement bonds (for details, see "6.3. Compliance Requirements in the Course of Soliciting Sale and Purchase Transaction of Domestic CP, Etc., or Private Placement Bonds" in this Chapter).

7.4 Solicitation Restrictions Regarding General Solicitation for Securities Acquired by Qualified Institutional Investors

(1) General Solicitation for Securities Acquired by Qualified Institutional Investors

General solicitation for securities acquired by qualified institutional investors refers to a solicitation to persons, as counterparties, other than qualified institutional investors for application to sell or solicitation for application to purchase in the course of distributing securities designed for qualified institutional investors (which refers to securities for which solicitation for application to purchase is made to qualified institutional investors within a solicitation to qualified institutional investors, and for which the securities are encumbered by restrictions on resale to prevent assignment from the acquirer to any person other than a qualified institutional investor) (FIEA, Article 4(2)).

(2) Filing with the Prime Minister and Restrictions on Solicitation

A qualified institutional investor cannot make a general solicitation for securities acquired by qualified institutional investors, towards persons other than a qualified institutional investor, unless the issuer of the securities has made a filing with the Prime Minister (FIEA, Article 4(2)). Even in the event of a general solicitation for securities acquired by qualified institutional investors, however, a filing does not have to be made with the Prime Minister if the qualified institutional investor will make the solicitation to the issuing company (i.e., cases in which the issuing company will buy back the securities, such as when it acquires its own shares), etc. (FIEA, Article 4(2), *proviso*; and Corporate Affairs Disclosure Ordinance, Article 2-4).

Investment solicitation may be performed immediately after the filing with the Prime Minister. However, parties cannot be allowed to acquire or sell the securities as a result of the solicitation until the filing has come into effect (FIEA, Article 15(1)). Moreover, a prospectus must be delivered (FIEA, Article 15(2)).

In principle, the filing will take effect with the expiration of 15 days from the time the Prime Minister accepts the filing. If the Prime Minister permits, however, the filing can have effect in general after the expiration of seven days (and the period can be further reduced in the event of an amended

filing of matters in connection with securities information) (FIEA, Article 8(1) and (3); and Guidelines Concerning Corporate Affairs Disclosure 8-2).

<Relevant Laws and Regulations> Rules Concerning Solicitation, Etc. of Sale and Purchase, Etc. of Domestic CPs, Etc. and Private Placement Corporate Bonds

8 Regulations Concerning Solicitation to Professional Investors, Etc.

8 1 Exclusive Solicitation of Offers to Acquire Targeting Professional Investors and Exclusive Offers to Sell, Etc. to Professional Investors

Neither a public offering nor a secondary distribution will occur in the event of solicitation of offers to acquire or offer to sell, etc. that is conducted solely towards professional investors, as long as the two following requirements are satisfied: (i) the Association Member in principle will conduct the soliciting on consignment, etc. from the person who wishes to make the sale, or on behalf of the financial instruments business operator, etc. itself, and (ii) the securities constitute those for which the possibility is minimal that they will be assigned to persons other than a professional investor, etc. (FIEA, Article 2(3) and (4)).

Nevertheless, unless a securities registration statement has been filed, in principle, a solicitation other than a solicitation for sale, etc. to professional investors, etc. that is contracted to an Association Member (a general solicitation for securities acquired by professional investors, etc.) cannot be carried out (FIEA, Article 4(3)).

8 2 Notice and Delivery of Document

A person who will engage in a solicitation, etc. for acquisition of securities to professional investors must notify the other party to the soliciting, etc. that a filing has not been made in connection with the soliciting, etc., and of other matters (FIEA, Article 23-13(3)). Moreover, with regard to securities for professional investors, an Association Member must not, in principle, carry out investment solicitation or other acts towards or on behalf of a general investor except in cases where a securities registration statement has been filed, or other such cases (FIEA, Article 40-4). If an application for acquisition of securities for professional investors is received from a professional investor, etc. (excluding qualified institutional investors, etc.) for the first time, notification and delivery of a document must be made prior to entering into the contract. The document must state (i) material matters of the system concerning securities for professional investors, and (ii) that protection of investors will be undermined in the event that transaction in securities for professional investors is conducted by a person for whom in view of that person's knowledge, experience or financial standing, the engaging in transactions in securities for

professional investors is not suitable. (FIEA, Article 40-5).

Exclusive solicitation of offers to acquire targeting professional investors, etc. must provide to the other party to the acquisition, or publicly announce, certain information (specified information on securities) concerning the securities and the issuer thereof (FIEA, Article 27-31). Moreover, the issuer of securities for professional investors must at least once a year provide to the holders of the securities, or publicly announce, information concerning the issuer (issuer information) (FIEA, Article 27-32).

8 3 Solicitation of Professional Investors for Investment in OTC Securities, Etc.

On July 1, 2022, the Rules Concerning Solicitation of Professional Investors for Investment, Etc. in Over-The-Counter Securities (hereinafter referred to as the "Professional Investors Solicitation Rules" came into effect, introducing regulations for the case of soliciting professional investors to invest in OTC securities (meaning OTC securities prescribed in Article 2(i) of the OTC Securities Rules) and investment trusts, etc. (meaning beneficiary certificates of an investment trust prescribed in Article 2(1)(x) of the FIEA, or investment securities or investment equity subscription right certificates prescribed in Article 2(1)(xi) of the FIEA, which are not listed on a financial instruments exchange market) (hereinafter referred to as "OTC securities, etc." in this section). This has enabled Designated Association Members (meaning Association Members designated by the JSDA as being qualified to conduct solicitation for investment in OTC securities, etc. pursuant to the provisions of the Professional Investors Solicitation Rules (*id.,* Article 2(ix))) to make private placement for professional investors (limited to the case set forth in Article 2(3)(ii) (b) of the FIEA; hereinafter the same applies in this section) or an exclusive offer to sell, etc. to professional investors or conduct solicitation in handling these (*id.,* Article 8). When making an exclusive offer to sell, etc. to professional investors or conducting solicitation for investment that constitutes the handling thereof, Designated Association Members are allowed to solicit customers who hold the OTC securities, etc. subject to the solicitation for investment to sell these securities, etc. (*id.,* Article 9).

A Designated Association Member must identify the characteristics and risks of the OTC securities, etc. for which it intends to solicit new customers (Note) for investment, and verify whether the customers are suitable to be solicited for investment and the scope of customers whom it solicits for investment (*id.,* Article 3(1)).

When verifying OTC securities, etc., a Designated Association Member must examine certain matters according to the category of securities pursuant to the internal rules it has formulated, and preserve the results of the verification and examination for five years (*id.,* Article 3(2) and (3)).

(Note) The "customers" mentioned here are limited to professional investors (meaning professional investors prescribed in Article 2(31) of the FIEA (excluding those who are deemed to be customers other than professional investors pursuant to the provisions of Article 34-2(5) of the FIEA, and including those who are deemed to be professional investors pursuant to the provisions of Article 34-3(4) of the FIEA (including as applied *mutatis mutandis* pursuant to Article 34-4(6) of the FIEA))). (hereinafter the same applies

in this section, except for the statements concerning Article 9, Article 10, and the main clause of Article 11 of the Professional Investors Solicitation Rules).

A Designated Association Member may conduct solicitation for investment in OTC securities, etc. only if the specified information on securities (FIEA, Article 27-31(1)) regarding these OTC securities, etc. is provided to the solicited person or disclosed to the public by the method prescribed in the Professional Investors Solicitation Rules (*id.,* Article 6(1)). In principle, the Designated Association Member must provide the information on the issuer (FIEA, Article 27-32(1)) regarding the OTC securities, etc. to the customers who have come to hold the OTC securities, etc. through such solicitation or disclose such information to the public, or must confirm that the issuer has provided or disclosed that information (Professional Investors Solicitation Rules, Article 7(1)). The Professional Investors Solicitation Rules specify the formats of specified information on securities and information on the issuer, and the JSDA separately provides for instructions on how to describe these types of information (*id.,* Article 6(3) and Article 7(3)).

When a customer (Note) intends to purchase any of OTC securities or investment trusts, etc. as a result of solicitation for investment conducted by a Designated Association Member under Article 8 of the Professional Investors Solicitation Rules, the Designated Association Member shall provide the customer with a document in which the risks according to the category of the securities are described, and explain the risks to the customer, and shall collect from the customer a confirmation document to confirm that the customer understands the content of the explanation and will conduct the transaction based on the customer's own judgment and responsibility (*id.,* Article 10).

When conducting solicitation for investment regarding a purchase by a customer under Article 8 of the Professional Investors Solicitation Rules, a Designated Association Member must deliver to a customer whom it solicits for investment an explanatory document in which certain matters concerning individual issues are described, and adequately explain these matters to the customer (*id.,* Article 11(1)).

(Notes) The "customer" mentioned here is limited to those who are deemed to be professional investors pursuant to the provisions of Article 34-3(4) of the FIEA as applied *mutatis mutandis* pursuant to Article 34-4(6) of the FIEA.

The Professional Investors Solicitation Rules also provide for the elimination of antisocial forces (*id.,* Article 4 and 5) and the development of internal systems and handling guidelines (*id.,* Article 12(1) and (2)).

The Professional Investors Solicitation Rules apply to domestic securities. With regard to foreign share certificates, foreign share option certificates, bond certificates with foreign share options, foreign investment trust beneficiary certificates, foreign investment securities or foreign investment equity subscription right certificates, the Foreign Securities Rules provide for application *mutatis mutandis* thereof under the Professional Investors Solicitation Rules, thus putting in place the same provisions as those applicable to domestic securities (Foreign Securities Rules, Articles 49 to 52).

<Relevant Sections of this Manual> Chapter IV. 12.8 Solicitation of Professional Investors for Foreign Securities

9 Delivery of Prospectuses

9 1 Delivery of Prospectuses

(1) Significance of Prospectus

A prospectus refers to a document for a purpose such as a public offering or secondary distribution, and which explains the business and various other matters of an issuer of securities. A prospectus is delivered to the counterparty or is to be delivered to the other party upon a delivery request by the counterparty (FIEA, Article 2(10)). Prospectuses are classified into those which must be delivered to an investor (mandatory delivery prospectus) and prospectuses that are to be delivered if requested by an investor (prospectus deliverable upon request). Entries to be made in a required delivery prospectus are stipulated as containing those matters that are stipulated by the Cabinet Office Ordinance as being information that would have an extremely important impact on the investment decisions of an investor, while a prospectus deliverable upon request is to contain those matters that are stipulated by the Cabinet Office Ordinance as information that would have an important impact on the investment decisions of an investor (FIEA, Article 13(2)). A prospectus that is to be delivered on request is only allowed for investment trust beneficiary certificates, foreign investment trust beneficiary certificates, investment securities, investment equity subscription right certificates or investment corporation bonds, or foreign investment securities (FIEA, Article 15(3); and FIEAEO, Article 3-2). A prospectus deliverable upon request does not exist for other securities such as shares and bonds, and in all such cases the prospectuses for these instruments are mandatory delivery prospectus (for details see “10.1. Delivery of Prospectuses” in this Chapter). An issuer is permitted to use a title that is more easily understood to investors, and not use the word “prospectus,” but it is necessary to have a statement which explicitly prescribes that the document is a prospectus pursuant to Article 13 of the FIEA (Guidelines Concerning Corporate Affairs Disclosure 13-5).

An issuer of securities is required to compile a prospectus at the time of a public offering or secondary distribution (FIEA, Article 13(1)). However, this requirement is waived for securities that are also exempt from the requirement to file a registration with the Prime Minister for a public offering or secondary distribution (for details, see “5. Public Offering or Secondary Distribution” in this Chapter).

(2) Delivery of Mandatory Delivery Prospectus

(i) Principle

A mandatory delivery prospectus is a disclosure document that is to be given directly to the investor, and serves a very important function in the form of information on which the investor bases its decisions at the time of investment. For this reason, the FIEA defines the entries to be made in a required delivery prospectus, and in principle requires that Association Members, etc. to deliver mandatory delivery prospectus to investors prior to or at the time that the Association Member, etc. has securities acquired or sold through a public offering or secondary distribution

(FIEA, Article 15(2)).

(ii) Exceptions

Delivery of a mandatory delivery prospectus is required for a public offering or secondary distribution. Consequently, a required delivery prospectus need not be delivered in cases that are not covered under a public offering or secondary distribution, including instances in which only a few entities, i.e., less than 50, are solicited, and when only qualified institutional investors are solicited. Moreover, even in the event of a public offering or secondary distribution, delivery of a mandatory delivery prospectus is not required in the following circumstances (FIEA, Article 15(2), *proviso*):

a. There is no obligation to deliver a mandatory delivery prospectus to a qualified institutional investor unless a delivery request is made by the time of acquisition; and

b. There is no obligation to deliver in the event that any of the following persons consents to non-delivery: a person who already owns the same issues as the securities which that person is to acquire or to be sold to that person, or a person for someone in the same residence has already received or is expected to receive the prospectus without fail. If, however, the person who has so consented then requests delivery prior to acquiring the securities, the mandatory delivery prospectus must be delivered.

When an Association Member, *et al.,* intends to obtain confirmation of consent to non-delivery of a prospectus, this confirmation is to be obtained by an explicit method such as preserving a letter of consent obtained from the said person, or preserving a record of consent that has been sent from that person's computer (Guidelines Concerning Corporate Affairs Disclosure 15-3).

9 2 Using Preliminary Prospectus, Etc.

Investment solicitation in association with a public offering or secondary distribution may be made immediately after a filing is made with the Prime Minister. In general, a preliminary prospectus is used during the period before the filing takes effect. This preliminary prospectus contains undetermined or blank entries for important matters relating to the public offering or secondary distribution, such as the issue price or sale price, or the interest rate. When the issuing company determines the matters that have been left undecided, or for which no entry has been made, the company may compile an "Addenda to the Preliminary Prospectus," amend the preliminary prospectus by means such as inserting the addenda into the preliminary prospectus, and use these amended copies as the formal prospectus (FIEA, Article 5(1), *proviso*, and Article 13(2); Corporate Affairs Disclosure Ordinance, Article 9; and Guidelines Concerning Corporate Affairs Disclosure 13-3).

Delivery of the formal prospectus, however, is not required if the preliminary prospectus delivered without stating the issue price, etc. contains a statement to the effect that the issue price, etc. will be published as well as the method of publication, and if the issue price, etc. is published by that method of publication (FIEA, Article 15(5)). The method of publication here shall mean (i) a method of statement

in at least two daily newspapers; (ii) a statement made in at least one daily newspaper and made available for inspection over the Internet at the website of the issuer or the person who intends to have the securities acquired by the public offering or secondary distribution; or (iii) a method to make available for inspection over the Internet at the website or other means (*e.g.,* delivery of document and e-mails) and to directly confirm, by the issuer or the person who intends to acquire the securities by public offering or secondary distribution by telephone or other means, with the counterparty, to the effect that the said counterparty has acquired the information pertaining to the relevant matter through such means (Corporate Affairs Disclosure Ordinance, Article 14-2).

9 3 Using Electromagnetic Method to Provide Prospectuses and Other Documents

In principle, an Association Member must deliver a prospectus in paper form prior to or at the same time as the Association Member has an investor acquire securities through a public offering or secondary distribution (FIEA, Article 15(2)).

Nevertheless, an Association Member, in lieu of delivering a prospectus in actual paper form, may provide the person who is to receive the delivery of the prospectus (hereinafter referred to as the "prospectus recipient" in this Section) with the matters to be set forth in the prospectus by an electromagnetic method, if the Association Member discloses in advance the type and nature of the electromagnetic method specified in the Corporate Affairs Disclosure Ordinance (Article 23-2(2) thereof), and satisfies certain requirements, such as: (i) obtain consent from the prospectus recipient by an electromagnetic method or by telephone or any other means regarding the provision of the matters to be set forth in the prospectus by the electromagnetic method, or (ii) provide concise material information (Note) and also provide explanation on the matters specified in Article 37-3(1)(iii) through (vii) of the FIEA (in the case prescribed in Article 80(1)(iv)(b) of the FIBCOO, limited to the matters concerning the amendment), according to a method and to the extent necessary for the customer to understand the transaction, in light of the prospectus recipient's knowledge, experience, financial standing and purpose for entering into the contract for financial instruments transaction (excluding cases where the prospectus recipient requests the delivery of the prospectus in paper form). (FIEA, Article 27-30-9(1); Corporate Affairs Disclosure Ordinance, Article 23-2). Even if a customer has agreed to delivery in electronic form, however, if the customer then states that the customer will no longer accept electronic delivery, the Association Member must thereafter deliver prospectuses in paper form and not by electromagnetic method (Corporate Affairs Disclosure Ordinance, Article 23-2(7)).

(Notes) "Providing concise material information" means delivering a document in which the matters set forth in (i) to (iii) below are stated concisely or providing by electromagnetic method the matters to be stated in that document, and providing explanation on these matters (including answering questions from the prospectus recipient based on the sample questions mentioned in (i) below) (Article 23-2(4) of the Corporate Affairs Disclosure Ordinance):

(i) an outline and sample questions concerning the matters set forth in the items of Article 37-3(1) of the FIEA (in the case prescribed in Article 80(1)(iv)(b) of the FIBCOO, limited to those concerning the amendment referred to in that item), which contribute to the prospectus recipient's decision on entering into a contract for financial instruments transaction;
(ii) necessary information in order for the prospectus recipient to receive the matters to be stated in a prospectus which are provided thereto, and an instruction that the prospectus recipient must fully read the content of these matters;
(iii) a notice that a prospectus is to be delivered upon the request of the prospectus recipient.

<Relevant Laws and Regulations> Ordinance on Disclosure of Regulated Securities, Article 32-2; Cabinet Office Ordinance on Disclosure of Information on Issuers of Foreign Government Bonds, Article 18-2

9 4 Use of Other Materials Aside from a Prospectus

False or misleading representations must not be made when using any document, graphics, audio or other materials other than a prospectus for the purpose of a public offering or secondary distribution of securities (FIEA, Article 13(5)). The phrase "other materials" here includes any representation in an advertisement on television, radio, the Internet, in a newspaper or magazine, or any oral representation or the like, or a summary, etc. of the content stated in a prospectus (Guidelines Concerning Corporate Affairs Disclosure 13-4). The following matters must be taken into consideration in connection with "other materials":

(i) Although these other materials may be used prior to delivery of a prospectus (Guidelines Concerning Corporate Affairs Disclosure 13-6), their use does not satisfy the obligation to deliver a prospectus. In order to avoid a misunderstanding that these other materials, if they are used, constitute a prospectus, a statement must be made in these other materials such as "any investment decision should be made after reviewing the prospectus," as well as "the place from which and the method of obtaining the prospectus" (for the representation of "the place from which the prospectus can be obtained," stating only the location in connection with the sales company that uses these other materials would be sufficient) (Guidelines Concerning Corporate Affairs Disclosure 13-7);
(ii) Since these other materials must not contain any false or misleading representation, they must not have any statement or the like which contradicts the substance of the formal prospectus, or which arbitrarily distorts the content thereof, or which emphasizes only certain portions to a particular advantage;
(iii) Business forecasts that have been disclosed pursuant to the regulations of a financial

instruments exchange (including similar statements in the event of an unlisted company) may be used as other materials, provided that if a business forecast is used, a statement must also be made concerning the assumptions that constitute the basis for the forecasts (Guidelines Concerning Corporate Affairs Disclosure 13-8).

<Relevant Laws and Regulations> FIEA, Article 3, Article 4(2) and Article 5; Guidelines Concerning Corporate Affairs Disclosure 13-2; and Questions and Answers concerning the Prospectus of Investment Trusts, Etc. (April 2010 Edition)

10 Investment Solicitation for Investment Trust Beneficiary Certificates

10 1 Delivery of Prospectuses

Solicitation to at least 50 persons excluding qualified institutional investors under certain conditions, for offers to acquire investment trust beneficiary certificates, constitutes a "public offering" that requires filing with the Prime Minister, by the investment trust settlor company. In principle, the securities company is required to deliver to investors a mandatory delivery prospectus prepared by the investment trust settlor company, or a prospectus deliverable upon request in the event that a request has been made by an investor, either prior to or at the time the investor acquires the beneficiary certificates or the beneficiary certificates are sold to the investor, after the registration statement has taken effect (FIEA, Article 2(3), Article 4, Article 13, and Article 15; for details, see "9.3. Using Electromagnetic Method to Provide Prospectuses and Other Documents" in this Chapter).

Prospectuses in connection with beneficiary certificates in an investment trust are classified into those that must be delivered to an investor and those which are to be delivered on request by the investor. This classification is made from the perspective that a prospectus should be in a form that is easy for the investor to use and understand, and consequently, a balance must be maintained between streamlining of the statements and the content, etc. in a prospectus, and protecting investors through providing the information that is necessary for an investment decision (FIEA, Article 13(2), Article 15(2) and (3); FIEAEO, Article 3-2; and Ordinance on Disclosure of Regulated Securities, Article 15 through Article 16-3).

From this perspective, a mandatory delivery prospectus in connection with beneficiary certificates in domestic investment trust must state "Basic Information" including the name of the fund, information on the settlor company, etc., as well as the objectives, characteristics, investment risk, investment performance, procedures and commissions of the fund; and "Supplemental Information" consisting of those matters that will have an extremely important impact on the investment decisions of an investor within the other matters set forth in the securities registration statement (Form 25 of Ordinance on Disclosure of Regulated Securities). On the other hand, a prospectus deliverable upon request is to state

the same content as set forth in the securities registration statements.

The content of the mandatory delivery prospectus has been limited to important information, while the prospectus deliverable upon request is to state the matters set forth in the securities registration statement, so it has become desirable for these to be delivered without being combined into the same volume.

The duty to deliver a mandatory delivery prospectus is waived if the counterparty is a qualified institutional investor, or if the person who already owns the same issue as securities which the person is to acquire or for whom a person living in the same residence therewith has already received the prospectus or is expected to receive the prospectus without fail agrees not to receive the delivery of the prospectus (for details, see "9.1. Delivery of Prospectuses" of this Chapter). It is necessary to be aware, however, that even in the event that a prospectus is not delivered as a result of this exception to the general rule, it may be necessary once again to deliver a prospectus that has been newly prepared if it is determined as a result of a comparison between the contents stated in the prospectus that has been newly prepared by the issuer of the securities involved in the prospectus, and the statements made in the prospectus that was not delivered, shows that a material change has been made in matters such as the investment policy, investment risk, commissions, etc., and taxes, procedures, etc., or management and operations, or a change in the invested assets (replacement of the investment assets, or replacement of the issues, etc. in the invested assets) (Guidelines on Disclosure of Regulated Securities 15-1).

Sales of investment trust beneficiary certificates which do not constitute "solicitation" of investors by an Association Member would not be covered under a "public offering" as prescribed in Article 2(3) of the FIEA (solicitation for an application to acquire newly issued securities), and consequently, interpretation holds that a prospectus does not have to be delivered to an investor under the following situations ("Concerning Delivery of a Prospectus in Connection With a Securities Investment Trust" (Notification to Members of May 31, 2000), and "Concerning Handling the Delivery of a Prospectus in Connection With a Securities Investment Trust (No. 2)" (Notification to Members of November 28, 2000)):

(i) Where the Association Member delivers a prospectus to the investor upon concluding a cumulative investment agreement, an employee vested savings plan (*zaikei keiyaku*), or an automatic reinvestment agreement with the investor, and where the investor purchases the beneficiary certificates periodically and automatically based on the cumulative investment agreement or the like;

(ii) Where the Association Member delivers a prospectus to an investor at the time the investor opens a cumulative investment account, and where the investor purchases beneficiary certificates using an automatic teller machine (including linked ATM networks), at the investor's own intention and judgment without being solicited by the Association Member;

(iii) Where the Association Member delivers a prospectus to an investor at the time of initial sale, etc. of an MRF, MMFs, or a medium-term government bond fund, and the investor thereafter purchases the beneficiary certificates in an investment trust using the website of the Association Member at the investor's own intention and judgment without being solicited by the Association Member.

10 2 Private Placements of Investment Trust Beneficiary Certificates

Solicitation for an application to acquire beneficiary certificates in newly issued investment trusts will meet the requirements for a private placement under the FIEA if: (i) the solicitation is made only to qualified institutional investors and has certain restrictions against resale (professional private placements), (ii) the solicitation is made only to professional investors under certain conditions (exclusive solicitation of offers to acquire targeting professional investors), or (iii) the solicitation is made to less than 50 persons excluding qualified institutional investors, with certain restrictions on resale (private placement for small number of investors). Consequently, in this case, the requirement to file a registration statement to the Prime Minister is waived, and preparation and delivery of a prospectus is not required (FIEA, Article 2(3); and FIEAEO, Article 1-4(iii), Article 1-5, Article 1-5-2, and Article 1-7(ii)(c)).

10 3 Duty of Explanation upon Soliciting the Switching of Investment Trusts, Etc.

When soliciting the switching of investment trust beneficiary certificates, etc. (beneficiary certificates in investment trusts or foreign investment trusts, or investment securities or foreign investment securities that are securities similar to investment securities), an Association Member must explain important matters to the customer concerning the switching of investments (excluding professional investors), (FIEA, Article 40(ii); FIBCOO, Article 123(1)(ix); and Employees Rules, Article 7(xxiv)). “Switching” here means the redeeming or repurchase of or selling or consignment thereof, etc. of some of the investment units of an investment trust or the like that are currently held, together with a solicitation to the customer to acquire, purchase or consign the same, etc. of another investment trust or the like, so that the acquisition and repurchase take place as one basket transaction. Matters to be explained to a customer upon soliciting switching as information necessary for the customer to make a judgment as to whether there is a rationale for the switching may include roughly calculated profit and loss of the investment trust, etc. to be cancelled and comparisons of merchantability and expenses between the investment trust, etc. to be cancelled and that to be newly acquired, in addition to general items to be explained in relation to sale of investment trusts, etc., but it shall be noted that explanations may vary by case depending on each customer’s knowledge, experience, status of assets, investment purposes, and the characteristics of relevant investment trusts, etc. (FIBO Supervision Guidelines IV-3-1-2(5); applied *mutatis mutandis* to Special Members under VIII-1). In order to fulfill this duty to explain, a financial instruments business operator, etc. must also put in place an internal administration system covering areas such as preparing, preserving and monitoring internal documents in connection with explanations given.

The instruments such as money reserve funds (MRF), money market funds (MMFs), medium-term government bond funds, and funds having the similar nature thereof (foreign currency denominated MMFs), as well as those listed on a financial instruments exchange (for example exchange traded funds

(ETFs) or listed real estate investment trusts (REITs)) are not covered by the obligation of explanation.

<Relevant Laws and Regulations> Guidelines for the Duty of Explanation upon Soliciting the Switching of Investment Trusts, Etc.

10 4 Explanation, Etc. Concerning Investment Trusts

Given that investment trusts are instruments that are solicited and sold to a broad range of customer groups, including ordinary customers who do not have sufficient expert knowledge and experience, it is important to conduct solicitation that is appropriate according to the customer's knowledge, experience and investment intention. Accordingly, regarding solicitation of investment trust products, supervisors shall conduct supervision by paying particular attention to the following points, for example. (FIBO Supervision Guidelines IV-3-1-2(4); applied *mutatis mutandis* to Special Members under VIII-1; the same shall apply in 10.4.).

(i) Upon soliciting investment trusts, whether the items listed below are explained in a comprehensible way in terms of the expenses to be borne by customers, such as the sales commissions, etc. (excluding the professional investors; the same shall apply in (ii) and (iii)):
   a. The sales commission rates and the sales commission amounts depending on the purchase prices of the investment trusts to be solicited (general estimates when the amounts cannot be determined upon solicitation);
   b. The expenses to be borne by the customer after the purchase of the solicited investment trusts (trust fees (with respect to investment trusts that are managed by the Fund of Funds methodology, the substantive burden rate of expenses including the management expense of the funds subject to investment), partial redemption charges, etc.)

(ii) With respect to dividends on investment trusts, whether it is explained to customers, in an easily understandable manner, that all or part of the dividends may correspond to a partial repayment of principal.

(iii) Given that multi-currency funds involve not only a risk that the price of the invested asset will fluctuate but also the complex risk of currency fluctuation, when entering a contract with a customer that has no experience in investing in multi-currency funds, whether the financial instruments business operator takes measures, such as receiving a written confirmation from the customer to the effect that he/she has understood the product characteristics and risk profile, and keeping the written confirmation.

When selling high-risk instruments, such as multi-currency funds, to customers who are focused on the security of their principal, the financial instruments business operator is required to conduct careful sales management, such as adopting a system of management approval (FIBO Supervision Guidelines III-2-3-1(1)(iii)(b)).

Moreover, in regard to the system for providing the explanation to the customers, the following viewpoint was added: In cases where sudden changes in market trends or an event having a material

impact on markets has had a serious impact on the net asset value of an investment trust, whether the financial instruments business operator strives to provide information to customers in a timely and appropriate manner, and whether it provides customers with careful support for their investment decisions (FIBO Supervision Guidelines III-2-3-4-(1)(ii)(f)).

With regard to investment trusts, etc. to be purchased by individual customers (excluding professional investors), Association Members are required to notify the customers of their profit and loss in the purchased investment trusts, etc. (i.e., total return) at least once a year, as of the record day designated by the selling companies (Investment Solicitation Rules, Article 23-2). More specifically, with regard to a certain scope of investment trusts, etc. kept in custody on entrustment from customers or managed based on entries or records in the book-entry account registers, Association Members are required to notify the customers of their total return calculated using the formula: "(appraised value + cumulative dividend received + cumulative sales) – cumulative purchases," as specified in the appendix to the Investment Solicitation Rules.

10 5 Points of Concern Regarding Sales of Investment Trusts, Etc. That Partially Invest in Assets Other than Specified Assets

The primary purpose of investment trusts and investment corporations under the Investment Trust Act is to manage funds by investing in specified assets, and they are given special institutional status as a means of long-term and stable asset formation of general public. On the other hand, with respect to funds that partially invest in assets other than specified assets, such as cryptoassets, it has been pointed out that investments in cryptoassets encourages speculation. Based on the foregoing, it is considered inappropriate to sell products as set forth below (FIBO Supervision Guidelines IV-3-1-2 (9) (applied *mutatis mutandis* to Special Members under VIII-1)).

(i) Products that invest in assets other than specified assets (hereinafter referred to as "Non-Specified Assets" in this section) or products that invest in specified assets that has substantially similar characteristics as Non-Specified Assets, such as fund equity interest, etc. that invest in Non-Specified Assets (hereinafter referred to as "Non-Specified Assets, etc." in this section); provided, however, that this shall not apply if Non-Specified Assets, etc. has a public nature; or

(ii) Upon investing in assets other than the fund's investment objective, products that invest in Non-Specified Assets with higher risk of price fluctuations, liquidity, etc., compared with the risk of specified assets, which are the original investment objective of the fund.

When investing in assets other than fund's investment objective, even if it is a product that invests in Non-Specified Assets, etc. with low price fluctuations and liquidity risk, Association Members are required to refrain from making the sales as set forth below.

a. Sale of products with name that are suggestive of Non-Specified Assets;
b. Conduct solicitation and sale that emphasizes investment in Non-Specified Assets; or
c. Even though the investor bears the risk of holding Non-Specified Assets, etc., sale to customers with inadequate understanding, without giving sufficient risk explanation or confirming customer's level of understanding.

Special Member

10 6 Explanation Necessary for Preventing Confusion with Deposits, Etc.

When a Special Member handles any of the securities as set forth in Article 33(2)(i) to (iv) of the FIEA (excluding government bonds securities, etc. and securities index consisting of government bond securities only) as the registered financial institution business, it must provide the customer with explanations on the matters listed below to prevent the customer from mistaking the securities for deposits, etc. by an appropriate method such as distributing documents or other means, according to the business method and based on the knowledge, experience and financial standing of the customer. When a Special Member handles these securities in its business office or office, the Special Member must display the matters listed in (i) to (iv) below at a place where the customers using such securities handling counter can see them on the spot; provided, however, that if a Special Member gives the above explanation prior to handling such securities, and if a document will be delivered or presented (including being displayed on the screen of a tablet terminal, etc.) before execution, the aforementioned matters may be presented at a place other than the assigned place (Investment Solicitation Rules, Article 10).

(i) The securities are not deposits, etc. (or not an insurance policy in the case of an insurance company);
(ii) The securities are not covered by the insurance payment prescribed in the provisions of Article 53 of the Deposit Insurance Act (or not subject to the contracts for compensation prescribed in Article 270-3(2)(i) of the Insurance Business Act in the case of an insurance company);
(iii) The securities are not covered by the payment to general investors pursuant to Article 79-56 of the FIEA under the Investors Protection Fund prescribed in Article 79-21 of the FIEA (limited to cases where a Special Member keeps the securities for custody);
(iv) Repayment of the principal is not guaranteed;
(v) The party to the contract; and
(vi) Other matters that are useful for preventing customers from mistaking the securities for deposits, etc.

<Relevant Sections of this Manual> Chapter VII. 39 Preventing Confusion with Deposits, Etc.

10 7 Points of Concern Regarding Solicitation for Transactions Using Tax Exemption Scheme for Small-Amount Investments (NISA)

The tax exemption scheme for small-amount investments introduced in January 2014 as a structure to support stable asset building by households (hereinafter referred to as the "NISA program") was fundamentally expanded and was renewed as a permanent program in January 2024 from the perspective of accelerating a shift of household financial assets from savings to investment and developing an environment that enables households, particularly the middle class, to enjoy the benefits of growth through broad participation in the capital market. More specifically, the period of tax-exempt holding

was made indefinite and the account validity period was made permanent to enable people to build assets continuously from early in life to later in life through long-term, installment and diversified investment. In addition, the annual investment quota was expanded to respond to individuals' needs for making investments intensively during a short term when they have surplus funds in accordance with their life stages. Furthermore, from the perspective of further strongly backing up a fund flow from households to the capital market, which will lead to companies' growth investment, the growth investment quota to enable investment in listed shares was newly introduced and it was made possible to use this quota concurrently with the quota for long-term, installment and diversified investment in certain investment trusts (the "installment investment quota").

The NISA program is a scheme to exempt tax with respect to gains from financial instruments purchased within the extent of annual investment limit, and its purpose is to encourage those who have not built assets by investing in financial instruments to build assets by such method.

(Note) Following the introduction of a tax exemption scheme for small-amount investments for adults (hereinafter referred to as the "General NISA") in January 2014, a tax exemption scheme for small-amount investments for minors (hereinafter referred to as the "Junior NISA") was introduced in April 2016, and then, a tax exemption scheme for small-amount investments especially for installment investment (hereinafter referred to as "*Tsumitate* (Installment-type) NISA") was introduced in January 2018. Under the Junior NISA, the period available for opening accounts will end at the end of 2023, and no new account can be opened and no new purchase can be made in 2024 and onward. Under the General NISA and *Tsumitate* (Installment-type) NISA, the account establishment period will end at the end of 2023, and no new purchase can be made in 2024 and onward.

Accordingly, in order to ensure that the NISA program will be used appropriately in accordance with its design and purpose of supporting customers in mid- to long-term asset building, Association Members should improve financial (investment) literacy among customers based on "Matters to be Noted Upon Opening Accounts for, Soliciting and Selling, etc. NISA program (Guideline)" (NISA Promotion Liaison Council), and endeavor to properly provide basic information concerning investment, such as an explanation of the effect of mid- to long-term investment or diversified investment, in collaboration with the initiatives by the government, etc. for financial and economic education, from the perspective that such efforts toward asset building are beneficial to both customers and securities companies, etc. Furthermore, in addition to providing explanation based on the principle of suitability, etc., when soliciting, or receiving an application etc., for opening a tax-exempt account pertaining to the NISA program (hereinafter referred to as "NISA accounts"), they are also required to provide customers with appropriate and timely explanations on the following matters, as necessary (FIBO Supervision Guidelines IV-3-1-2 (8) (i) A, B; (applied *mutatis mutandis* to Special Members under VIII-1; Matters to be Noted Upon Opening Accounts for, Soliciting and Selling, etc. NISA program (Guideline)):

[Explanation on NISA program]

(i) Only one account can be opened (with one financial institution, etc.) in the same year per person.

Under the NISA program, from the perspective of simplifying the program while enabling the tax authorities and financial institutions, etc. to manage annual investment limits appropriately, customers are allowed to open only one account (with one financial institution, etc.) per person in the same year, unlike specified accounts. Therefore, (i) financial institutions, etc. should explain to customers that each customer is allowed to open only one account (with one financial institution, etc.) in the same year (except when they change the financial institutions, etc.), and that customers are also not allowed to transfer the listed shares, etc. in an account to another account in a different financial institution, etc. In addition, (ii) financial institutions, etc. should explain the types of financial instruments they may handle, according to the needs of customers using the NISA program.

(ii) Losses do not exist for tax purposes, and losses cannot be used to offset gains.
(iii) There is an annual investment limit and maximum amount of tax-exempt holdings.
(iv) Dividends, etc. not distributed through the financial institution with an account will not be exempt from tax.
(v) Name and address as of base date will be required to be confirmed.
(iv) Procedure upon the departure from Japan.
(vii) In principle, the estimated value of trust fees, etc., will be notified once a year.

[Specific matters to be noted regarding the installment investment quota]

(i) Purchase is to be made on a regular and continuing method based on an installment agreement (cumulative investment agreement).
(ii) Eligible products are limited to a prescribed scope of investment trusts suited to long-term, installment or diversified investment.

[Specific matters to be noted regarding the growth investment quota]

○ Eligible products are limited to those suited to the purpose of the NISA program (stable asset building).

Under the FIBO Supervision Guidelines, an Association Member is required to provide products, mainly financial instruments, etc., that will truly contribute to building stable assets of customers based on the principle of suitability, etc., while taking into consideration (i) the purpose of the NISA program, which was introduced as a system to encourage stable asset building by households, and (ii) the customers' objective, etc., to use the NISA program. In addition, upon determining whether or not a product will contribute to stable asset building by customers, each Association Member is required not only to consider the characteristics of individual products, but also to fully take note of the customer's overall portfolio balance. In light of the purpose, etc. of the NISA program, solicitation of unreasonable short-term rollovers using the growth investment quota does not lead to the stable asset building of customers. Therefore, an Association Member is required to not solicit customers for such type of investment (FIBO Supervision Guidelines IV-3-1-2(8)(ii)). Furthermore, for Junior NISA, the period for opening an account ended as of the last day of December 2023, and from 2024 and onwards, no new purchase of listed shares, etc. can be made via Junior NISA accounts. Junior NISA accounts will remain eligible for tax exemption measures until the account holders reach the age of 18. By transferring listed shares, etc. to the continuous management account established in the Junior NISA account, the account

holder can continue to hold the listed shares, etc. with no tax imposed, until December 31 of the year preceding the year in which the account holder is aged 18 as of January 1. An Association Member is required to appropriately manage the account by sending a transaction balance report, etc. to the account holder depending on the Junior NISA account holder's age, and confirming at the time of payout that the funds in such account belong to the account holder and that the fund will be used for such account holder, so that the Junior NISA account will not be used by the person with parental authority as an account under a false name (FIBO Supervision Guidelines IV-3-1-2(8)(iii)).

(Notes) The annual investment quota of the NISA program is 1.2 million yen per year for the installment investment quota which takes over the role of the *Tsumitate* (Installment-type) NISA, and 24 million yen per year for the growth investment quota which takes over the role of General NISA.

Regular Member

11 Duty to Explain Material Events upon Public Offering or Secondary Distribution of Bonds

If an Association Member intends to sell to or have an individual customer (excluding a professional investor) acquire corporate bonds or foreign bonds by means of a secondary distribution or handling a public offering or secondary distribution, the Association Member must explain material events that would have an impact on the investment decision and which have occurred during the offering period (FIEA, Article 40(ii); and FIBCOO, Article 123(1)(xi)). Specifically, the following would be material events that would have an impact on investment decisions, and would require an explanation:

(1) If the yields on bonds that the Association Member will sell to a customer or have a customer acquire are significantly to the disadvantage of the customer when compared to yields on similar bonds that have already been issued by the same entity, so that there is a significant difference in the credit spread between the newly issued bonds to be acquired through the public offering or secondary distribution, and the existing bonds. In this case, an explanation must be given of facts such as that as a result of the increase in the yields of the existing bonds, the yields on the newly issued bonds are significantly less than those for similar existing bonds.

Formula:

α = X (portion equivalent to the credit spread of the similar bonds) – Y (portion equivalent to the credit spread of the bonds in question (the newly issued, bonds))

X = (average reported price (Note) (value announced on the day prior to the date of the offering being made) of the similar bonds under the "system for publication of OTC quotation of corporate bonds, etc. for retail customers") – (the average simple yield of the "reference statistical prices [yields] for transaction of bonds" disseminated by the JSDA for the Japanese government bonds that have the closest maturity date to the said similar bonds (the value announced on the same day as the date of the offering being made))

Y = (Yields (simple yields) of subscribers to the bonds in question (the newly issued bonds) – (the average simple yields of the "reference statistical prices [yields] for transaction of bonds" for Japanese government bonds that have the closest maturity date to the bonds in question (the newly issued bonds) (the values disseminated on the day following the date of determination of the terms))

(Note) The "average reported price of the similar bonds under the "system for publication of OTC quotation of corporate bonds, etc. for retail customers" shall be a simple average reported price (simple yield) for each reporting member in connection with the similar bonds as reported and announced by the JSDA pursuant to the "system for publication of OTC quotation of corporate bonds, etc. for retail customers".

(2) If the redemption terms for the bonds are structured to be determined by a market price or other index, etc. on the financial instruments market, and at the time on which the customer acquires the bonds or sales of the bonds are to be made to the customer, the said indicator, etc. is disadvantageous to the customer in comparison with conditions such as indices which constituted the standard for setting the terms for the issue (or secondary distribution) of the bonds. Specifically, a case where the Association Member determines in advance a certain range in connection with bonds for which the redemption terms are determined according to the stock market in the form of bonds exchangeable for shares of another company, or linked to the Nikkei Average with a rider for redemption (such as Exchangeable Bonds, or "EBs"), and the theoretical price(Note) of the bonds has fallen as of the time the bonds are to be acquired (or based on the closing price, etc. of the relevant issues on the prior date), in excess of the price range below the price of the public offering or secondary distribution, then this would likely constitute being "disadvantageous to the customer." In this case, since the EBs or similar instruments would be products for which the terms of issue (or secondary distribution) would be to the disadvantage of the customer when compared to the time at which the price was initially determined depending on the level of share price of the subject issues at the time of the investment decision, and the share prices of the subject issues would have fallen from the initial price, an explanation should be given to the customer that the terms of the issue (or secondary distribution) are disadvantageous. Moreover, depending on the extent of the fall in the share prices of the subject issues, it is possible that the offering could constitute a false representation, etc. (FIBCOO, Article 117(1)(ii)) if a proper explanation is not made of the impact that the price levels of the shares will have on the economic rationality of the EBs, etc. as investment products (for example by means of a comparison of the investment effect between purchasing the issues as actuals or purchasing the EBs).

(Note) The theoretical price shall be calculated pursuant to the formula that constituted the standard at the time of determining the issue (or secondary distribution) price of the bonds, the range must be based on a standard that has been determined by internal rules in connection with sales after the public offering or secondary distribution

(price range restrictions), and an appropriate system of internal administration must be in place including organizing and preserving records of the formula for the theoretical price as well as having internal rules in place concerning the handling thereof.

Furthermore, instead of using this "conditions disadvantageous to the customer" standard in cases where the theoretical price at the time of sale breaks the price range limit and falls below the price of public offering or secondary distribution, financial instruments business operators may, at the time they have a customer acquire EBs, etc. explain that the price of the underlying issue (or the prior day's closing price thereof) is more than 7% below the initial price (the price of the underlying issue used in setting the issue terms, or the price fixed by each firm based on the said price) (limited to cases where this method is set in advance prior to the public offering or secondary distribution).

<Relevant Laws and Regulations> FIBO Supervision Guidelines IV-3-1-2(6).

12 Cautions Concerning Solicitation for Foreign Securities Transactions

12 1 Securities That Customers May Trade

Regular Member

Existing issues of foreign share certificates, etc.(Note) as well as foreign share option certificates, foreign investment equity subscription right certificates and foreign bonds for which an Association Member may carry out solicitation to a customer (other than customers such as those that are qualified institutional investors or business entities, etc. prescribed under the Foreign Securities Rules, Article 7(5)) shall be limited to those that satisfy any of the following requirements. This restriction, however, does not apply to the secondary distribution or private secondary distribution for which settlement is to be made by taking delivery, such as foreign securities futures transactions, etc. (Foreign Securities Rules, Article 7(1)):

(Note) The term "foreign share certificates, etc." includes foreign share certificates, foreign ETFs, closed-end type foreign investment trust beneficiary certificates, closed-end type foreign investment securities, foreign preferred equity investment certificates, and foreign depository receipts (limited to share certificates and those that embody rights in connection with those that have the nature of share certificates out of certificates or instruments that are issued by a foreign person (including rights for which handling without the issuance of

certificates in connection with the rights to be embodied in the said certificates is permitted, and that are to be embodied in the said securities in the event that the certificates are not issued (Foreign Securities Rules, Article 2(1)(xvi); hereinafter the same in this Chapter)).

(i) Any of the following:

(a) Foreign share certificates, etc., foreign share option certificates, foreign investment equity subscription right certificates and foreign bonds, which are traded on a "qualified foreign financial instruments market" (Note);

(Note) A "qualified foreign financial instruments market" refers to a foreign financial instruments market of an exchange or a foreign OTC market that the Association Member has determined as meeting certain requirements (the ability to obtain the transaction price; the ability to obtain investment information, such as financial statements of the issuer; a supervisory agency or the like exists to supervise the market; trading proceeds can be remitted and received; and an institution exists to handle custody work for securities traded) and as posing no problem in terms of protection of investors.

(b) Foreign share certificates, etc., foreign share option certificates, foreign investment equity subscription right certificates and foreign bonds which are scheduled to be traded on a qualified foreign financial instruments market (limited only to the case where the fact that the transaction scheduled on such qualified foreign financial instruments market is publicly disclosed or approved by such qualified foreign financial instruments market, or the competent authority or any similar organization that supervises such qualified foreign instruments market, and where the price in the public offering or the secondary offering of such securities has already been determined, or the price that is the basis for the transaction of such securities is publicly disclosed by such qualified foreign financial instruments market; and

(c) Foreign bonds that were issued by the issuer of the securities set forth in (a) or (b);

(ii) Foreign government bonds, etc. (meaning those as prescribed by Article 1(i)(a) of the Cabinet Office Ordinance Concerning Disclosure of the Content, Etc. of Issuers of Foreign Bonds, Etc. Among Foreign Securities), and bonds issued by an international institution of which Japan is a member;

(iii) Foreign bonds and foreign preferred equity investment certificates (limited to those prescribed by the FSA Pubic Notice No. 19 of March 27, 2006 and equivalent instruments) for which disclosure has been made pursuant to the FIEA;

(iv) Foreign share certificates, etc., foreign share option certificates, foreign investment equity subscription right certificates and foreign bonds which are traded on a financial instruments exchange market within Japan; and

(v) Foreign share option certificates, foreign investment equity subscription right certificates and foreign bonds that are issued by an issuer, securities issued by such issuer are listed on a financial instruments exchange market within Japan.

In addition, already issued foreign share certificates, etc., foreign share option certificates and foreign investment equity subscription right certificates for which an Association Member may make a soliciting of a private secondary distribution (excluding an exclusive offer to sell, etc. to professional investors) shall be limited to those set forth in (i) above (Foreign Securities Rules, Article 7(2)).

Moreover, among foreign bonds that have already been issued, an Association Member may make a solicitation for a private secondary distribution only with regard to the securities set forth in (i), (ii) and (v) above, or those issued pursuant to the laws and regulations of a country or region which satisfies all requirements that (i) the laws and regulations concerning the system and disclosure in connection with foreign bonds are in place, (ii) a supervisory government authority or an equivalent institution exists to supervise the issuer of the foreign bonds, and (iii) remittance and receipt of the proceeds on purchase, proceeds on sale and yields etc. of the foreign bonds is possible (Foreign Securities Rules, Article 7(3)).

Foreign investment trust securities (excluding open-end foreign investment trust beneficiary certificates and foreign investment securities that are foreign ETFs) for which an Association Member can carry out solicitation (excluding secondary distribution of foreign securities) to customers (excluding qualified institutional investors) are limited to those instruments that the Association Member has verified as meeting certain conditions and do not present any problems in the protection of investors (Foreign Securities Rules, Article 15). Foreign investment trust securities that meet certain requirements are those that meet the following: (i) the foreign investment trust securities are established pursuant to the laws and regulations of a country or region which satisfies all the requirements that: (a) the laws and regulations concerning the system and disclosure in connection with the foreign investment trust securities are in place; (b) there is a competent authority or a similar organization that supervises issuers of foreign investment trust securities; and (c) remittance and receipt of the proceeds on purchase, proceeds on sale and yields etc. of foreign investment trust securities is possible; and (ii) in the case of the handling of a public offering or secondary distribution, the foreign investment trust securities comply with the selection criteria of foreign investment trust beneficiary certificates or foreign investment securities as prescribed in the Foreign Securities Rules (Foreign Securities Rules, Article 16 and Article 17). It is important to be aware that an Association Member can sell, etc. foreign investment trust securities only if the issuer has made a notification to the Prime Minister pursuant to the Investment Trust Act, Article 58(1) (which for foreign investment securities issued by a foreign investment corporation shall be one in which the issuer has made a notification pursuant to Investment Trust Act, Article 220(1)).

12 2 Matters to Be Observed upon Investment Solicitation

When an Association Member solicits investments in foreign securities, the Association Member must take into sufficient consideration whether or not investment is being made that meets factors such as the customer's intent, experience and financial capacity (Foreign Securities Rules, Article 5).

Regular Member

If an Association Member were to sell (including consignment) or intermediate (including intermediation of consignment) in a sale of foreign share certificates, etc., foreign share option certificates, foreign investment equity subscription right certificates, or foreign bonds other than those for which soliciting is permitted under Article 7 of the Foreign Securities Rules to a customer without solicitation for foreign transactions or domestic OTC transactions (excluding secondary distribution of foreign securities and an exclusive offer to sell foreign share certificates, etc., foreign share option certificates and foreign investment equity subscription right certificates to professional investors), the Association Member is required to prepare, organize and keep records stating that the order is being made in accordance with the intent of the customer, and properly manage them, except for those that fall under the following cases (Foreign Securities Rules, Article 8):

1. continuous acquisition through employees' share ownership programs;
2. stock exchange pertaining to merger, etc.;
3. acquisition of shares of new company allotted in accordance with company split;
4. acquisition of shares by choosing stock dividend when there is an option of in-kind dividend and stock dividend; and
5. when the customer's order relating to purchase is made through another Association Member or financial instruments intermediary service provider.

12 3 Provisions, Etc. of Documents and Similar Information

When a customer has delegated custody of foreign securities to an Association Member, the Association Member must keep notices, documents and similar information from the issuers of these foreign securities (excluding those which are required to be provided to the customers or to be published by laws and regulations, etc.) for inspection by that customer, for three years (or one year in the case of foreign certificates of deposit or foreign commercial paper) from the date that they are received, and must deliver these on request (Foreign Securities Rules, Article 6(1) and (3)). In lieu of delivering such notices and documents, etc., the Association Member may use an electronic data processing system or any other information and communication technology to deliver the information on the matters to be contained in these notices and documents, etc. as provided by the Electromagnetic Document Delivery Rules (Foreign Securities Rules, Article 48). The Association Member must endeavor to make available important documents which contribute to the relevant customer's investment decision that have been publicly released by the issuer of the foreign securities, for inspection by customers (excluding those which are required to be provided to the customers or to be disclosed by laws and regulations, etc.) (Foreign Securities Rules, Article 6(2)).

Moreover, when an Association Member accepts orders for trades in foreign securities from a customer, the Association Member must explain to the customer that corporate affairs disclosure under the FIEA has not been made for the securities in question (except for those for which disclosure has

been made pursuant to Japan's FIEA). The method of explanation may be the method set forth in the standard agreement concerning foreign securities trading account (including the incidental documentation delivered at the same time as the standard agreement) or the Document to Be Delivered Prior to Conclusion of Contract (Foreign Securities Rules, Article 6(4)).

12 4 Disclosure of Documents for Foreign Investment Trust Securities

An Association Member that has sold foreign investment trust securities must deliver financial statements, etc. to the customer unless (i) the issuer of the foreign investment trust securities has delivered these documents to the customer, (ii) Agent Association Member of such foreign investment trust securities or other Association Member who sold such investment trust securities to customer has provided financial statements, etc. by electromagnetic method (iii), or an Agent Association Member has published the summarized content of these documents of the foreign investment securities in a daily newspaper. Even in the event of (iii) above, however, the Association Member must deliver these documents on request by a customer (Foreign Securities Rules, Article 22(1) and (2)).

12 5 Sale, Etc. of Foreign Securities, Etc. Through Public Offering or Secondary Distribution

When an Association Member tends to sell foreign securities to a customer through a public offering or secondary distribution, the Association Member must, prior to or at the same time as the sale, deliver to the customer a prospectus in connection with the foreign securities (FIEA, Article 15) (for details, see "9.3. Using Electromagnetic Method to Provide Prospectuses and Other Documents" in this Chapter).

12 6 Duty to Explain upon Selling Foreign Securities for Which Written Disclosure Has Been Made in English

Although written disclosure in English by an issuer of foreign securities (*e.g.,* a foreign company, a foreign government or a foreign fund, etc.) is permitted, the FIEA requires that when an Association Member sells foreign securities to be disclosed in English to a customer other than a professional investor, the Association Member must explain that foreign company statements, etc. (including the foreign company statements, the foreign company reports, the foreign company semiannual reports, the foreign company confirmation statements, the foreign company internal control reports, and the foreign company extraordinary reports, etc.) are stated in the English language, and must deliver a document stating to that effect (including provision by a method similar to the method that provides the Document to Be Delivered Prior to Conclusion of Contract via WEB; hereinafter the same in this section) (FIBCOO, Article 117(1)(xxv)). This obligation and duty to deliver the document is waived if the same

explanation has been made and the same document has been delivered in connection with the same issue, within the past one year.

12 7 Duty to Report Trading Conditions, Etc.

If an Association Member acquired foreign issued securities that are unencumbered by a transfer restriction, and has sold the same to another financial instruments business operator, etc., (FIEAEO, Article 1-7-3(vi)) or made an offer to sell, etc. the same (FIEAEO, Article 1-8-4(iv)), it must report certain matters to the JSDA (Foreign Securities Rules, Article 47(2) and (3)). Moreover, an Association Member must report the matters that the JSDA considers necessary to the JSDA in accordance with the prescribed method in the event of making or having made a secondary distribution of foreign securities in connection with foreign government bonds, foreign municipal bonds or bonds of foreign special corporations that satisfy certain requirements (Foreign Securities Rules, Article 47(5)).

12 8 Solicitation of Professional Investors for Foreign Securities

When an Association Member makes an exclusive offer to sell, etc. to professional investors or make a private placement (limited to the case set forth in Article 2(3)(ii)(b) of the FIEA) or handles an exclusive offer to sell, etc. to professional investors with regard to foreign share certificates, foreign share option certificates, bond certificates with foreign share options, foreign investment trust beneficiary certificates, foreign investment securities or foreign investment equity subscription right certificates, the provisions of Articles 3 to 17 of the Professional Investors Solicitation Rules (excluding Article 3(2), Article 6(3), Article 7(3) and Article 12(1)) apply thereto *mutatis mutandis* (Foreign Securities Rules, Article 49(1)). However, foreign share certificates, closed-end type foreign investment trust beneficiary certificates, and closed-end type foreign investment securities for which an Association Member may make such an exclusive offer to sell or private placement are limited to securities issued under laws and regulations of a country or region that satisfies all of the following requirements: (i) all the necessary laws and regulations on the system relating to the relevant securities are established; (ii) all the necessary laws and regulations on the disclosure relating to the relevant securities are established; (iii) there is a competent authority or a similar organization that supervises issuers of the relevant securities; and (iv) the purchase price, sale proceeds, fruits, etc. of the relevant securities can be remitted or received (Foreign Securities Rules, Article 49(2)).

<Relevant Sections of this Manual> Chapter III. 5 Commencing Foreign Securities Transactions
Chapter IV. 8-3 Solicitation of Professional Investors for Investment in OTC Securities, Etc.

Regular Member

13 Cautions Concerning Pre-Hearing

There are cases in which the lead manager securities company or its affiliate has inquired with foreign institutional investors concerning prospects of demand for the relevant shares (including preferred equity investment certificates in cooperative financial institutions), share option certificates, bond certificates with share options, or investment securities (hereinafter referred to as "shares, etc.") when a listed company, etc. intends to issue these shares, etc. (hereinafter referred to as an "inquiry of demand" or a "pre-hearing"), after providing the corporate information of the listed company, etc. Nevertheless, cases have also been discovered in which a foreign investor that has obtained issue information in the process of a pre-hearing has then sold listed shares in the relevant issuer.

Therefore, it has become mandatory for Association Members to carry out pre-hearings within an appropriate framework for controlling information that they have put in place, in order to preclude the facilitation of insider trading by an act of informing an external party of issue information, etc., by way of a pre-hearing, before the information, etc., is publicly released (FIBCOO, Article 117(1)(xv)). With this stipulation the JSDA has enacted the "Rules Concerning Proper Handling of Pre-Hearing by Association Members."

13 1 Extent of Prohibited Acts

If an Association Member or a third party who has been contracted by an Association Member (such as a foreign affiliate of an Association Member) will carry out a pre-hearing) of investors in connection with the issuing of shares, etc. or the disposition of treasury shares, the act of providing corporate information related to a public offering as prescribed in Article 166(2)(i)(a) and Article 166(2)(ix)(b) of the FIEA, to a person subject to the inquiry, or to the relevant third party, without satisfying certain requirements (putting in place a framework for controlling information) is prohibited (FIBCOO, Article 117(1)(xv), main clause).

13 2 Relevant Requirements

If at the time of inquiring demand, an Association Member will provide corporate information concerning a public offering of shares, etc. of a listed company, etc. to a person subject to the inquiry or a designee such as a foreign affiliate, etc., the following framework for appropriate control of information must be implemented:

(i) If an Association Member will itself carry out an inquiry of demand (FIBCOO, Article 117(1)

(xv)(a)):

a. That prior approval has been obtained from the legal compliance management division to conduct the inquiry of demand, and that the scope of persons subject to the inquiry as well as the contents of the corporate information that is to be provided to the persons subject to the inquiry, and the timing and method of providing, are appropriate;

b. That in connection with:

a) the transaction restrictions (Note 1) that in principle they will not conduct sale and purchase, etc. in securities of the listed company, etc. until a public release is made of the corporate information or that a public offering will be conducted, or notification is made, after the study of demand, that the public offering will not be conducted; and

b) the duty of confidentiality that in principle they shall not disclose the corporate information to any person other than the person subject to the inquiry (Note 2); the persons subject to the inquiry are caused to enter into an undertaking in advance (Note 3);

(Notes) 1. It is permissible to conduct sale and purchase, etc. that are excluded from the insider trading regulations as set forth in Article 166(6)(i) through (vi) and (viii) of the FIEA.

2. Excluding the provision to persons for whom providing of the corporate information is indispensable to conducting the activities in connection with the contents of the study, and who have a duty under a contract with the person subject to the inquiry not to sale and purchase, etc. in securities of the listed company, etc., as well as not to disclose the corporate information, or provision in accordance with laws and regulations.

3. In addition to the restriction under Article 117(1)(xv) of the FIBCOO, an Association Member must, when it intends to conduct pre-hearings, conclude a contract in paper form or electronically including the matters concerning the transaction restrictions and the duty of confidentiality of the person subject to the inquiry and all persons who share the information within the organization or business unit to which the persons subject to the inquiry belong, and the statement to the effect that the pre-hearing is not for the purposes of solicitation (it is also possible to make a contract by a reasonable method stipulated in internal regulations if it is difficult to enter into a written contract in advance). In principle, the contract shall be entered into on the occasion of each pre-hearing, but an umbrella contract is possible on condition that the content of the contract is confirmed with the person subject to the inquiry, on the occasion of each pre-hearing (Rules Concerning Proper Handling of Pre-Hearing by Association Members, Article 4)

c. That a document is prepared stating the name of the responsible individual for the study work at the Association Member, as well as the person in charge of the administrative work in connection with the study, the name and address of the person subject to the inquiry, as well

as the contents of the corporate information that has been provided to the person subject to the inquiry, and the date and method of providing; and that necessary actions are taken to preserve this document for five years after it is created.

(ii) If a third party will be contracted to carry out the study of demand (FIBCOO, Article 117(1)(xv)(b)):

The following requirements must be satisfied if a third party such as a foreign affiliate of an Association Member will carry out a pre-hearing on contract or receiving corporate information from the Association Member:

a. That prior approval has been obtained from the legal compliance management division to conduct the study of demand, and that the scope of third parties and of persons subject to the inquiry as well as the contents of the corporate information that is to be provided to the third parties and the persons subject to the inquiry, and the timing and method of providing, are appropriate;

b. That the third parties are caused to enter into an undertaking in advance in connection with:

a) the transaction restrictions that in principle they will not sale and purchase, etc. in securities of the listed company, etc. until a public release is made of the corporate information or notification is made, after the study of demand, that the public offering will not be conducted; and

b) the duty of confidentiality that in principle they shall not disclose the corporate information to any person other than the person subject to the inquiry;

c. That a document is prepared stating the name of the responsible individual for the study work at the Association Member, as well as the person in charge of the administrative work in contracting and providing the corporate information to the third party, the name and address of the third party, as well as the contents of the corporate information that has been provided to the third party, and the date and method of providing; and that necessary measures are taken to preserve this document for five years after it is created; and

d. That the third party has taken the necessary steps to prevent a study of demand from being conducted without taking the appropriate actions as set forth above in (i)b. (entering into a contract concerning transaction restrictions and confidentiality, with the person subject to the inquiry) and c. (preparing and preserving a record on the part of the third party).

Even if the above requirements are met, it is still necessary to be aware that the prohibition against acquisition soliciting prior to a registration statement (FIEA, Article 4(1))(Note) and the prohibition against soliciting using corporate information (FIBCOO, Article 117(1)(xiv)) are still not excluded from application.

(Note) Guidelines Concerning Corporate Affairs Disclosure 2-12(ii) clarified that certain pre-hearings are "acts that do not fall under a solicitation of offers to acquire or an offer to sell, etc."

<Relevant Laws and Regulations> FIBO Supervision Guidelines IV-3-2-3(2)

13 3 Regulations by Self-Regulatory Organization

In the "Rules Concerning Proper Handling of Pre-Hearing by Association Members" that was enacted by the JSDA for the purpose of pre-hearings, the following regulations are implemented:

(i) Acknowledgment of the Listed Company, Etc.

If a pre-hearing is to be conducted, it is necessary to obtain prior acknowledgment from the listed company, etc. that will make the public offering of the shares, etc. (*id.,* Article 8(2)), and to preserve a record of the said acknowledgment (*id.,* Article 6(3)).

(ii) Treatment in the Event of a Violation by a Person Subject to the Inquiry

If an Association Member discovers that a person subject to the inquiry or a contracted third party has violated the transaction restrictions or the duty of confidentiality that have been contracted in advance, the Association Member must not conduct a pre-hearing against such person or third party for two years after the date on which the said event has been discovered (*id.,* Article 7(1)). If an Association Member discovers that a person who belongs to the overseas affiliated company or a person who does not belong to the overseas affiliated company (hereinafter referred to as the "pre-hearing entrusted party") has not taken the measures regarding the prior agreement on transaction restrictions and the duty of confidentiality or the internal administration measures of the keeping of records, etc., the Association Member must not contract pre-hearing entrusted party to conduct a pre-hearing, or enable such third party to make a pre-hearing by providing the party with the corporation information for two years from the date on which the said event has been discovered (*id.,* Article 7(2)). An Association Member who becomes aware of a violation must report to the JSDA the corporate name to which the violating person subject to the inquiry, etc. belongs, as well as title, personal name and address of the violating person subject to the inquiry, etc., along with details of the corporate information provided to such violating person subject to the inquiry, etc., and the date and method of providing the corporate information (*id.,* Article 10(1)), and the JSDA must notify the authority, etc. that supervises the financial instruments market (*id.,* Article 7(3)).

(iii) Prohibition in Principle Against Pre-Hearings within Japan

In principle, an Association Member shall not carry out pre-hearings in connection with public offerings (meaning the public offering defined in Article 2(3) of the FIEA and the solicitation of persons to subscribe for treasury shares to be disposed of by a company as prescribed in Article 199 of the Companies Act, and excluding the public offering conducted through the initial public offering defined in Article 2(xv) of the Rules Concerning Underwriting, etc. of Securities) within Japan accompanied by underwriting (*id.,* Article 9). Provided however, that pre-hearings in connection with third party allotments within Japan are not prohibited.

<Relevant Sections of this Manual> Chapter IV. 5 Public Offering or Secondary Distribution

Regular Member

14 Cautions Concerning Solicitation, Etc. for Issues on Which Margin Transactions Are Restricted or Prohibited

14 1 Voluntary Restraint on Solicitation for Issues on which Margin Transactions Are Restricted or Prohibited

An Association Member shall exercise voluntary restraint in soliciting margin transactions (excluding foreign stocks margin transactions and offsetting trades that are made to settle such margin transactions; the same applies in 14.1 and 14.2) in issues for which the following measures have been taken by a financial instruments exchange, authorized member (meaning the authorized member stipulated in Article 2(v) of the Off-Exchange Trading Rules; hereinafter the same.) or a securities finance company (Investment Solicitation Rules, Article 12(2)):

(i) Issues for which a financial instruments exchange or authorized member has restricted or prohibited margin transactions; and

(ii) Issues for which a securities finance company has restricted or suspended an application for use of loaned shares, etc.

14 2 Measures for Accepting Margin Transactions

When an Association Member accepts margin transactions for the issues set forth in 14.1 above or the following issues, it must explain to customers that it has taken the applicable measure, and explain the contents of the measures taken (Investment Solicitation Rules, Article 12(3)):

(i) Issues with respect to which a financial instruments exchange or authorized member has taken measures to raise the percentage margin for margin transactions involving the said issue; and

(ii) Issues for which a securities finance company has given a warning notice concerning the use as lending securities, etc.

However, in the event of any of the following, explanation shall not be required (Investment Solicitation Rules, Article 12(4)):

a. If the customer is a person who engages in the investment management set forth in Article 28(4) of the FIEA;

b. If the transaction by the customer is conducted in an account designated by a person who engages in the investment management set forth in a. above; or

c. If the customer indicates, in advance, that the above explanation will not be necessary in the future, and if the Association Member finds that the customer fully understands that the measures set forth in (i) and (ii) of 14.1 above or the measures set forth in (i) and (ii) above may be taken with respect to issues for which margin transactions will be conducted.

14 3 Points to Note When Handling Foreign Stocks Margin Transactions

When handling foreign stocks margin transactions, a Regular Member must comply with the following matters (Investment Solicitation Rules, Article 12(7)). (i) A Regular Member shall refrain from soliciting customers to conduct foreign stocks margin transactions (excluding offsetting trade conducted for the settlement of foreign stocks margin transactions) in issues for which a qualified foreign financial securities market located in the United States, the supervisory authorities that supervise the qualified foreign financial securities market or a self-regulatory organization similar to the JSDA gives warnings or imposes restrictions on transactions individually. (ii) If a Regular Member accepts orders for foreign stocks margin transactions in issues mentioned in (i) from a customer, the Regular Member must explain to the customer the fact that such warnings are given or restrictions are imposed, and the details thereof. (iii) A Regular Member shall not accept orders for foreign stocks margin transactions (excluding offsetting trade conducted for the settlement of foreign stocks margin transactions) in issues for which delisting has been decided by a qualified foreign financial instruments market located in the United States. (iv) A Regular Member must provide in advance guidance on how to treat orders yet to be executed for foreign stocks margin transactions when a qualified foreign financial instruments market located in the United States suspends trading (including cases where a circuit breaker is triggered), and explain this to a customer.

Regular Member

15 Cautions Concerning Shares, Etc. in a Public Offering

15 1 Promoting Equitable Allocation of Shares

When an Association Member conducts the underwriting, etc. of public offerings, etc., it must fully consider the market conditions and the trends of investment demand, and endeavor to distribute share certificates, share option certificates, bonds with share options, preferred equity investment certificates, real estate investment trust certificates or infrastructure funds, etc. (hereinafter referred to as “share certificates, etc.” in this Section) related to the underwriting, etc. of the public offering, etc. to customers in a fair manner, and not concentrate on specific investors without a reasonable cause (Distribution Rules, Article 2(1)). In addition, the Distribution Rules provide for the following matters:

a. A Drawing Is to Be Used to Allocate Some of the Shares in an Initial Public Offering

If a distribution is to be made to individual customers in an Initial public offering, in principle a drawing must be used to distribute at least 10% of the planned distribution to individual customers. Under unusual circumstances, however, it is possible to reduce the percentage to be distributed by drawing, or to cancel the drawing or not use the results of the drawing to distribute shares, in cases such as if the demand for book-building does not accumulate, if the number of subscriptions requested for distribution by individual customers does not amount to the quantity

planned for distribution to individual customers, if the quantity for which application for the drawing is made is less than the quantity of the drawing to be conducted by the Association Member, or if the quantity for which the drawing is conducted is less than five units (Distribution Rules, Article 3).

b. Prohibition Against Concentrated Distributions or Unfair Distributions

A distribution of new shares that is made by a method other than a drawing must not make an excessive concentration of shares allocated to a particular customer, or an unfair allocation. When a distribution is made to customers without using a method of drawing, care must be taken so that there is not an excessive discrepancy when compared to the average quantity of allocation per person by drawing. Care must also be taken not to repeatedly allocate to the same customer (Distribution Rules, Article 4).

c. Providing Demand and Share-Distributed Entity Information

The Joint Lead Managing Regular Member Underwriter and other Regular Member Underwriters must provide without delay to the Representative Lead Managing Regular Member Underwriter with demand and share-distributed entity information concerning customers (Distribution Rules, Article 5). The Representative Lead Managing Regular Member Underwriter must provide the issuer, etc. of the share certificates, etc. without delay with the demand and share-distributed entity information concerning the customer that it has acquired as well as the demand and share-distributed entity information that it has received under Article 5 of the Distribution Rules (Distribution Rules, Article 6). When the issuer, etc. receives the demand and share-distributed entity information provided by the Representative Lead Managing Regular Member Underwriter, the Representative Lead Managing Regular Member Underwriter must receive a commitment in writing from the issuer, etc. that the issuer, etc. would properly manage the demand and share-distributed entity information to avoid any leakage (Distribution Rules, Article 8).

Demand and share-distributed entity information includes the following: (i) the names of the customers to whom the roadshow (a series of opinion hearings) was conducted, the assumed share price of the share certificates, etc. as part of the customers' opinions, information on their intention to participate in the public offering or secondary distribution, and other information that is deemed helpful by the Regular Member Underwriter in determining the tentative terms and conditions; (ii) the names of the customers to whom the book building was conducted, and information on the demand price and volume of share certificates, etc. reported by the customers; and (iii) the names of the customers to whom the underwritten share certificates, etc. are distributed (excluding the case of distribution by *oyabike*) and information on the volume of the share certificates, etc. distributed to the customers (Distribution Rules, Article 5(2)).

When acquiring demand and share-distributed entity information, the Regular Member Underwriter shall inform the customers in advance that the relevant information will be provided to the issuer, etc. and that they can make a request to refuse the provision of their names as part of the information mentioned in (i) above, (Distribution Rules, Article 5(3) and (4)).

d. Preparing and Publishing Basic Policy on Distribution, etc., and Establishing Internal Rules

Thereof

An Association Member must prepare a basic policy on distributions which is drafted in a manner that is as easy for customers to understand as possible, and thoroughly disseminate it among investors by means such as posting it at sales counter or on the company's website, and must also submit such basic policy to the JSDA if requested to do so. The Association Member must also establish and comply with internal rules that are as detailed and in as concrete form as possible. The following is a table which stipulates matters concerning distribution, etc. which must be set forth in the basic policy and internal rules (Distribution Rules, Article 9 and Article 10).

Matters to Be Set Forth in Basic Policy and Internal Rules on Distribution, etc. of Share Certificates, Etc.

Basic Policy	Internal Rules
(i) The percentage and treatment by drawing (ii) If there are situations in which a drawing percentage is to be reduced, or the drawing will not be used or the drawing will be cancelled, a statement to that effect	(i) Basic Policy on distribution (ii) The percentage and treatment by drawing (iii) If there are situations in which a drawn percentage is to be reduced, or the drawing will not be used or the drawing will be cancelled, a statement to that effect
(iii) Treatment of allocation by a method other than a drawing (iv) Steps to prevent a distribution from occurring in an excessive concentration, or an unfair distribution from occurring	(iv) Customers to whom, *inter alia*, distribution is prohibited (v) Treatment of allocation by a method other than a drawing (vi) Steps to prevent a distribution from occurring in an excessive concentration, or an unfair distribution from occurring (vii) Legal and regulatory compliance (viii) Treatment of distributions involving hot issues (ix) Treatment of distributions when the environment is deteriorating
(v) Relationship with distribution to be employed in the event of using a book- building method	(x) Relationship with distribution to be employed in the event of using a book-building method (xi) Relationship with distributions using other methods (xii) Procedures for providing demand and share-distributed entity information
(vi) Such other matters that the company determines will contribute to investment decisions by investors	(xiii) Procedures for internal inspections (xiv) Other matters that the company itself determines to be necessary

e. Keeping of Records

In order to facilitate the proper conduct of, *inter alia*, external audits and inspections, an Association Member must keep records for five years of the distribution of individual issues, the quantities for which a drawing has been used (and if the drawing ratio is reduced or if the drawing is not used or cancelled, matters such as the reason for the same), and periodic internal inspections (Distribution Rules, Article 12).

f. Publication of the Status of Distribution

A Regular Member must compile the information on the status of distribution of share certificates, etc. underwritten by the Regular Member on a quarterly basis, analyze the information, and report the result of the analysis to the JSDA using the prescribed form. On the other hand, an Association Member must compile the information on the status of the distribution

of share certificates or foreign share trust beneficiary certificates to retail customers at the initial public offering on a monthly basis, analyze the information, and report the results of the analysis to the JSDA using the prescribed form by the month after the next of the month in which the payment due date falls (Distribution Rules, Article 13(1) and (2)). The JSDA shall regularly announce to the general public the distribution condition reported by Association Members (Distribution Rules, Article 13(3)).

With respect to a public offering or secondary distribution of share certificates, etc. conducted overseas by an issuer in Japan, if a Regular Member introduces its own overseas affiliated company for the underwriting, the Regular Member shall request such overseas affiliated company to handle preferential allotment as well as parallel allotment to a third party in accordance with the relevant provisions of the Distribution Rules, and to provide the issuer, etc. with the demand and share-distributed entity information in accordance with the relevant provisions of the said Rules (Distribution Rules, Article 14).

15 2 Prohibition Against Preferential Allotment *(oyabike)*

A Regular Member Underwriter must not make a preferential allotment (*oyabike*) in connection with the underwriting of a public offering or secondary distribution of share certificates, etc. (Distribution Rules, the main clause of Article 2(2)). A "preferential allotment" means a sale to a purchaser that is designated by the issuer, and includes substantively similar acts, such as suggesting a purchaser. Officers and employees of an Association Member are prohibited from making a preferential allotment as Association Members are required to endeavor to make an allocation in a fair manner, and not concentrate on specific investors without reasonable cause (Employees Rules, Article 7(xvi)).

However, as an exception, a preferential allotment is permitted if it meets all of the following conditions:

(i) The Regular Member Underwriter judges that even after the preferential allotment is conducted, the distribution would not breach Article 2(1) of the Distribution Rules (Distribution Rules, Article 2(2)(i));

(ii) The issuer of the share certificates, etc. properly discloses the following matters regarding the preferential allotment: (a) the conditions of the entity subject to the preferential allotment (meaning an entity who is expected to receive distribution in the preferential allotment; the same shall apply hereinafter) (such conditions include the summary of the entity subject to the preferential allotment, the relationship between the issuer and such entity, the reason why such entity is selected, the number of share certificates, etc. to be distributed to the entity, the policy of holding share certificates, etc. in relation to the preferential allotment, the status of the entity's funds to be used for the payment, and the actual status of the entity); (b) transfer restrictions of share certificates, etc. under the preferential allotment; (c) issuance conditions; (d) major shareholders after the preferential allotment; (e) whether a reverse share split or the like is planned, and if so, details of that plan; and (f) other reference matters (Distribution Rules,

Article 2(2)(ii)); and

(iii) The lead managing Regular Member receives a commitment in writing from the entity subject to the preferential allotment that it would continue holding share certificates, etc. during the period from the payment date or the last day of the payment period for the public offering, or from the delivery date for the secondary distribution to the date when 180 days have passed since any of the above-mentioned dates (Distribution Rules, Article 2(2)(iii)).

When parallel allotment to a third party (meaning an allotment of share certificates, etc. to a third party by the issuer of the share certificates, etc. which is simultaneously conducted with the public offering or secondary distribution of the share certificates, etc. that is underwritten by a Regular Member Underwriter; the same shall apply hereinafter) is conducted, the Regular Member Underwriter must request the issuer to respect the purport of the rules stated in (i) to (iii) above at the time of conducting a parallel allotment to a third party (Distribution Rules, Article 2(3)).

Regular Member

16 Cautions Concerning Handling of Bids for Newly Listed Shares

A general trading participant on a financial instruments exchange must not handle bids from the following persons (bidding for their own account if the said party is a financial instruments business operator, etc.) in the event of a public offering, etc. through competitive bidding:

a. Persons with a special relationship of interest with the company applying for new listing:

A "person with a special relationship of interest" shall mean an officer (including officers' share ownership programs), a spouse or blood relative to the second degree of consanguinity (hereinafter referred to as "officers, etc." in this Section), and companies for which officers, etc. own a majority of the voting rights, as well as related companies and their officers.

b. The 10 largest shareholders of the company applying for the new listing:

The "10 largest shareholders" shall mean those 10 shareholders that own the largest number of voting rights, in order from the largest shareholder, provided that this shall exclude employees' share ownership programs of the company applying for a new listing.

c. Employees of the applicant for new listing:

"Employees" here does not include employees' share ownership programs.

d. A financial instruments business operator as well as its directors or a company with a personal or capital affiliation:

"Company with a personal affiliation" refers to a company that a financial instruments business operator substantively controls through relationships such as personnel, funding or transactions, or a company that substantively controls the financial instruments business operator in question through the same type of relationships.

"Company with a capital affiliation" refers to a company in which a financial instruments business operator (including persons with a special relationship of interest therewith)

substantively owns at least 20% of the voting rights, or a company (including persons with a special relationship of interest therewith) that in substance owns at least 20% of the voting rights of the financial instruments business operator in question.

<Relevant Laws and Regulations> TSE Enforcement Rules for Securities Listing Regulations, Article 261; and Corporate Affairs Disclosure Ordinance, Article 1(xxxi)

17 Cautions Concerning Ensuring Fairness of Transactions in Bonds

17 1 Ensuring Fairness of Transactions

When an Association Member engages in OTC trading of bonds with a customer, other than bonds with share options, the Association Member must conduct the transaction at a fair price based on a price calculated according to a reasonable method (hereinafter referred to as "internal price" in this Section), and ensure the fairness of the said transactions (OTC Bond Reference Price Rules, Article 12(1)). This "internal price" must take into consideration continuity in its method of obtaining or calculation of the same (OTC Bond Reference Price Rules, Article 12(2)). A reasonable and fair method must also be used to determine the internal price in the event of trading in issues for which it is difficult to obtain an internal price, or issues for which calculation has not been conducted on a continuous basis (OTC Bond Reference Price Rules, Article 12(3)).

If requested by a customer, the Association Member must give an oral or written explanation summarizing the method of calculation and other particulars concerning the transaction price (OTC Bond Reference Price Rules, Article 12(4)).

Thus, an Association Member is required to set a transaction price at its own discretion and responsibility, pursuant to a method such as one that determines a certain price range, set by the internal regulations of that company, on the basis of the internal price, and which takes into consideration factors such as the type of issue traded, the market environment, the profit that Association Members should earn, the liquidity and credit risk unique to each issue, the size of the transaction amount, and whether the transaction is taxable or exempt from taxation.

Moreover, it is also necessary to take into consideration that a transaction may constitute an "extraordinary transaction" as prescribed in 17.4. below, even if the transaction price with the customer is within the prescribed range set by each company.

Investors must also endeavor to improve portfolios in a manner which corresponds to factors such as their own need for funds, changes to financial conditions, the environment of the bond market, and interest forecasts, and consequently conduct trades, etc. such as those which replace bonds as a result of diversified needs including higher direct yields, higher final yields, switching depending on their perceptions of interest rates (such as to longer term or shorter term), and improving liquidity. Even if an

Association Member trades multiple issues with an investor as a set package in order to meet this need for replacement trading, etc., the transaction must be made at an appropriate price which can be demonstrated on the basis of the internal price to be fair and equitable for each sale or purchase of an individual issue (Concerning Guidelines for the Purpose of Maintaining Fairness in Replacement Trading, Etc.).

17 2 Matters to Be Explained in a When-Issued Transaction

A when-issued transaction in Japanese government bonds is a sale and purchase transaction in Japanese government bonds in which a contract is made prior to the issue date, with a condition precedent being that the Japanese government bonds will in fact be issued on the scheduled issue date, and settlement by delivery is to be made on or after the issue date.

If a customer will engage in a when-issued transaction of Japanese government bonds for the first time, the Association Member must explain to the customer in advance particulars such as that the transaction is a trade with conditions precedent attached, and the treatment if the conditions precedent are not satisfied (meaning that the issuing of the Japanese government bonds is cancelled or delayed) (OTC Bond Reference Price Rules, Article 13).

It is important to be aware that if a customer will engage in a when-issued transaction in Japanese government bonds for the first time on or after February 23, 2004, the Association Member must give this explanation at least once prior to a contract, regardless of the attributes of the customer (including a customer who has already been engaging in when-issued transactions of Japanese government bonds for some time).

The explanation may be made in various ways, including an oral explanation, or an explanation using the Guidelines Concerning When-Issued Transactions in Japanese Government Bonds or a leaflet prepared by the Association Member itself. It is necessary to be aware, however, that simply sending materials such as the Guidelines or a leaflet to the customer will not constitute an explanation. If, however, the Association Member has been able in some manner to confirm that the customer has actually read the Guidelines or the leaflet, then an explanation will be deemed to have been given (Questions & Answers Concerning When-Issued Transactions of Japanese Government Bonds, Q7).

17 3 Ensuring Fairness of Transactions with Retail Investors

In addition to 17.1. and 17.2. above, an Association Member shall take care to state the price information and educate the customer concerning OTC transactions in public and corporate bonds when engaging in transactions over the counter with a retail investor (meaning customers who engages in transactions of a par value of less than 10 million yen, but excluding qualified institutional investors, operating companies, etc. set forth in OTC Bond Reference Price Rules, Article 14(2)), and must give

extensive consideration to ensuring fairness of the transactions (OTC Bond Reference Price Rules, Article 14).

Specific obligations include the following:

(i) If a retail investor requests that it be given price information, the Association Member (a) must promptly provide the asking price of the transaction at the company's own counter, and (b) on request from the customer must provide the most recent contract price or final quotation on a financial instruments exchange market or the reference price data announced by the JSDA; and

(ii) An Association Member must endeavor to educate the retail investor concerning OTC transactions in public and corporate bonds, through means such as keeping at the counter pamphlets and the like concerning bond transactions.

17 4 Prohibition Against Extraordinary Transactions

An Association Member must not commit any of the following acts for the purpose of providing compensation for losses or supplementing the profits of a customer (hereinafter referred to as "extraordinary transaction" in this Section; OTC Bond Reference Price Rules, Article 16(1)):

(i) In OTC transactions of bonds with the same issue, conducting a transaction that involves a simultaneous purchase and a sale at a price that favors a customer or a third party and is to the disadvantage of the Association Member (excluding price differences that are equivalent to a fair level of interest based on differences in delivery dates, or price differences resulting from differences in delivery conditions between the certificate itself and registered bonds, etc.);

(ii) Conducting a transaction in which a promise is made before the fact in a sale of bonds to a customer or a purchase of bonds from the customer that the bonds will be repurchased from the customer, or resold to the customer, at a price that is to the advantage of the customer, or that the commitment will be canceled (excluding *gensaki* transactions); and

(iii) Colluding with a third party and conducting a transaction in which a prior commitment is made to sell bonds to a customer, or purchase bonds from a customer in a manner that the customer will earn profits without fail, through selling the bonds to the said third party or purchasing the bonds from the said third party.

An Association Member must take into consideration the possibility that any "short term" trading of bonds with a customer, which results in "substantial amount of profit" for the customer, may constitute an "extraordinary transaction," and endeavor to further strengthen internal administration of matters concerning the contract with the customer, confirmation of such a contract, and keeping of records, etc. (OTC Bond Reference Price Rules, Article 16(2)).

In this event, the term "short term" shall mean the sale and purchase both took place within a period of four business days both on a contract date basis and delivery date basis. "Substantial amount of profit" in the above shall mean a profit for the customer of at least 0.3 yen per par value of 100 yen (Detailed Rules Relating to the OTC Bond Reference Price Rules, Article 8).

17 5 Preparing and Preserving Transaction Records, and Organizing and Keeping the Internal Price

An Association Member must properly manage any OTC bond transactions that it executes, including promptly preparing, organizing and maintaining order slips and other related documents, relating to the order in question, that state particulars such as the date and time of the contract. Moreover, an Association Member must compile, organize and keep the internal price on a daily basis (provided that if the internal price is calculated on the basis of prescribed rules, the Association Member need only organize and keep the figures that form the basis for the said calculation). An Association Member must be particularly meticulous in preparing, organizing and keeping the documentation that forms the basis for calculating the contract price for transactions in issues for which obtaining the internal price is difficult, or for which calculation has not been performed on a continuous basis (OTC Bond Reference Price Rules, Article 17).

Association Members must prescribe internal rules in order to maintain the fair trade of public and corporate bonds. Association Members must also endeavor to establish the internal administration system, including internal inspection, and operate it properly (OTC Bond Reference Price Rules, Article 19(1)).

<Relevant Laws and Regulations> Concerning Guidelines for the Purpose of Ensuring Fairness in OTC Bond Transactions

18 Cautions Concerning Ensuring Fairness in Domestic OTC Transactions in Foreign Securities

In order to ensure fair and equitable transaction, restrictions similar to those on OTC transactions of domestic public and corporate bonds have been attached to domestic trading of foreign securities by an Association Member.

18 1 Ensuring Fairness of Transactions

When engaging in domestic OTC transactions with a customer in foreign share certificates, etc., foreign share option certificates, foreign investment equity subscription right certificates, and foreign bonds (excluding those listed on a financial instruments exchange market within Japan; the same shall apply in 18.2 and 18.4), an Association Member must conduct the transaction at a fair price that is based on a fair price calculated according to a reasonable method (hereinafter referred to as “internal price” in this Section) and ensure the fairness thereof (Foreign Securities Rules, Article 11(1)). The internal price must consider continuity in its method of obtaining or calculating of the same (Foreign Securities Rules,

Article 11(2)). A reasonable and fair price must also be used to determine the internal price in the event of conducting domestic OTC transactions in issues for which it is difficult to obtain an internal price, or issues in which calculation has not been conducted on a continuous basis (Foreign Securities Rules, Article 11(3)).

If requested by a customer, the Association Member must give an oral or written explanation summarizing the method of calculation and other particulars concerning the transaction price (Foreign Securities Rules, Article 11(4)).

Thus, an Association Member is required to set a transaction price, within a certain price range, determined by the internal regulations of that company, on the basis of the internal price, and which takes into consideration factors such as the type of issue traded, the market environment, the profit that Association Member should earn, the liquidity risk unique to each issue, the credit risk, the country risk, the size of the transaction amount, and whether the transaction is taxable or exempt from taxation.

Moreover, it is also necessary to take into consideration that a transaction may constitute an "extraordinary transaction" as prescribed in 18.3. below, even if the transaction price with the customer is within the prescribed range set by each company.

18 2 Ensuring Fairness of Transactions with Retail Investors

In addition to 18.1. above, an Association Member must take care to state the price information and educate a retail investor concerning domestic OTC transactions when engaging in domestic OTC transactions in foreign shares, etc., foreign share options, foreign investment equity subscription right certificates, and foreign bonds with a retail investor (meaning a customer who engages in transactions of a par value of less than 10 million yen as converted into Japanese yen, but excluding qualified institutional investors as well as certain business entities and the like as prescribed in Article 7(5) of the Foreign Securities Rules), and must give extensive consideration to ensuring fairness of the transactions (Foreign Securities Rules, Article 12).

Specific obligations include the following:

(i) If a retail investor requests that it be given price information, the Association Member (a) must promptly provide the asking price of the transaction at the company's own counter, and (b) on request from the customer must provide the most recent closing price on the foreign financial instruments exchange market, or the most recent quotation on the foreign financial instruments exchange market, or other information of reference; and

(ii) An Association Member must endeavor to educate the retail investor concerning OTC transactions in foreign shares, etc., foreign share option certificates, foreign investment equity subscription right certificates, or foreign bonds, through means such as keeping at the counter pamphlets and the like at the counter of the securities company concerning domestic OTC transactions in foreign shares, etc., foreign share option certificates, foreign investment equity subscription right certificates, or foreign bonds.

18 3 Prohibition Against Extraordinary Transactions

Even if a transaction complies in form with the rules mentioned in 18.1. and 18.2. above, an Association Member must not commit any of the following transactions or any other act to provide a customer or a third party with economic benefits for the purpose of compensating a customer for losses or supplementing the profits of a customer (hereinafter referred to as an "extraordinary transaction" in this Section) (Foreign Securities Rules, Article 13(1)):

(i) A transaction in the course of domestic OTC transactions for the same foreign bond issue, which involves a simultaneous sale and purchase at a price that favors a customer or a third party and is disadvantageous to the Association Member, for the purpose of compensating a customer for its losses, or supplementing its profits (excluding price differences that are equivalent to a fair level of interest based on differences in delivery dates, or price differences resulting from differences in delivery conditions between the certificate itself and registered bonds, etc.);

(ii) A transaction in which a promise is made before the fact in a sale of foreign bonds to a customer or a purchase of bonds from the customer that the bonds will be repurchased from the customer, or resold to the customer, at a price that is to the advantage of the customer, or that the commitment will be canceled (excluding *gensaki* transactions); and

(iii) A transaction in conspiracy with a third party in which a prior commitment is made to sell foreign bonds to a customer, or purchase foreign bonds from a customer in a manner whereby the customer will earn profits without fail, through selling the foreign bonds to the said third party or purchasing the foreign bonds from the said third party.

An Association Member must also take into consideration the possibility that any short-term trading with a customer, which results in substantial amount of profit for the customer, may constitute an "extraordinary transaction," and endeavor to further strengthen internal administration of matters concerning the contract with the customer, confirmation of such a contract, and keeping of records, etc., (Foreign Securities Rules, Article 13(2)).

"Short term" here means that the sale and the purchase both took place within a period of two business days both on a contract date basis or delivery date basis. "Substantial amount of profit" in the above shall mean a profit for the customer of at least 1% of the par value (Foreign Securities Rules, Article 13(3) and Article 13(4)).

18 4 Preparing and Maintaining Trading Records, Organizing and Recording Internal Prices

When an Association Member has engaged in domestic OTC transactions in foreign shares, etc., foreign share option certificates, foreign investment equity subscription right certificates, or foreign bonds, the Association Member must promptly prepare order slips and other related documents, which state particulars such as the time of the contract, and must manage them properly, including organizing

and maintaining the same (Foreign Securities Rules, Article 14(1)).

In principle, an Association Member is also required to organize and record the internal prices that it has calculated, on a daily basis. Nevertheless, if the internal prices are calculated pursuant to certain rules, this requirement can be met by organizing and recording the figures that form the basis for the said calculation (Foreign Securities Rules, Article 14(2)). If an Association Member engages in a transaction in an issue for which it is difficult to obtain an internal price, or for which calculation is not performed on a continuous basis, the Association Member must save the quotations of the foreign shares, etc., foreign share option certificates, foreign investment equity subscription right certificates, or foreign bonds in the transaction that it has obtained through a market information management firm, the price or quotation of the foreign shares, etc., foreign share option certificates, foreign investment equity subscription right certificates, or foreign bonds in the transaction in the main market on which the issue is traded, and other information that is of reference in connection with the transaction (Foreign Securities Rules, Article 14(3)).

Special Member

19 Prohibition Against Automatic Credit Extension

A Special Member must not make an automatic credit extension to customers for the purpose of covering losses or depositing an initial margin or additional margin for the transactions related to the registered financial institution business, and must take the following measures regarding these transactions. In addition, a Special Member must not extend any loan that will clearly be used for depositing the initial margin or additional margin (Investment Solicitation Rules, Article 22(1)):

(i) A Special Member shall newly set up an exclusive account for securities futures transactions, etc. in JGBs, etc., (hereinafter referred to as the "account for bond futures transactions"), and shall be prohibited from extending an overdraft to that account (*id.,* Item (i)); and

(ii) A Special Member shall not make an automatic transfer from a person's account with an overdraft to the same person's account for bond futures transactions (*id.,* Item (ii)).

Furthermore, in order to confirm the customer's intention with respect to the deposit of money in relation to securities futures transactions, etc. in JGBs, etc., a Special Member must appoint in advance a person in charge of the customer in relation to the processing of money deposited into the customer's account for bond futures transactions, and shall have the customer or a treasurer of the customer registered. Each time any money is put into the account, the Special Member shall obtain the customer's prior approval by telephone, etc. (Investment Solicitation Rules, Article 22(2)).

<Relevant Sections of this Manual> Chapter VII. 11 Prohibition Against Automatic Credit Extension for Depositing the Margin

20 Regulations Concerning Representation of Advertising, Etc. and Offer of Premiums

20 1 Duty to Make Certain Statements in an Advertisement

An Association Member must make certain legally prescribed statements when the Association Member conducts advertising or acts similar to advertising in connection with the contents of the financial instruments business that it carries out (hereinafter referred to in this Chapter as "advertising, etc.") (FIEA, Article 37(1)). TV commercials, radio commercials, poster advertisements, newspaper advertisements, magazine advertisements, internet advertisements and the like would constitute "advertisements" for these purposes, while an "act similar to advertising" means providing information of similar contents to numerous persons by postal mail, courier, facsimile, email transmission, distribution of fliers or pamphlets or other means (FIBCOO, Article 72).

The following matters are required to be indicated in the advertising, etc. (FIEA, Article 37(1); FIEAEO, Article 16(1); and FIBCOO, Article 74 through Article 76), although this does not apply to advertising, etc. towards professional investors (FIEA, Article 45).

Statements to Be Made in Advertisements, Etc.

(i) Trade name or name of the financial instruments business operator, etc.;
(ii) That the said person is a financial instruments business operator, etc., and the registration number of the said financial instruments business operator, etc.; and
(iii) Important matters concerning the contents of the financial instruments business conducted by the financial instruments business operator, etc. that would have an impact on the decisions of a customer:
a. Matters concerning commissions, fees and other consideration that the customer is to pay in connection with a contract for financial instruments transaction, *e.g.*:
- **Amounts payable by the customer in connection with the contract for financial instruments transaction classified by type of consideration, regardless of whether this is referred to as a commission, fee, expense, or by any other name (excluding the price of securities, or the amount of security deposit, etc.) or the maximum amount or a summary of the method of calculation thereof (including the percentage of the price of the securities, derivatives transaction amount, etc., or amount of managed assets in connection with the contract for financial instruments transaction, or a percentage of the earnings occurring as a result of carrying out an act of financial instruments trading) as well the total of the said amounts or the maximum or a summary of the method of calculation thereof, provided

that if it is not possible to state these, a statement to that effect and the reason for the same must be made; and

- **In the case where the contract is related to the acquisition of rights to be embodied in an investment trust, a foreign investment trust, etc., or rights set forth in a partnership agreement or a foreign partnership agreement, the investment trust beneficiary rights, etc. are to be invested or funded into other investment trust beneficiary rights, etc., the commissions, etc. shall include the trust fees and other commissions, etc. in connection with such other investment trust beneficiary rights, etc.;**

b. Margin deposits, etc. that the customer is to deposit in connection with the contract for financial instruments transaction;

c. In the event that the amount of the derivatives transactions, margin transactions, etc. that the customer will carry out (meaning the amount of consideration for the transaction or the amount obtained by multiplying the contract amount by the number of transactions or quantity) may exceed the amount of margin deposits or other security deposits, etc. that the customer is to deposit the following matters:

- **That there is a possibility the amount of the derivatives transactions, etc. will exceed the amount of the said security deposits, etc.;**
- **The ratio of the amount of the derivatives transactions, etc. to the amount of the said security deposits, etc. (if it is not possible to calculate this ratio, a statement must be made to that effect and the reason for the same);**

d. Following matters in the event that there is a risk that a customer will incur a loss as a direct result of a fluctuation in interest rates, currency prices, or market prices on the financial instruments market or other index in connection with a financial instruments transaction that the customer will carry out (risk comment):

- **Index;**
- **That there is a possibility of a loss occurring as a result of fluctuation in connection with the said index;**

e. Following matters in the event that there is a risk the amount set forth in d. above will exceed the margin deposit, etc.:

- **Matters that would become a direct cause for creating a risk of a loss in excess of the principal among the indexes; and**
- **That a risk exists of a loss in excess of the principal as a result of a fluctuation in a matter set forth above, and the reason for the same;**

f. If there is a difference between the price of sale and the price of purchase of the financial instruments represented by the financial instruments business operator, etc. in OTC derivatives transactions, to that effect;

g. Matters that are to the disadvantage of the customer in connection with material matters with respect to the contract for financial instruments

transaction;

h. If such financial instruments business operator, etc. is a member of a financial instruments firms association (limited to those associations which major association members or members are persons conducting businesses relating to the content of financial instruments business), to that effect and the name of the financial instruments firms association;

i. If such financial instruments business operator, etc. conducts an advertisement, etc. regarding the acts of financial instruments transaction for cryptoassets, the following matters:

- **The fact that cryptoassets are not the Japanese currency or a foreign currency; and**
- **The fact that cryptoassets can be used for the purpose of paying consideration only with the consent of the person who receives payment of consideration; and**

j. If such financial instruments business operator , etc. conducts an advertisement, etc. regarding the acts of financial instruments transaction for a leveraged indicator, etc. (meaning a quotation on the financial instruments market or any other indicator where the daily fluctuation rate thereof is calculated by multiplying the daily fluctuation rate of another indicator (hereinafter referred to as the "underlying indicator") by a certain factor; hereinafter the same applies), the following matters:

- **If there is a risk of a difference between the fluctuation rate of the leveraged indicator, etc. and the rate calculated by multiplying the fluctuation rate of the underlying indicator by a certain factor, a statement to that effect with the reason therefor; and**
- **If the investment in securities related to the leveraged indicator, etc. do not conform to the purpose of mid and long-term investment, a statement to that effect with the reasons therefor.**

*** The statements of (iii) d., e. and i. above must be made in letters or numbers that are not significantly different in size from the largest of the other statements of the above matters (FIBCOO, Article 73).**

Nevertheless, given the unique attributes of the advertising media in connection with TV commercials, radio commercials, billboards and the like, it is sufficient to state: (i) the trade name or name of the financial instruments business operator, etc.; (ii) to the effect that the said person is a financial instruments business operator, etc., and the registration number of the said dealer, etc.; (iii) in the event that a loss may be incurred as a direct result of a fluctuation in interest rates, currency prices, or the price on the financial instruments market or other index in connection with a financial instruments transaction that the customer will carry out, to the effect that this possibility exists (and if it is possible that the amount of the said loss will exceed the amount of the deposit, etc., that this possibility exists);

and (iv) that the contents of the Document to Be Delivered Prior to Conclusion of Contract (or prospectus) should be read fully, and the matters mentioned in i. above (FIEAEO, Article 16(2); and FIBCOO, Article 77).

<Relevant Laws and Regulations> FIBO Supervision Guideline III-2-3-3(1)(i) and (ii) (applied *mutatis mutandis* to Special Members under VIII-1); and Regarding the Regulation on Advertising, etc. under the Financial Instruments and Exchange Act (Fourth Edition)

20 2 Prohibition Against Exaggerated Advertisements

When an Association Member conducts advertising, etc. concerning the financial instruments business that it carries out, the Association Member must not make a representation that is significantly at variance to the facts, or which would significantly mislead a person with respect to the prospect of profiting from the performance of an act that constitutes a financial instruments transaction, or about any other matter specified by Cabinet Office Ordinance, set forth below (FIEA, Article 37(2); and FIBCOO, each Item of Article 78), although this does not apply to advertising, etc. that is conducted towards professional investors (FIEA, Article 45).

(i) Matters in connection with canceling the contract for financial instruments transaction;
(ii) Matters in connection with the burden of loss in its entirety or in part or a guarantee of profits in connection with the contract for financial instruments transaction;
(iii) Matters in connection with liquidated damages (including a penalty for breach) in connection with the contract for financial instruments transaction;
(iv) Matters in connection with the financial instruments market or the market that is similar to the financial instruments market in connection with this contract for financial instruments transaction, that is located in a foreign country;
(v) Matters in connection with the financial capacity or credit reputation of a financial instruments business operator, etc.;
(vi) Matters in connection with the business performance of financial instruments business (in the case of a registered financial institution, registered financial institution business) conducted by a financial instruments business operator, etc.;
(vii) Matters in connection with an amount of commissions, etc. payable by the customer in connection with the contract for financial instruments transaction, or the method of calculation of the same, the method of payment of the same,

as well as the timing and payment recipient;

(viii) In the event of advertising, etc. in relation to a sale and purchase or other transaction in mortgage securities, etc., the following matters:
  (a) matters in connection with the certainty or guarantee of payment of the principal and interest on the claim set forth in the mortgage securities, etc.;
  (b) matters concerning a recommendation to the financial instruments business operator, etc.;
  (c) matters concerning interest; and
  (d) matters concerning the mortgaged property as stated in the mortgage securities, etc.;

(ix) Matters in connection with the contents or method of advice in the event of advertising, etc. of an investment advisory agreement;

(x) Matters in connection with the contents and method of an investment decision in the event of advertising, etc. of a discretionary investment agreement; and

(xi) In the event of advertising, etc., in connection with a public offering or secondary distribution of an anonymous partnership (related to racing horses), matters in connection with the pedigree or condition of management of feeding of the racehorses.

(xii) In cases of an advertisement, etc. regarding the acts of financial instruments transaction for electronically recorded transferable rights to be indicated on securities, etc., the following matters:
  (a) the nature of the electronically recorded transferable rights to be indicated on securities, etc.; and
  (b) matters related to the mechanism for the holding and transfer of the electronically recorded transferable rights to be indicated on securities, etc.;

(xiii) in cases of an advertisement, etc. regarding the acts of financial instruments transaction for crypto-and other assets:
  (a) the nature of the crypto-and other assets;
  (b) matters related to the mechanism for the holding and transfer of the crypto-and other assets;
  (c) matters related to changes in transaction volumes or prices of the crypto-and other assets or prospects for these;
  (d) matters related to the content of the rights and obligations indicated on the crypto-and other assets; and
  (e) matters related to the financial resources or credit of the person who issues or intends to issue the crypto-and other assets, the debtor pertaining to the rights indicated on the crypto-and other assets, or the person who can exert a material impact on the value or the mechanism of the crypto-and other assets, or the business conducted by such person; and

(xiv) In cases of an advertisement, etc. regarding the acts of financial instruments

transaction for a leveraged indicator, etc., the following matters:

(a) the nature of the leveraged indicator, etc. or the securities related to the leveraged indicator, etc.; and

(b) matters related to changes in the value of the leveraged indicator, etc. or the prices of the securities related to the leveraged indicator, etc. or prospects for these.

<Relevant Laws and Regulations> FIBO Supervision Guideline III-2-3-3(1)(iii) (applied *mutatis mutandis* to Special Members under VIII-1); and Regarding the Regulation on Advertising, Etc. under the Financial Instruments and Exchange Act (Fourth Edition)

20 3 Restrictions Pursuant to Self-Regulation Concerning Representation of Advertising, Etc. and Offer of Premiums

The JSDA has established the "Advertising Rules." These rules prescribe such particulars as indications, method, and obligatory matters for advertising, etc. conducted and premiums offered by Association Members, and are for the purpose of promoting more judicious advertising, etc., and contributing to the protection of investors.

(i) Definitions

"Representation of advertising, etc." shall mean advertisements and acts similar to advertising as prescribed in Article 37 of the FIEA, in connection with the content of the financial instruments business (limited to sale and purchase or other transaction, etc. in securities that is conducted as a business) (Advertising Rules, Article 2(ii)). Only advertising, etc. related to the financial instruments business is covered under these restrictions. The restrictions do not cover advertisements such as those to recruit prospective employees.

"Premiums" refer to those mentioned in Paragraph 1 of "on the Designation of Premiums and Representations under Article 2 of the Act against Unjustifiable Premiums and Misleading Representations" (JFTC Public Notice No. 3 of 1962). The economic benefit is stipulated in this paragraph as goods, cash or any other economic benefit that an Association Member provides to a customer in connection with a transaction between them that is used as a means to solicit customers, whether by a drawing or other means. Within a certain range, however, providing these benefits is not considered a premium (for details, see JFTC Public Notice No. 3 of 1962).

(ii) Basic Principle for Advertising, Etc.

When an Association Member makes representation of advertising, etc., it must do so in the spirit of protecting investors, must observe fair and equitable principles of transaction and maintain its dignity, and must endeavor to provide accurate information to investors and to make statements that are clear and accurate (Advertising Rules, Article 3(1)).

(iii) Basic Principle for Offering Premiums

When an Association Member offers premiums, it must observe fair and equitable principles of

transaction and maintain its dignity, and must endeavor to provide these premiums in an appropriate manner (Advertising Rules, Article 3(2)).

(iv) Prohibited Acts

An Association Member must not make a representation of advertising, etc., in a manner that is or may be covered under any of the following (Advertising Rules, Article 4(1)):

a. Advertisements that violate fair and equitable principles of transactions;
b. Advertisements that undermine the dignity of status as an Association Member;
c. Advertisements that violate the FIEA or other laws and regulations;
d. Advertisements that suggest unlawful acts;
e. Advertisements which contain indications that may mislead investors in their investment decisions;
f. Advertisements that interfere with fair competition among Association Members;
g. Advertisements that include representations that are arbitrary or excessively subjective; and
h. Advertisements that invite a judgment or evaluation, etc., and do not state the underlying reasons for the same.

Moreover, an Association Member must not offer to a customer any premiums that violate or are likely to violate any laws or regulations, including the Act Against Unjustifiable Premiums and Misleading Representations (Advertising Rules, Article 4(2)).

Finally, an Association Member must not directly or indirectly have any third party make any advertisements or offer any premiums that violate the above prohibitions (Advertising Rules, Article 4(3)).

(v) Internal Examination, etc.

a. When an Association Member conducts advertising, etc. and offers premiums (excluding the representation, etc., of advertising, etc. targeting specified investors only), the Association Member shall have the advertising examining officer examine whether or not there are any facts falling under any of the prohibited acts in (iv) above (Advertising Rules, Article 5(1)).
b. Depending on the type of Association Member (Regular Member, Special Member, or Specified Business Member), an Association Member must designate a person falling under any of the following as its advertising examining officer who is in charge of examining the representation of advertising, etc., and the offer of premiums:

[In the Case of a Regular Member][Note 1]

i) an internal administration supervisor;
ii) a person who has passed the Qualification Examination for Sales Managers of Regular Members under the Rules Concerning Qualification Examination for Securities Sales Representatives, etc. (prior to the enforcement of an amendment dated April 1, 2006; the same shall apply hereinafter);
iii) a person who has passed the Qualification Examination for Internal Administrators of Regular Members under the Examination Rules; or
iv) any other person that the JSDA recognizes as being appropriate to perform the duty of examining the representation of advertising, etc. and the offer of premiums, on the basis of factors such as his or her knowledge.

[In the Case of a Special Member](Note 2)

i) an internal administration supervisor;

ii) a person who has passed the Qualification Examination for Sales Managers of Special Members under the "Rules Concerning Qualification Examination for Securities Sales Representatives, etc.";

iii) a person who has passed the Qualification Examination for Internal Administrators of Special Members under the Examination Rules;

iv) a person who has passed the Qualification Examination for Sales Managers of Regular Members under the "Rules Concerning Qualification Examination for Securities Sales Representatives, etc.";

v) a person who has passed the Qualification Examination for Internal Administrators of Regular Members under the Examination Rules; or

vi) any other person that the JSDA recognizes as being appropriate to perform the duty of examining the representation of advertising, etc. and the offer of premiums, on the basis of factors such as his or her knowledge.

Notwithstanding the foregoing provisions, with respect to an advertising examining officer who conducts examinations of the representation of advertising, etc., or the offer of premiums, relating to registered financial institution financial instruments intermediary acts, the Special Member may not appoint a person as advertising examining officer unless he/she satisfies any of the above requirements [In the Case of a Regular Member] (Advertising Rules, Article 5(4)).

[In the Case of a Specified Business Member]

Unless the person falls under Sales Representative Rules, Article 4-2(1)(i), or has taken the Paragraph (1) internal training program set forth in Article 4-2(1)(ii) and reported the result thereof to the JSDA, or satisfies Article 4-2(2)(ii) and (iii), and, falls under any of the following i) through v), such person must not be appointed as advertising examining officer (Advertising Rules, Article 5(5)):

i) an internal administration supervisor;

ii) a person who has passed the Qualification Examination for Sales Managers of Regular Members under the "Rules Concerning Qualification Examination for Securities Sales Representatives, etc.";

iii) a person who has passed the Qualification Examination for Internal Administrators of Regular Members under the Examination Rules;

iv) a person who has passed the Qualification Examination for Sales Managers of Special Members under the "Rules Concerning Qualification Examination for Securities Sales Representatives, etc."; or

v) a person who has passed the Qualification Examination for Internal Administrators of Special Members under the Examination Rules.

With respect to the brokerage, etc. of commodity-related market derivatives transactions conducted by an Association Member, notwithstanding the conditions set forth in accordance with the types of Association Member above, the Association Member may appoint the person

set forth in each item of Article 14-3 of the Internal Administrators Rules, as applied through the replacement of terms pursuant to Article 5(1) of the Commodity Derivatives Rules, to be the advertising examining officer that reviews the representation of advertising, etc. and the offering of premiums relating to the brokerage, etc. of commodity-related market derivatives transactions (Advertising Rules, Article 5(6), as applied through the replacement of terms pursuant to Article 5(1) of the Commodity Derivatives Rules).

c. An Association Member must not permit an employee to make representations of advertising, etc., or provide premiums on his or her own authority without receiving an examination by the advertising examining officer (Employees Rules, Article 7(xvii)).

(vi) Development of Internal Administration Regime

In order to promote proper conduct in representations of advertising, etc. and the offer of premiums, an Association Member must develop internal rules on the examination system, examination standards and retention system with respect to representations of advertising, etc. and the offer of premiums, and must raise awareness of these rules among its employees and ensure their compliance with the rules (Advertising Rules, Article 6).

The JSDA may request that an Association Member submit the relevant documents and may obtain an explanation, if it determines that the representation of advertisements etc., or offer of premiums made by an Association Member or its employee violate or are likely to violate the principles or prohibitions of (ii) through (iv) above, and the Association Member must accommodate this request or provide explanation (Advertising Rules, Article 7).

(vii) Guidelines Concerning Advertisements, Etc.

If an Association Member intends to make advertisements, etc., the Association Member is required to comply with the "Guidelines Concerning Advertisements, Etc.," prescribed by the JSDA, with respect to particulars such as the representation and method of the advertisements (Advertising Rules, Article 8).

(Notes) 1. With regard to Regular Members, the advertising examining officer who conducts the examination of representation of advertising, etc. and the offer of premiums related to specified OTC derivatives transactions, etc. shall be limited to those persons who fall under Sales Representative Rules Article 4-2(1)(i), or who took the Paragraph (1) internal training program set forth in Paragraph (1)(ii) and reported the result thereof to the JSDA, or who satisfy the requirements of Paragraph (2)(ii) and (iii) of the same Article, and, who fall under any one of i) through iii) (Advertising Rules, Article 5(2)).

2. With regard to Special Members, the advertising examining officer who conducts the examination of the representation of advertising, etc. and the offer of premiums related to specified OTC derivatives transactions, etc. shall be limited to those persons who fall under Sales Representative Rules, Article 4-2(1)(i), or have taken the Paragraph (1) internal training program set forth in Article 4-2(1)(ii) and reported the result thereof to the JSDA, or satisfy Article 4-2(2)(ii) and (iii), and, who fall under any one of i) through v) (Advertising Rules, Article 5(3)).

Regular Member

20 4 Handling, Etc. of Analyst Reports

(1) Handling of Analyst Reports

The distribution of documents in connection with analysis and evaluation of an individual company (analyst report(s)) and which will not be used to solicit the conclusion of a contract for financial instruments transaction would be recognized as not constituting advertising, etc., and not being covered by application of the regulations concerning representations of advertising, etc. under the FIEA (FIBCOO, Article 72(ii)).

Notwithstanding the provisions of the Advertising Rules, the handling, etc. of analyst reports must comply with the Analyst Reports Rules (Advertising Rules, Article 9). The Analyst Reports Rules define analyst report as a "document prepared for the purpose of providing information to a large number of investors that describe analyses, evaluations, etc. of a particular company" (Analyst Reports Rules, Article 2(i)).

The Analyst Report Rules also provide that the matters necessary for interpretation, etc. of the Analyst Reports Rules shall be prescribed in the "Concept behind the Analyst Reports Rules" (Analyst Reports Rules, Article 17).

(i) Establishment of Internal Administration Systems

An Association Member must strive to have business pertaining to the preparation, distribution or publication (hereinafter referred to as "publication, etc."), etc. of analyst reports implemented in an appropriate and fair manner by establishing an internal administration system, including enactment of internal rules in respect of the internal examinations and the keeping of analyst reports, the management of information, the ensuring of the independence of the opinions of analysts, the conducting of securities trading by analysts, and other similar matters (Analyst Reports Rules, Article 3).

(ii) Internal Examinations, Etc.

An Association Member is required: (a) to endeavor to ensure that the contents of the representations and evaluations made in an analyst report are appropriate and reasonable, through means such as establishing guidelines in connection with analyst reports (Analyst Reports Rules, Article 4(1)); (b) to appoint a person responsible for examination in connection with the publication, etc. of analyst reports, and have the said person conduct an examination (Analyst Reports Rules, Article 4(2)); and (c) to take care in the course of examination that none of the prohibitions of 20.3.(iv) above are violated and that the content of the representations and evaluations in the analyst report are appropriate and reasonable in view of the internal guidelines; as well as that a clear statement has been made of the definitions of the rating, the grounds for the target price and the expected period to attain the target price if a rating or target price has been stated (Analyst Reports Rules, Article 4(3)). Upon judging the appropriateness of the publication, etc. of internal examination and analyst reports, it should be noted that, (i) if such analyst reports are considered to be published, etc. in the normal course of business (excluding cases where the publication, etc. of the analyst reports is commencing for the first time or re-commencing after cessation), such publication,

etc. shall not be deemed to fall under a solicitation of offers to acquire or an offer to sell, etc. securities issued by a company subject to publication, and (ii) when the publication, etc. of analyst reports made in the normal course of business is restricted, it may, in fact, be cause for suspicion that such Association Member acquired corporate information (Analyst Reports Rules, Article 4(6)). In addition, an Association Member must keep and preserve published, etc. analyst reports, and records stating that it has conducted an internal examination, for three years from the date of publication, etc. (Analyst Reports Rules, Article 5).

(iii) Disclosure of Conflicts

If there is a material conflict of interest between the company covered by the analyst report and the Association Member and/or the analyst who prepared the report, and steps must be taken such as prohibiting certain expressions in the analyst report, having the analyst report state the relationship of conflict of interest, or prohibiting the writing of an analyst report (Analyst Reports Rules, Article 6) (see the table below).

(iv) Publication, etc. of Externally Written Analyst Reports

If an Association Member publishes, etc. an analyst report prepared by an external analyst who is not its officer or employee, based on an agreement or the like with the company to which the analyst belongs (including a foreign company), and if that company clearly conducts an examination that is equivalent to (ii) above, the Association Member that publishes, etc. the analyst report will be deemed to have conducted an examination by the Association Member itself (Analyst Reports Rules, Article 4(5)); provided that the Association Member must conduct its own examination of the report if numerous errors can be found in entries that will have an impact on investment decisions.

Upon the publication, etc. of an analyst report written by an external analyst, an Association Member must make certain statements or provide notices to customers (excluding those made orally) of matters such as material conflicts of interests with the company covered by the analyst report (Analyst Reports Rules, Article 7) (see the table below).

Regulations Concerning Statements, etc. of Relationship of Conflict of Interest in Analyst Reports

	Analyst Report Prepared by Analyst that Belongs to Association Member	Analyst Report Prepared by External Analyst that Belongs to Another Company
Disclosure of Conflict of Interest	**(1) Relationship of Conflict of Interest Between the Target Company and the Analyst** If an analyst is in a relationship of a material conflict of interest(Note 1) in connection with the target company of an analyst report (referred to as "Report" in this table) that the analyst has prepared, the Association Member must clearly state the nature thereof in the Report.	**(1) Relationship of Conflict of Interest Between the Target Company and the Analyst** The Association Member must take action in order to have the nature of a material conflict of interest(Note 1) between the external analyst and the target company clearly stated in the Report(Note 2).
	(2) Relationship of Conflict of Interest Between the Target Company and the Association Member If the Association Member is in a relationship of a material conflict of interest(Note 3) with the company that is the target of a Report, the Association Member must clearly state the nature thereof in the Report(Note 4).	**(2) Relationship of Conflict of Interest Between the Target Company and the Association Member** If an Association Member which publishes, etc. a Report written by an external analyst has (i) paid or promised to pay consideration for the preparation of the Report or (ii) requested the preparation of the Report, designating the company regarding which the Report is to be made, the

	Analyst Report Prepared by Analyst that Belongs to Association Member	Analyst Report Prepared by External Analyst that Belongs to Another Company
		Association Member must make a statement(Note 4) or provide a notice(Note 5) of this. In the case set forth in (i) or (ii), if the Association Member is in a relationship of material conflict of interest(Note 3) with the target company of the Report, the nature thereof must also be included in the statement or notice.
	(3) Statement That the Association Member is the Lead Manager If the Regular Member is the lead manager in connection with a public offering or secondary distribution of shares, share option certificates, or bonds with share options, of the target company of a Report, the Association Member must state(Note 4) that it is the lead manager if the Association Member publishes, etc. a Report concerning shares in the target company within one year after the date of submission of the securities registration statement, etc., in connection with the said public offering or secondary distribution.	**(3) Statement That the Association Member is the Lead Manager** In the case set forth in (i) or (ii) above, if an Association Member publishes, etc. a Report from an external analyst and the Association Member will be the lead manager of the target company as stated at left, the Association Member must make a statement(Note 4) or provide a notice(Note 5) that it has become the lead manager as stated at left..
Prohibition Against Certain Statements	The lead manager of a public offering or secondary distribution of shares or preferred equity investment certificates, etc. in association with a new public listing must not make a statement of a rating or a target price in a Report published, etc. within 10 business days after the date of listing following the submission of a securities registration statement, etc., in connection with a public offering or secondary distribution.	In the case set forth in (i) or (ii) above, if a Regular Member that publishes, etc. an external analyst report is a lead manager as stated at left, the Regular Member must only use the Report after confirming that the Report does not contain a rating or a target price.
Others	An Association Member must not permit an analyst to write a Report on a company of which the analyst has become an officer (in case in which an accounting advisor is a corporation, including any equity member thereof who performs its duties).	

(Notes) 1. Meaning (i) if the analyst is an employee or advisor of the target company, (ii) if a member of the family of the analyst (meaning a member of the family who resides in the same residence or is part of the same economic unit; hereinafter the same) is an officer of the target company, or (iii) if the analyst or a member of his or her family holds securities in the target company.

2. Meaning action such as (i) having a statement included in the contract or the like prescribing that a clear statement of the nature of a conflict must be made in the Report, or (ii) confirming that the internal regulations, etc. of the Association Member of the external analyst prescribes that a clear statement should be made in the Report of the nature of a conflict.

3. Meaning (i) if the target company is the parent, subsidiary, affiliate or related company of the Association Member, (ii) if an officer of the Association Member is an officer of the target company, or (iii) if the Association Member holds more than 5% of the shares, etc. of the target company.

4. As a means for making this statement, the Association Member may make it available for inspection on its website instead of in the Report. In this case, the Association Member

must indicate in the Report the fact that the statement is made available for inspection on its website, as well as provide the URL of the website and the contact point or office (where the Association Member can reply to inquiries regarding the statement from customers who have no access to the website).

5. The Association Member must (i) state the same in the Report, or (ii) make a notice to the customer in paper form or by other means (excluding orally). The method of notice includes attaching a document at the time of delivering the Report to the customer, or if the Report can be viewed on the website of the securities company, making the statement on the website.

(2) Regulations Concerning Interview, etc. by Analysts

Pursuant to the "Guidelines Concerning Interview, etc. of Issuing Companies and Act of Information Communication by Analysts of Association Members" of the JSDA, it was clarified, by type, that (i) the analysts of Association Members shall not conduct an interview, etc. "information concerning performance figures unreleased at fiscal year-end," excluding exceptions, and for information obtained unintentionally, appropriate management should be taken; (ii) information that can be communicated to specific investors other than by way of analyst reports shall not be inconsistent with analyst reports already released and shall be limited to the extent not influencing investment decision.

<Relevant Laws and Regulations> FIBCOO, Article 73; Advertising Rules, Article 5; and Employees Rules, Article 7(xvii)

Chapter V. Managing Acceptance of Customer Orders

1 Verification of Order Details and Clear Indication of Transaction Mode in Advance

Regular Member

1 1 Verification of Order Details

When an Association Member accepts an order from a customer, it must conduct a customer check (for details, see Chapter III. 1. Investigation of a Customer and Preparation of Customer Cards, Etc.) as well as verify the matters set forth in each case below and promptly prepare order forms when receiving orders (FIBCOO, Article 158):

(i) Whether the trade is for their own account or for the account of a client (in the case of an order from a customer, the trade is for the account of a client);
(ii) Name of customer;
(iii) Type of transaction (matters prescribed in FIBCOO, Article 158(1)(iii), depending on spot trading/margin transaction or issued transactions/short selling, etc.);
(iv) Issue (contract number described in the agreement that states the financial instrument or financial index subject to transaction or the transaction terms);
(v) Whether the transaction is a sale or a purchase (matters prescribed in FIBCOO, Article 158(1)(v));
(vi) Order acceptance volume (in the case where there is no volume, measurements similar to volume or number of cases);
(vii) Contract volume (in the case where there is no volume, measurements similar to volume or number of cases);
(viii) Limit order or market order (in the case of limit order, including the price and expiration date of the order (excluding the case when the expiration date is on the relevant date));
(ix) Order date;
(x) Contract date; and
(xi) Contract price (matters prescribed in FIBCOO, Article 158(1)(xi)).

With regard to an order form concerning a certain type of brokerage conducted by using an internal trading system (a system under which the financial instruments business operator, etc. or any other person, using an electronic data processing system, determines the price or other terms and conditions of the sale and purchase in securities or market derivative transactions, or conducts any other similar act, with a large number of persons participating simultaneously as parties on one side of the transaction or as parties on

both sides of the transaction; excluding a proprietary trading system prescribed in Article 26-2-2(7) of the FIEAEO), it is necessary to make the order form distinguishable as one that relates to the relevant type of brokerage, and state the following matters in the form (Article 158(5) and (6) of the FIBCOO):

(a) the name of the relevant internal trading system;
(b) the price determined under the relevant internal trading system and the time it is determined; and
(c) the prices determined under an internal trading system and financial instruments exchange market, etc. and the times they were determined, which were the bases of comparison at the time of using the relevant internal trading system.

In the cases where a form for receiving orders is completed by directly entering data into a computer, the following points shall be considered (FIBO Supervision Guidelines III-3-3(4)):

(i) Details of orders received shall be entered into a computer when the orders are received (in the case of self-transaction, when orders are shipped);
(ii) The system enables prompt response to referrals from clients;
(iii) Backups of input data are made and stored;
(iv) The system automatically records input time;
(v) The system can track deleted/corrected records, if deletion/correction of input history is made;
(vi) Handwritten forms for receiving orders shall be prepared, as was done previously, in the cases where the order form cannot be made by directly inputting data into a computer at the same time as receiving orders. Examples of such cases are when the details of orders are communicated to executing offices by telephone, where orders for the following day are received after the computer system is shut down for the day, or where computers are not usable due to a disaster, etc. However, a postscript may be omitted if a handwritten form for orders received, which has been created at the same time as orders were received, is stored together with the form for receiving orders that has been prepared by a computer that shows whether all order information agrees if the details of the orders received are input later; and
(vii) The system can respond to internal audits.

12 Clear Indication of Transaction Mode in Advance

Under the FIEA, Association Members must clearly indicate in advance what transaction mode it will use to conclude an order for a transaction from a customer (FIEA, Article 37-2). More specifically, when an Association Member accepts an order from a customer for a trade in securities or an over-the-counter derivatives transaction, the Association Member must specify to the customer prior to the transaction whether (i) the Association Member itself will become the counterparty to execute the trade or transaction, or (ii) will intermediate, broker or act as agent in effectuating the trade or transaction. There are no particular provisions with respect to the specific timing or manner, etc. upon stating the transaction structure, but it must be stated in an appropriate manner in advance including a method of

stating the same on the Document to be Delivered Prior to Conclusion of Contract.

Under the FIEA, this prior clarification of transaction structure, however, is not required in the event that the customer is a professional investor (FIEA, Article 45).

Regular Member

2 Compliance with Brokerage Rules

2 1 Brokerage Rules

The Brokerage Rules are the regulations prescribed by the financial instruments exchange with respect to the rules to be complied with by trading participants, etc. of a financial instruments exchange upon accepting trade orders from customers on a financial instruments exchange market.

The FIEA states that the financial instruments exchange shall prescribe Brokerage Rules that contain detailed stipulations in connection with (i) through (iv) below, and each financial instruments exchange provides for such regulations (FIEA, Article 133(2)):

(i) Terms and conditions for acceptance of sale and purchase in securities or market derivatives transactions;

(ii) Delivery and other methods of settlement for sale and purchase in securities or market derivatives transactions;

(iii) Matters concerning the extension of credit for acceptance of consignment of sale and purchase in securities; and

(iv) In addition to (i) through (iii) above, matters that are necessary with respect to acceptance of consignment of sale and purchase in securities or market derivatives transactions.

2 2 Compliance with Brokerage Rules

Under the FIEA, members, etc. of a financial instruments exchange must accept trade in securities or market derivatives transactions (excluding clearing brokerage for securities, etc.) on a financial instruments exchange market in compliance with the Brokerage Rules (FIEA, Article 133(1)). In addition, the TSE Brokerage Rules state that “customers and trading participants shall peruse these standards and agree to comply therewith in executing all transactions” (TSE Brokerage Rules, Article 2). It should be noted that not only trading participants but also customers have the duty to peruse and comply with these standards as counterparties to agreements.

Because the acceptance of trading orders on the financial instruments exchange market are to be handled uniformly under the Brokerage Rules, Association Members must comply with the Brokerage Rules as well as fully explain to a customer that his or her order on the financial instruments exchange market will be accepted entirely pursuant to the Brokerage Rules, and must also give a full explanation

of the contents, etc. of the Brokerage Rules.

3 Proper Management of Transactions Concerning Customer Orders

In the course of sale and purchase or other transactions in securities, etc., an Association Member must clearly distinguish between trades that the Association Member makes in connection with a customer order, and trades that an Association Member makes for its own account. Specifically, an Association Member must adequately manage transactions concerning customer orders (promptly prepare, organize and keep order forms in connection with orders if a transaction is made on the basis of a customer order, and enter codes etc. into a terminal to distinguish from trades for the account of an Association Member) as well as prescribe in its internal rules matters contributing to such management (proper operation and management of time stamp machines, elimination of improper operation of computers, etc.) (Investment Solicitation Rules, Article 18).

Moreover, an Association Member must put in place a sufficient administration system in order to properly implement best execution (*id.,* Article 19). (For details, see "12. Formulation, Etc. of a Best Execution Policy, Etc." of this Chapter.) In order to prevent the accepting or placing orders with a mistaken content in connection with sale and purchase, etc. in securities that an Association Member conducts on a financial instruments exchange market (limited to trades during trading sessions as well as transactions through auctions as prescribed by a financial instruments exchange), the "Rules Concerning Establishment of Order Management System by Association Members" of the JSDA require, *e.g.,* the enactment of internal rules concerning the following and improvement in information processing systems with respect to managing orders (Article 2 and Article 7 of the said Rules):

(i) Matters relating to the pre-deposit of the amount to be purchased or securities for sale;
(ii) Matters relating to the confirmation of an order upon receipt of the order;
(iii) Matters relating to restrictions regarding order placement;
(iv) Matters relating to the lifting of restrictions regarding order placement;
(v) Matters relating to the proper human resource allocation and training of staff members engaged in order receipt and execution;
(vi) Matters relating to inspection of the order management system; and
(vii) Such other matters as deemed necessary by the Association Member.

The financial instruments exchanges also have similar rules. The "Regulations for Order Management Systems at Trading Participants" of the Tokyo Stock Exchange requires the enactment of internal rules concerning the following matters:

(i) Matters concerning the verification of the content of customer orders, etc.;
(ii) Matters concerning restrictions on the placement of orders;
(iii) Matters concerning the appointment of an authorizing officer;
(iv) Matters concerning familiarization with internal rules, etc.; and

(v) Any other provisions deemed necessary.

<Relevant Laws and Regulations> FIEA, Article 40-2

4 Managing Trust Account Trading

Association Members must monitor accurately the trading situation regarding transactions conducted on trust accounts and endeavor to manage these in an appropriate manner (Investment Solicitation Rules, Article 26).

Each Association Member is allowed to use its discretion in managing trades, including management of acceptance of specific orders and management of trading situation, etc.

<Relevant Sections of this Manual> Chapter III. 15 Proper Management of Trust Account Trading

5 Prudent Use of Margin Transactions, Share Option Certificate Transactions, Investment Equity Subscription Right Certificate Transactions, Derivatives Transactions, Etc.

An Association Member shall operate its business in a prudent manner depending on the scale and actual business of each company in the conclusion of a contract for margin transactions, sales and purchases, or other transactions in share option certificates (Note 1), investment equity subscription right certificates (Note 2), securities-related derivatives transactions, etc., specified OTC derivatives transactions, etc., and brokerage, etc. of commodity-related market derivatives transactions, and always restrain itself from pursuing such transactions at an excessive level (Investment Solicitation Rules, Article 11(1)).

An Association Member shall also endeavor to adequately understand the open interest, profit and loss, customer margin, assets under custody in relation to the securities-related derivatives transactions, etc., the specified OTC derivatives transactions, etc. and brokerage, etc. of commodity-related market derivatives transactions of the customers, as well as to manage the evaluation of the profits or losses of customers who repeatedly conduct such transactions, etc. in a comprehensive manner (*id.,* Article 11(2))

(Notes) 1. These include securities or instruments issued by a foreign country or foreign company having the nature of share option certificates, and exclude share option certificates in connection with an allotment of share options without contribution, as prescribed in Article 277 of the Companies Act, which are listed or to be listed on a financial instruments exchange market.

2. These include those similar to investment equity subscription right certificates among foreign investment securities, and exclude investment equity subscription right

certificates in connection with an allotment of investment equity subscription rights without contribution, as prescribed in Article 88-13 of the Investment Trust Act, which are listed or are to be listed on a financial instruments exchange market.

6 Managing Deposits of Advance Payments, Etc. for New Customers and Customers Trading in Large Lots, Etc.

When accepting orders from new customers or customers trading in large lots, etc., an Association Member must endeavor to accept from the relevant customers and maintain the security of the transactions such as by requiring a deposit for all or a portion of the purchase price, or the securities to be sold (Investment Solicitation Rules, Article 17).

Each Association Member is expected to determine the size of transactions that would constitute large lot transactions, and the type of orders for which deposits should be collected, as well as determine restrictions on accepting orders, in its internal rules (Rules Concerning Managing Customers) in accordance with the circumstances involved.

In addition, Association Members shall, upon accepting orders from customers (excluding institutional investors, etc.) with respect to the sale and purchase, etc., in securities conducted on a financial instruments exchange market (limited to trades during trading sessions and transactions through auctions as prescribed by a financial instruments exchange), endeavor to ensure the security of transactions by receiving a deposit of the purchase price or the securities sold from the customer in advance in principle (Rules Concerning Establishment of Order Management System by Association Members, Article 3).

The accepting of deposits of advance payments, etc. must be conducted in order to assure safe and definite settlement of trading, and also leads to the prevention of the so-called “sell and run” (*teppō akinai*)*, wash sale (*nareai baibai*), fictitious trading (*kasō baibai*), and apparent market manipulation.

**Teppō akinai* means a transaction in which in addition to the Association Member in question, the customer places an opposing order for the same issues through another Association Member and leave either of the orders unsettled.

7 Managing Acceptance of Orders from Trades Under a False Name

“Trading under a false name” means a transaction in which the name of the account holder and the person to whom the fruits of the transaction conducted in that account belong to do not correspond. This would, for example, mean a transaction in which a customer uses a fictitious name or the name of another person, and attempts to obtain the legal effect of the transaction. In order to prevent the acceptance of trades under a false name which is prohibited by the JSDA rules (for details, see Chapter

III. "2.6 Prohibition Against Accepting Trading Under a False Name"), encouragement of proper confirmation of customer identity is effective. Moreover, day- to-day management by the Internal Administrator is also vital to this process. Specifically, the following points shall be noted:

(i) Verifying records of identity verification upon transaction

- To confirm the status of preparation and retention of records ensuring to confirm whether or not the transaction was conducted by the customer himself/herself through the identity verification process upon transaction at the time of commencing transaction.
- Verification of the recorded matters on the customer card.

(ii) Verification upon accepting an order

Regular Member

- Take particular care when more than one new customer for the same marketing personnel is to be allocated shares, etc. through a public offering or secondary distribution.
- Verification must be done for confirming share trades made in a family name, since the shares must be the property of the person in whose name the transaction is made.

- The actual situation must be verified for orders from a person other than the actual holder.
- Even with respect to transactions with a customer whose identity has been verified upon transaction, to confirm that there is no possible identity theft by verifying that such customer is the same person as the person of record (however, the foregoing does not apply when the customer's identity is clear, such as in the case where an employee knows the customer).
- Simultaneous orders for the same issue from multiple customers handled by the same marketing personnel present the possibility of trades being made under a false name. Therefore, verification is required in these circumstances.

(iii) Verification upon delivery

- Verification must always be performed if notices of reconciliation or other mailed materials are returned.
- Verification is necessary if delivery receipts, statements or other documents are written in the same handwriting, for transactions handled by the same marketing personnel.
- Care is also necessary concerning names used at the time of title transfers, and the account names, etc. for custodial service, and account names for margin securities to be accepted.

In the case where a transaction is suspected of being a transaction conducted using fictitious accounts or borrowed accounts, whether or not to report the suspicious transaction needs to be examined.

<Relevant Laws and Regulations> Employees Rules, Article 7(ix); Investment Solicitation Rules, Article 13(1); and Questions and Answers Concerning the "Prohibition Against Accepting Requests for Trading Under a False Name"

<Relevant Sections of this Manual> Chapter V. 10 Prohibitions Against Trading with Antisocial Forces

Regular Member

8 Managing Acceptance of Orders During Stabilization Period and Financing Period

8 1 Prohibition of Stabilization Transactions

Under the FIEA, "no person shall conduct a series of sale and purchase of securities, etc., or make offer, entrustment, etc. or accept an entrustment, etc. therefor in violation of a cabinet order, for the purpose of pegging, fixing or stabilizing prices of listed financial instruments, etc., in a financial instruments exchange market" (FIEA, Article 159(3)), and stabilizing transactions are prohibited in principle. An Association Member or its officer or employee is prohibited from becoming entrusted, etc. with the purchase, sale or derivative transactions pertaining to the listed financial instruments, etc. or the over-the-counter traded securities (excluding brokerage for clearing of securities, etc.), knowing that causing fluctuation, pegging, fixing or stabilizing the quotation of, or the figures calculated based on the quotations or transaction volumes of, the listed financial instruments, etc. on a financial instruments exchange market or the over-the-counter traded securities on the over-the-counter securities market, or increasing the transaction volumes thereof will result in the formation of manipulative quotations which do not reflect actual market status (FIBCOO, Article 117(1)(xx)).

The term listed financial instruments, etc. on the financial instruments exchange market refers to financial instruments (such as securities), financial instruments indexes (such as prices of securities), or options that are listed on a financial instruments exchange (FIEA, Article 159(2)(i)). Sale and purchase in securities, etc. means sale and purchase in securities, market derivatives transactions or OTC derivatives transactions (FIEA, *id*. main clause).

8 2 Stabilizing Period and Financing Period

Stabilizing transactions are only permitted as exceptions in cases where a series of sale and purchase, etc. in securities are conducted on a financial instruments exchange market for the purpose of making a public offering of securities (solely in the case where 50 or more persons are to be solicited), or a professional investor solicitation to acquire (solely in the case where 50 or more persons are to be solicited) or a secondary distribution of securities (solely in the case where 50 or more persons are to be solicited), or an exclusive offer to sell, etc. to professional investors (solely in the case where 50 or more persons are to be solicited) (FIEAEO, Article 20(1)), more feasible.

When large quantities of securities will be released to the market at a given time due to these acts, if no action is taken, the market price will decline and it will become difficult to secure investors who will accept the public offering, etc. Accordingly, there is a need to stabilize the price and stabilizing transactions are exceptionally permitted. However, since stabilizing transactions are a form of market

manipulation that artificially affects the price formation in the market, they are only permitted if the strict criteria set forth below are met.

The period in which stabilizing transactions are permitted is referred to as the stabilization period. This is prescribed by statute (FIEAEO, Article 22 and Article 24), and in general is the period from the day following the date on which the issue price, offering price, price of exclusive offer to sell, etc. for professional investors (hereinafter referred to as the "issue price, etc.") is settled, to the final date for subscription to the public offering or secondary distribution, etc.

Specifically, the following are the stabilization periods for the purpose of a public offering of shares:

(i) An offering which provides a right to shareholders to receive an allocation of shares (*i.e.*, an allocation to shareholders)—the period from two weeks prior to the date set forth in Article 202(1)(ii) of the Companies Act (application date) as it applies to the offering in connection to the offering, until the payment date;

(ii) In the event of an offering other than that set forth in (i) above, the period from 20 days prior to the expiration of the application period for acquisition of new shares in connection with the offering, through the expiry date of the application period;

(iii) Even in the event of (i) and (ii) above, however, if the issue price, etc. has not been determined prior to the beginning of the periods set forth in (i) and (ii), stabilization transactions must not be conducted until the date on which the financial instruments exchange receives notification from the issuer of the issue price, etc. as set forth in their regulations. This consequently reduces the stabilization period compared to the period described in (i) and (ii) above; or

(iv) Moreover, if in the event of (i) or (ii) above, the issue price, etc. is to be determined through means such as multiplying the closing price on a certain day on a certain financial instruments exchange market by a certain ratio (where the formula is stated), rather than determining the issue price, etc. as a fixed amount, stabilization transactions must not take place until the date on which the financial instruments exchange receives notification from the issuer of the fixed monetary amount of the issue price, etc. as set forth in their regulations. This consequently reduces the stabilization period compared to the period described in (i) and (ii) above.

The term from the day following the date on which a company resolves at a meeting of its board of directors to make a public offering or secondary distribution, etc. to the payment date or delivery date, is generally referred to as the financing period. During this financing period, care is necessary in controlling the acceptance and execution of orders, in order to detect whether or not a market price is being artificially created (there is another definition of a financing period as being the period from the day following the date on which the board of director resolves to make an issue at market price to the date on which the price of issue, etc. is determined, but for the purposes of this Manual we have used the definition stated above).

8 3 Persons Who May Conduct or Consign Stabilizing Transactions

Only persons covered under the following defined categories are permitted to conduct or consign

stabilizing transactions (FIEAEO, Article 20(2) and (3)):

(i) Association Members that are permitted to conduct stabilizing transactions on their own account:

a. If a Securities Registration Statement has been filed

The Association Member listed in the Securities Registration Statement as the financial instruments business operator that will enter into an original underwriting contract.

b. If submission of a Securities Registration Statement is not required

The Association Member which the issuer notified in advance as the financial instruments business operator that will enter into an original underwriting contract to the financial instruments exchange on which the issuer is listing such securities.

(ii) Persons that may consign stabilizing transaction orders

Officers of the issuer, the holder of the securities subject to a secondary distribution or an exclusive offer to sell, etc. to professional investors, or officers of related company(ies) of the issuer, related company(ies) (excluding subsidiary(ies)) of the issuer, and persons for whom the issuer has given prior notice to the financial instruments exchange in accordance with the rules of the financial instruments exchange may consign orders for stabilizing transactions. "Related company(ies)" and "subsidiary(ies)" here have the meanings defined in Article 8 of the "Regulation on Terminology, Forms, and Preparation Methods of Financial Statements" (Securities Transaction Ordinance, Article 4).

If stabilizing transactions are to be conducted, entry must be made in, *e.g.,* the prospectus which states that the stabilizing transactions are to be performed, as well as the name of the financial instrument exchange market on which the stabilizing transactions are to be performed (FIEAEO, Article 21). Other restrictions also apply to matters such as restrictions on transaction prices, submission of notifications of stabilizing transactions and stabilizing transactions reports, and public inspection, etc. (FIEAEO, Article 23 through Article 26, *et al*.)

8 4 Prohibited Acts During the Financing Period and Stabilization Period

In particular caution must be exercised in connection with the following in the event of issuing shares at market price without a shelf registration statement, and if stabilizing transactions are implemented:

(i) From the day following the resolution of the public offering or secondary distribution, through the date of determination of the price

The prohibition against market manipulation also applies to the period from the day following the resolution to make the public offering or secondary distribution through the date on which the price is determined. This period is particularly susceptible to acts such as those taken to stabilize the price, and for that reason an Association Member must take particular care when accepting orders during this period.

(ii) During the stabilization period

Caution must be exercised in connection with the following in addition to the necessity to exercise care regarding regulations such as the prohibition against market manipulation:

a. The original underwriter Association Member (an Association Member who enters into an original underwriting contract) is prohibited from making purchase offers for its own account during the stabilization period (excluding stabilizing transactions, and such other transactions as are recognized in the regulations of each financial instruments exchange as being necessary for the smooth distribution of securities (FIBCOO, Article 117(1)(xxii)).

A further prohibition applies, *inter alia*, to an original underwriter Association Member's consigning purchase offers to another Association Member, to acts such as accepting purchase offers for the account of the issuing company, as well as to accepting purchase offers from persons capable of consigning stabilizing transactions (such as an officer of the issuing company) (except for accepting stabilizing transactions) (*id.*).

b. An Association Member that engages in stabilizing transactions or accepts the consignment of orders for the same must not accept offers to purchase the issues from investors, or sell the issues in question to investors (except for acceptance of offers to purchase the issues from a financial instruments business operator, etc., or sell the issues in question to a financial instruments business operator, etc.), without indicating that they are undertaking stabilizing transactions from the time the first stabilizing transaction is made through the end of the stabilization period (FIBCOO, Article 117(1)(xxiii)).

8 5 Verifying Acceptance of Orders During Financing Periods and Stabilization Periods

(i) Stabilizing transactions are permitted only when they meet certain requirements.

Accordingly, when accepting orders for stabilizing transactions, the Association Member must confirm that the requirements are met, and must indicate explicitly that the order is a stabilizing transaction when they place the order. Moreover, in some cases a confirmation by an organ such as the trading administration division of the head office would be required.

(ii) When accepting orders for issues during the financing period, the Association Member must identify the finance issue (*finance meigara*) and also whether or not the customer is related to the issuing company, from the occupation and work location column of the customer card, or from the insider registration card.

If the customer is related to the issuing company, the Association Member must confirm that the customer is on the list of consignees for stabilizing transactions. The Association Member must also verify the following:

a. If the customer is on the list, whether the transaction is a stabilizing transaction; and
b. If the customer is not on the list, the motive for the trade.

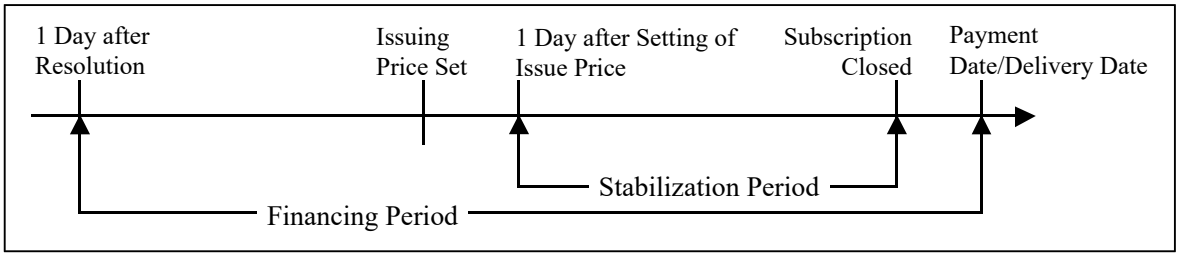
Caution is also necessary for these orders, since in some cases orders cannot be accepted from officers, etc. of the issuing company.

If the customer is an insider, procedures under the Insider Trading Rules are required, and the trade must be reported to the Prime Minister (Commissioner of the Financial Services Agency) if the customer is an officer or a major shareholder of the issuing company. (For details,

see Chapter VIII. "6. Preventing Insider Trading".)

(iii) If there are many orders for the issue during the financing period, it is also necessary to verify whether or not investments are being solicited.

Example of Financing and Stabilization Period



<Relevant Laws and Regulations> TSE Business Regulations, Article 67; TSE Trading Participant Regulations, Article 42; and Rules Concerning Just and Equitable Principles of Trade (TSE), Article 3(iv) and Article 7

<Relevant Sections of this Manual> Chapter VII. 37 Limitations on Purchases, Etc. During the Stabilization Period

Chapter VIII. 4.4 Stabilizing Transactions

9 Management of Blanket Orders

9 1 Blanket Trading Orders

The acceptance of orders, etc. to trade in securities or derivatives transactions, from a person who solicits numerous and unspecified investors and has been commissioned with sale and purchase in securities or derivatives transactions on the basis of the said solicitation (except for a person who conducts acts of financial instruments transactions pursuant to law or regulation), and without confirming the intention of the investor(s) involved, is restricted if the Association Member knows that the transactions are to be made for the account of the said investor(s) (FIBCOO, Article 123(1)(ii)).

The purpose of this regulation is to exclude blanket orders by investment groups under the guise of being instructed by investors. This Item shall not apply to transactions conducted by a financial instruments business operator, etc. that is engaged in the investment management business.

9 2 Management of Acceptance of Blanket Orders

In order to prohibit blanket orders, encouragement of proper verification of the identity of the customer at the time of commencement of trading is effective. Association Members shall investigate the situation of transactions and be well aware of the status of customers.

For example, it will probably be necessary to conduct verification in the following situations:

(i) When the investments of a customer are concentrated on a particular issue, or when frequency of trading is high and the trading volume is large;

(ii) When a customer who is not well known to a manager is trading in relatively large volumes;

(iii) When buy/sell orders are placed by a financing company such as a company engaged in the money-lending or a consumer loan business; or

(iv) When placement and withdrawal of deposited securities is performed frequently, or when delivery of a large volume of securities is always done outside a business office.

<Relevant Laws and Regulations> FIEA, Article 40(ii)

10 Prohibitions Against Trading with Antisocial Forces

10 1 Prohibitions Against Trading with Antisocial Forces

The Organized Crime Group Countermeasures Act has been enacted for the purpose of preventing activities by organized crime groups which violate the norms of society. In the course of financial instruments business as well, care must be taken to avoid assisting organized crime groups in their raising of funds. The Organized Crime Group Countermeasures Act also prohibits organized crime groups from taking violent demand in connection with transactions (Organized Crime Group Countermeasures Act, Article 2(vii) and Article 9), and prohibits quasi-violent demand in which a person with a special relationship to organized crime groups makes indications of the capability of violence on the part of the organization (Organized Crime Group Countermeasures Act, Article 2(viii) and Article 12-5).

Further relevant provisions include clauses established in the Companies Act to deal with the problem of shareholders who extort money from companies (*i.e.*, *sōkaiya*. See Companies Act, Article 970 (Crime of Giving Benefits in Relation to Exercise of a Right of Shareholders, etc.) and other clauses).

Moreover, the government's Conference on Combating Crime (*Hanzai Taisaku Kakuryō Kaigi*) has completed "Guidelines for Corporations to Prevent Damage from Antisocial Forces" (the "Government Guidelines") as a collection of understandings of its Management Committee, setting forth core

principles and specific responses for the purpose of preventing by corporations of damage from antisocial forces. In addition, in response to the Government Guidelines, the FIBO Supervision Guidelines set forth more specific verification items to demand severing of trading with antisocial forces, execution of appropriate follow-up review, and measures to terminate transactions with anti-social forces. Furthermore, ordinances for removal of organized crime groups came into force in every prefecture.

The JSDA has established rules in connection with the elimination of relationships with antisocial forces to comply with the spirit of these legal requirements.

<Relevant Laws and Regulations> FIBO Supervision Guidelines III-2-11 (applied *mutatis mutandis* to Special Members under VIII-1), IV-3-2-2(4) and IV-3-2-3(3); and Tokyo Metropolitan Ordinance for Eliminating of Organized Crime Groups

10 2 Prohibited Acts Set Forth in the Organized Crime Group Countermeasures Act (Involving Financial Instruments Transactions)

(i) Demands for acts of financial instruments transactions

The Organized Crime Group Countermeasures Act prohibits a member of a designated organized crime group from making demands upon showing the power of such designated organized crime group, etc. for the performance of acts of financial instrument transactions despite an Association Member's rejection thereof, or demands for margin transactions on especially favorable terms and conditions, that are contrary to the terms and conditions required by an Association Member (Organized Crime Group Countermeasures Act, Article 2(viii), Article 9(x), and Article 12-5).

(ii) Demands for money, etc. in connection with transactions

The Organized Crime Group Countermeasures Act prohibits a member of a designated organized crime group from making baseless demands upon showing the power of such designated organized crime group, etc. for money or the like on the pretext of a claim for damages because a person has been solicited by an Association Member, engaged in a sale and purchase or other transaction in securities, and consequently, suffered a loss because of a rise or a fall in the price of securities, or in a financial index (Organized Crime Group Countermeasures Act, Article 2(viii), Article 9(xx) and Article 12-5).

10 3 Responses Against Antisocial Forces Set Forth in the FIBO Supervision Guidelines

The FIBO Supervision Guidelines III-2-11 (2) prohibits relationships of any kind whatsoever with antisocial forces, and if any relationship was unknowingly established with an antisocial forces, it is required that a system be developed to dissolve such relationship as soon as such persons are proven to

be antisocial forces, and to appropriately respond to undue demands of such antisocial forces, with focus on the following points:

(i) Response as an organization

Based on the necessity and significance of responding as an organization in respect of severing relationships with antisocial forces, whether the financial instruments business operator is responding as an organization by having the management, including the directors, appropriately involved, and not leaving the matter only to those persons or divisions in charge; furthermore, whether the entire group of the financial instruments business operator, and not only the financial instruments business operator itself, is endeavoring to eliminate relationships with antisocial forces.

(ii) Establishment of a unitary management system by the Antisocial Forces Response Division

Whether a division that supervises responses to sever relationships with antisocial forces (hereinafter referred to as the "Antisocial Forces Response Division") has been developed, and whether a unitary management system to prevent damage by antisocial forces has been established and is functioning.

In particular, whether the following matters were fully noted upon establishing a unitary management system:

a. Whether a system has been established for the Antisocial Forces Response Division to actively collect and analyze information concerning antisocial forces, and a database has been established where such information is unitarily managed and is appropriately updated (addition, deletion, change, etc. of information); moreover, upon collecting and analyzing, etc. such information, whether efforts have been made to share information within the group, and properly utilize the information provided by self-regulatory organizations, etc.; and furthermore, whether a system has been established to utilize the information concerning antisocial forces to examine its transaction partners, or to determine, etc. the identities of shareholders of the financial instruments business operator.

b. Whether a system has been established to ensure the effectiveness of measures to sever relationships with antisocial forces, such as by the Antisocial Forces Response Division preparing response manuals and conducting continuous training activities, and by establishing a close network for cooperation with external specialized agencies, including the police, the National Center for the Elimination of Bōryokudan, lawyers, etc., at ordinary times; and in particular, whether a system has been established to immediately report to the police if the risk of a threat or violent act is high and time is critical, by strengthening the communication with the police at ordinary times, and establishing an organizational contact and cooperation system if problems occur.

c. If it is proved that transactions were executed with antisocial forces or if undue demands were made by antisocial forces, whether a system has been established to report or consult on such information promptly and appropriately to the Antisocial Forces Response Division; moreover, whether the Antisocial Forces Response Division has been organized so as to promptly and appropriately report such information to the

management; and furthermore, whether the Antisocial Forces Response Division has established a system that ensures the safety of the persons in charge of actual responses against antisocial forces, and to support the responsible division.

(iii) Appropriate implementation of prior examinations

In order to prevent transactions with antisocial forces from being executed, whether a system has been established to prevent antisocial forces from becoming transaction partners, by appropriately conducting prior examinations that utilizes information, etc. concerning antisocial forces, and by thoroughly incorporating antisocial forces relationship elimination clauses into contracts and trading agreements.

(iv) Appropriate implementation of post-verification

From the perspective of thoroughly severing relationships with antisocial forces, whether a system has been developed to appropriately conduct post-verification of existing contracts.

(v) Measures toward dissolving transactions with antisocial forces

a. Whether information that proves that transactions with antisocial forces were executed is promptly and appropriately reported to the management, including directors, via the Antisocial Forces Response Division, and whether appropriate responses are given under the instruction and involvement of the management.

b. Whether a close network for cooperation is established with external specialized agencies, including the police, the National Center for the Elimination of Bōryokudan, lawyers, etc. at ordinary times, and the dissolution of transactions with antisocial forces is being promoted.

c. As a result of implementing post-verification, if the counterparty of a transaction has been identified to be an antisocial force after the commencement of such transaction, whether consideration is given not to provide benefits to such antisocial force by eliminating the relationship with such antisocial force.

d. Whether a system has been developed not to provide funds or conduct inappropriate or exceptional transactions, if it is proven for whatever reasons that such transactions were with antisocial forces.

(vi) Handling of undue demands by antisocial forces

a. Whether information that undue demands were made by antisocial forces is promptly and appropriately reported to the management, including directors, via the Antisocial Forces Response Division, and whether appropriate responses are given under the instruction and involvement of the management.

b. If any undue demands have been made by antisocial forces, whether the financial instruments business operator actively consults with external specialized agencies, including the police, the National Center for the Elimination of Bōryokudan, lawyers, etc. and takes measures based on the undue demand response guidelines presented by the National Center for the Elimination of Bōryokudan, etc., and in particular, if the risk of a threat or violent act is high and time is critical, whether a report to the police is made immediately.

c. In response to any undue demands from antisocial forces, whether the financial

instruments business operator does not hesitate to file a criminal complaint, including taking all possible legal countermeasures under the Civil Code, and actively files damage reports.

d. If the undue demands from antisocial forces are due to misconducts related to operational activities or misconduct of officers or employees of the financial instruments business operator, whether the division in charge of misconduct cases promptly investigates the facts in response to a request from the Antisocial Forces Response Division.

(vii) Management of shareholder information

Whether shareholder information is managed properly, such as by regularly confirming the transaction status of treasury stocks or the identity information, etc. of shareholders.

Regular Member

10 4 JSDA Rules

The JSDA places importance on the purpose of these laws, and has set forth rules in the Antisocial Forces Elimination Rules summarized as follows for the purpose of providing necessary matters for the severance of any relationship with any antisocial forces such as organized crime groups, members of organized crime groups and corporate extortionists (*sōkaiya*), etc.,* as well as ensuring sound operations of businesses by Association Members and preclusion of any antisocial force from financial instruments transactions and financial instruments markets, thereby contributing to the sound development of capital markets and the protection of investors:

(i) A Regular Member and a Specified Business Member (Note 1) must not effect any sale and purchase or other transactions in securities, etc. with any person while having knowledge that the person is an antisocial force. (Antisocial Forces Elimination Rules, Article 3(1) and Article 14);

(ii) A Regular Member and a Specified Business Member (Note 1) must not provide any funds or other benefits to any person while having knowledge that the person is an antisocial force. (Antisocial Forces Elimination Rules, Article 3(2) and Article 14);

(iii) A Regular Member and a Specified Business Member (Note 1) must beforehand obtain an undertaking that its customer is not an antisocial force before it attempts to open an account for any sale and purchase or other transactions, etc. in securities for a customer for the first time (Antisocial Forces Elimination Rules, Article 5 and Article 14);

(iv) A Regular Member and a Specified Business Member (Note 1) must prescribe provisions to terminate the agreement upon receiving request from a Regular Member and Specified Business Member (Note 1) if the undertaking in (iii) is found to be untrue or if the customer is found to fall under antisocial forces in its contract or trading agreement when it accepts any order for sale and purchase, etc. in securities from a customer (Antisocial Forces Elimination Rules, Article 6 and Article 14);

(v) A Regular Member and a Specified Business Member (Note 1) must endeavor, prior to opening of

an account for customers who wish to open an account for the first time for sale and purchase or other transactions in securities, etc., and regularly for customers who already hold an account, to examine whether customers conform to any category of antisocial forces (Antisocial Forces Elimination Rules, Article 7(1) and (4) and Article 14);

(vi) If a customer wishes to open an account for the first time for sale and purchase or other transactions of securities, etc. and when the JSDA consider necessary, a Regular Member must examine by a method of examination agreed upon with the JSDA in advance, and must comply with the rules agreed upon with the JSDA in advance when conducting such examination (Antisocial Forces Elimination Rules, Article 7(2), (3) and (6));

(vii) If, as a result of the examination of a customer who wishes to open an account for the first time (Antisocial Forces Elimination Rules, Article 7(1) or (2)), such customer falls under any category of antisocial forces, a Regular Member and a Specified Business Member (Note 1) must not enter into any contract with such customer, unless the antisocial forces are precluded from the financial instruments transactions and financial instruments markets (Antisocial Forces Elimination Rules, Article 8(1) and Article 14);

(viii) If, as a result of the regular examination of a customer who already holds an account (Antisocial Forces Elimination Rules, Article 7(4)), or the examination of a customer who is suspected of falling under any category of antisocial forces (Antisocial Forces Elimination Rules, Article 7(5)) and the examination when the JSDA considers necessary (Antisocial Forces Elimination Rules, Article 7(6)), customer proves to fall under any category of antisocial forces, a Regular Member and a Specified Business Member (Note 1) must endeavor to dissolve the relationship with the person or entity as soon as possible (Antisocial Forces Elimination Rules, Article 8(2) and Article 14);

Self-regulatory rules other than the Antisocial Forces Elimination Rules also provides for issuer or seller's elimination, etc. of relation with antisocial forces, as follows:

(ix) A Regular Member must, in the underwriting examination, confirm whether or not the issuer, etc. is an antisocial force or is related to antisocial forces, and if the issuer, etc. is proven to be an antisocial force or related to an antisocial force, the Regular Member must never enter into an original underwriting contract with such issuer, etc. (Underwriting Rules, Article 8-3);

(x) A Regular Member must prescribe in the original underwriting contract an undertaking that the issuer, etc. is not an antisocial force, and must provide that if such undertaking is found to be untrue or if the issuer, etc. is found to conform to any category of antisocial force, the contract will be cancelled at the request of the Regular Member (Underwriting Rules, Article 8-2);

(xi) A Regular Member and a Specified Business Member (Note 2) must confirm whether the issuer is an antisocial force or is associated with antisocial forces in the examination relating to handling of equity-based crowdfunding business, and if the issuer, etc. is proven to be an antisocial force or related to an antisocial force, equity-based crowdfunding business must not be conducted. Furthermore, if the foregoing is found after the commencement of equity-based crowdfunding business, such business must be immediately ceased (Crowdfunding Rules, Article 4(1)(v) and Article 6);

(xii) A Regular Member and a Specified Business Member (Note 2) must prescribe an undertaking that

the issuer is not an antisocial force in the contract relating to equity-based crowdfunding business with the issuer, and must provide that if such undertaking is found to be untrue or if the issuer is found to conform to any category of antisocial force, the contract relating to equity-based crowdfunding business will be cancelled at the request of the Regular Member and a Specified Business Member (Note 2) (Crowdfunding Rules, Article 5);

(xiii) An Operating Member (Note 3) must confirm whether the issuer is an antisocial force or associated with antisocial forces in the examination relating to creating a shareholders community, and if the issuer is proven to be an antisocial force or related to an antisocial force, such shareholders community must not be created. Furthermore, if the foregoing is found after the creation of a shareholders community, such shareholders community must be immediately dissolved. (Shareholders Community Rules, Article 5(1)(iv) and Article 7);

(xiv) An Operating Member (Note 3) must prescribe an undertaking that the issuer is not an antisocial force in the contract with the issuer of a shareholders community shares, and must provide that if such undertaking is found to be untrue or if the issuer is found to conform to any category of antisocial force, the contract relating to the shareholders community will be cancelled at the request of the Operating Member (Note 3) (Shareholders Community Rules, Article 6);

(xv) A Handling Association Member (Note 4) must confirm whether the issuer is an antisocial force or is associated with antisocial forces in the examination of the issuer of OTC securities, etc. for which it intends to conduct solicitation for investment, and if the issuer is proven to be an antisocial force or related to an antisocial force, solicitation for investment in such OTC securities, etc. must not be conducted. (Professional Investors Solicitation Rules, Article 3(2)(i)(d) and (ii)(c), and Article 5);

(xvi) When intending to conduct solicitation for investment in OTC securities, etc., a Handling Association Member (Note 4) must prescribe an affirmation in the contract with the issuer of the OTC securities, etc. that the issuer is not an antisocial force, and must provide that if such affirmation is found to be untrue or if the issuer is found to fall within any category of antisocial force, the contract relating to the handling of OTC securities, etc. issued by that issuer will be cancelled at the request of the Handling Association Member (Note 4) (Professional Investors Solicitation Rules, Article 4);

(xvii) A Regular Member must confirm whether the issuer is an antisocial force or associated with antisocial forces upon purchasing shares, etc., related to third-party allotment, etc., and, if the issuer is proven to be an antisocial force or related to an antisocial force, the Regular Member must not enter into the purchase agreement (Rules Concerning Handling of Capital Increase through Third-Party Allotment, etc., Article 7-3); and

(xviii) A Regular Member must prescribe an undertaking that the issuer is not an antisocial force in the purchase agreement, and must provide that if such undertaking is found to be untrue or if the issuer is found to conform to any category of antisocial force, the purchase agreement will be cancelled at the request of the Regular Member (Rules Concerning Handling of Capital Increase through Third-Party Allotment, etc., Article 7-2).

(Notes) 1. Meaning a financial instruments business operator which only engages in business

related to specified OTC derivatives transactions, etc. or brokerage, etc. of commodity-related market derivatives transactions within the type 1 financial instruments business (JSDA Articles of Association, Article 5(ii)(a) or (c)).

2. Meaning a financial instruments business operator which only engages in type 1 small amount electronic offering handling business set forth in Article 29-4-2(x) of the FIEA within the type 1 financial instruments business (JSDA Articles of Association, Article 5(ii)(b)).
3. Meaning the Regular Member designated by the JSDA to operate the shareholders community (Shareholders Community Rules, Article 2(iv)) (For details, see "11.3 Shareholders Community Issues" of this Chapter.).
4. Meaning the Association Member designated by the JSDA as being qualified to conduct solicitation for investment in OTC securities, etc. pursuant to the provisions of the Professional Investors Solicitation Rules (Professional Investors Solicitation Rules, Article 2(ix)). (For details, see Chapter IV "8.3 Solicitation of Professional Investors for Investment in OTC Securities, Etc.).

* Definition of "organized crime group" and "members of organized crime groups"

An organized crime group is an organization which is likely to encourage its members (including members of the organizations constituting such organization) to collectively or regularly conduct violent illegal acts, etc. (Organized Crime Group Countermeasures Act, Article 2(ii)). Those who belong to an organized crime group are referred to as members of an organized crime group (*id.,* Item (vi)).

Definition of "corporate extortionist (*sōkaiya*), etc."

A corporate extortionist (*sōkaiya*), etc. is a person who targets corporations, etc. including corporate scandal mongering seeking unjustified gains, and presents risks such as of violent illegal activity, threatening the safety of daily activity of citizens (Rules Concerning Enforcement of the Articles of Incorporation, Article 15(v)).

Definition of "antisocial force"

The Government Guidelines define an "antisocial force" as an association or individual who uses violence, threats or fraudulent means to demand economic gains. When identifying an "antisocial force" it is important to focus on attribute requirements such as an organized crime group, a company affiliated with an organized crime group, a corporate extortionist (*sōkaiya*), an extortionist in the guise of a social activist, an extortionist in the guise of a political activist or a criminal organization with special intellectual capabilities, as well as to focus on the requirements of action, such as acts of violent demand, or illegitimate demand that exceeds legal liability.

<Relevant Laws and Regulations> Employees Rules, Article 7(xxvii).

<Relevant Sections of this Manual> Chapter III. 2 Verification of Customer Identity upon Transaction

Regular Member

11 Managing Acceptance of Orders for OTC Securities

11 1 OTC Securities (Excluding Phoenix Issues)

An Association Member must not conduct margin transactions (including transactions by an Association Member receiving credit) of OTC securities, and must not accept any market orders without limit for OTC Securities, except in transactions of unlisted PTS issues defined in Article 2(iv) of the Unlisted PTS Rules (OTC Securities Rules, Article 13(1) and (2)).

If a Regular Member provides information such as purchase or sale prices (price information) on OTC Securities (excluding the case under the "Shareholders Community Rules," the "Crowdfunding Rules," the "Professional Investors Solicitation Rules" or the "Unlisted PTS Rules"), the Regular Member must together with the price information regardless of whatever media is used clarify the name of the Regular Member, the handling department or branch, the date on which the price information was provided, and that the price information does not constitute an asked quotation or a bid quotation (OTC Securities Rules, Article 16).

11 2 Phoenix Issues

If an Association Member accepts orders fora Phoenix Issue, it must confirm the name, etc. of the customer and receive instructions regarding the issue, etc. (Phoenix Rules, Article 23).

An Association Member must not accept a market order or conduct margin transaction for a Phoenix Issue (*id.,* Article 30(1) and (2)). When engaging in OTC transactions in Phoenix Issues, the Association Member must confirm that such OTC transactions do not violate, *inter alia*, the FIEA or related laws or regulations. For the purposes of confirmation, the Handling Member, etc. must establish the necessary internal rules and a trading management system (*id.,* Article 32).

OTC transactions in Phoenix Issues must be carried out in a negotiated trading between Regular Members or a Regular Member and a customer in the form of intermediary, brokerage or agency service, or transactions on the handling's term (*id.,* Article 24(1)).

11 3 Shareholders Community Issues

A Regular Member must not accept market orders or conduct margin transaction for shareholders community issues (Shareholders Community Rules, Article 24(1) and (2)). When engaging in OTC

transactions in shareholders community issues, the Operating Member (meaning the Regular Member designated by the JSDA to operate the shareholders community (*id.,* Article 2(iv); hereinafter the same.)) must confirm that such OTC transactions do not violate, *inter alia*, the FIEA or related laws or regulations (*id.,* Article 18).

The OTC transaction of shareholders community issues shall be made between participants of such shareholders community operated by the Operating Member, or between a participant and the Operating Member (*id.,* Article 17).

When handling a private offering or private secondary distribution, or a private secondary distribution (hereinafter referred to as "handling, etc. of private offering, etc."), of a shareholders community issue, the Operating Member must obtain the information about the private offering or private secondary distribution stated in accordance with the requirements for descriptions in the part entitled "Securities Information" in securities registration statements prescribed in Form 2 under the Corporate Affairs Disclosure Ordinance, and provide it to the participants who are the counterparties of investment solicitation. When engaging in handling, etc. of private offering, etc. of a shareholders community issue, if the Operating Member receives an order for OTC transaction of the shareholders community issue from a participant whom the Operating Member does not solicit for the handling, etc. of private offering, etc., the Operating Member must explain to such participant that the handling, etc. of private offering, etc. for the shareholders community issue is performed for other investors. If an Operating Member engages in handling, etc. of private offering, etc. of a shareholders community issue, the Operating Member must, without delay upon the completion thereof, provide such information about the completion of the handling, etc. of private offering, etc., to the participants of the shareholders community of the shareholders community issue or make such information available for inspection by the participants (*id.,* Article 16-2).

<Relevant Sections of this Manual> Chapter III. 6 Commencing OTC Transactions
Chapter VII. 38 Regulations Concerning OTC Securities Transactions

12 Formulation, Etc. of a Best Execution Policy, Etc.

12 1 Formulation of a Best Execution Policy, Etc.

An Association Member must formulate a policy and method for executing trades under the best terms (hereinafter referred to in this Section as "best execution policy") setting forth the method for executing under the best transaction terms for each issue, as well as the reasons that this method has been chosen with respect to customer orders involving a trade in listed investment trusts (in the case of Regular Members, including listed share certificates, etc. (meaning such as listed share certificates, and listed bond certificates with share options, etc.), as well as handled securities (including trade in Phoenix

Issues) (FIEA, Article 40-2(1); FIEAEO, Article 16-6(1) and (2); and FIBCOO, Article 124(1) and (2)). If the execution method thus chosen is a method whereby the financial instruments exchange market, etc. for executing an order at the most favorable price is selected automatically by means of an electronic information processing system from among multiple financial instruments exchange markets, etc. (including in-house trading systems) (generally called Smart Order Routing (hereinafter referred to as "SOR")), an Association Member must state this fact and the following matters in the best execution policy as the details of the brokerage for the purchase and sale of securities and any other execution method at the financial instruments exchange market, etc. (FIEAEO, Article 16-6(2); FIBCOO, Article 124(2)(i)):

(a) The financial instruments exchange markets, etc. subject to comparison of prices by the relevant method;

(b) The method and order of selecting a financial instruments exchange market, etc. by the relevant method (limited to those including selection in the case where the same most favorable price applies in multiple financial instruments exchange markets, etc.); and

(c) The outline of the policy and measures to respond to the trading strategy using fluctuations at a financial instruments market and differences between markets that arise from the difference in time required for executing an order.

In addition, if the execution method pertains to an order placed by a customer who is an individual and it falls under either of the following, an Association Member must state to that effect in the best execution policy (FIEAEO, Article 16-6(2); FIBCOO, Article 124(2)(ii)):

(a) The order is executed using the in-house trading system; or

(b) The order is executed mainly in consideration of the matters beneficial to the customer other than execution at the most favorable price as the best trading terms.

Meanwhile, an Association Member must execute orders involving sale and purchase in securities, etc. in accordance with this best execution policy (FIEA, Article 40-2(3)).

12 2 Publication and Delivery of Best Execution Policy, Etc.

An Association Member must publish its best execution policy, etc. (FIEA, Article 40-2(2)). The method of public notice shall consist of (i) posting or providing for inspection at the head office, etc., and also (ii) posting or providing for perusal at each relevant business office if customer orders are accepted at such business offices, and (iii) if customer orders are accepted over the internet, or a method of sending by postal service or facsimile to the customer at the request of a customer (FIBCOO, Article 124(3)).

If an Association Member intends to accept an order in connection with listed share certificates, etc., the Association Member must deliver the customer in advance a document stating the best execution policy in connection with this transaction (FIEA, Article 40-2(4); and FIEAEO, Article 16- 6(3)), unless the Association Member has already delivered this document (and if changes have been made to the best execution policy, meaning the document stating those after the changes have been made). Prior delivery

to the customer of the document stating the best execution policy may be made through electromagnetic method to provide information, if consent has been obtained from the customer (FIEA, Article 34-2(4) and Article 40-2(6)).

12 3 Delivery of Explanatory Document on Best Execution

If a customer requests within three months after execution of an order by that customer in connection with a securities transaction, the Association Member must deliver to that customer, within 20 days after the request as a general rule, an explanatory document on best execution stating the issue, the volume, whether it is a sell or buy, the order date, the contract date, the financial instruments market on which the order was executed (including the in-house trading system if the order was executed using the in-house trading system), other execution methods, and if the execution method uses the method of SOR, the contract price and the most favorable price at each financial instruments exchange market, etc. subject to comparison by the relevant method (a document which makes an explanation to the effect that the relevant order has been executed in accordance with the best execution policy) (FIEA, Article 40-2(5); and FIBCOO, Article 124(5) through (7)).

Subsequent delivery to the customer of the explanatory document on best execution may be made through electromagnetic method to provide information, if consent has been obtained from the customer (FIEA, Article 34-2(4) and Article 40-2(6)).

Chapter VI. Management of Delivery, Custody, Etc.

1 Duty of Separate Management, Etc.

1 1 Duty of Separate Management, Etc.

An Association Member must manage securities deposited by the customer separately from the Association Member's own assets (FIEA Article 43-2(1)). In addition, with respect to (i) money deposited concerning securities-related derivatives transactions or subject securities related transactions set forth in the Cabinet Office Ordinance, (ii) money attributable to the customer's account and (iii) customers' securities pledged as collateral, an Association Member must manage, the money equivalent to those calculated as provided for in the Cabinet Office Ordinance as an amount to be returned to the customer in the event that the Association Member discontinues the financial instruments business (including a registered financial institution business, hereinafter the same in this Chapter) or cease to engage in the financial instruments business, separately from [the Association Member's] own assets, and entrust such amount as provided for in the Cabinet Office Ordinance (FIEA Article 43-2(2)). In addition, with respect to the transaction relating to brokerage, etc. of commodity-related market derivatives transactions, or the transaction relating to certain business incidental to business relating to brokerage, etc. of commodity-related market derivatives transactions among the business set forth in Article 35(1) of the FIEA (hereinafter collectively referred to as the "subject commodity derivatives transaction-related transactions"), an Association Member must manage money or securities deposited by the customer pursuant to the provisions of Article 119 of the FIEA and other assets deposited by the customer or money and any other assets attributable to the customer's account, separately from Association Member's own assets, pursuant to the provisions of Cabinet Office Order (FIEA, Article 43-2-2). Furthermore, an Association Member must manage the money or securities that a customer deposits pursuant to Article 119 of the FIEA and other security deposits and securities in connection with the derivatives transactions, etc. it conducts (excluding those that fall under securities-related derivatives transactions, etc., commodity-related market derivatives transactions, or commodity-related market derivatives transactions brokerage, etc.; the same applies hereinafter), separately from its own property, pursuant to the provisions of Cabinet Office Order (FIEA, Article 43-3).The purpose of the duty of separate management and distinguished management is to keep money and securities deposited by the customer strictly separated or distinguished from the Association Member's own assets, and even if the Association Member discontinues the financial instruments business (including when the Association Member ceased to engage in financial instruments business), or if the financial situation of the Association Member deteriorates or if the Association Member

fails (goes bankrupt), etc., the money and securities deposited by the customer are surely returned to the customer.

The Specified Business Members engaged in type 1 small amount electronic offering handling business (limited to business relating to securities listed in Article 29-4-2(10)(i) of the FIEA) are also subject to the duty of separate management with regard to money deposited by customers through equity-based crowdfunding business (Crowdfunding Rules, Article 14).

1 2 Assets Subject to Separate Management, Etc.

Assets that are subject to separate management are the securities and money described in (1) and (2) below, and those subject to distinguished management are securities, money and other assets described in (3) below:

(1) Separate management of securities

(i) securities deposited by a customer in order to apply for clearing margin, etc. concerning securities-related derivatives transactions;

(ii) securities deposited by a customer in order to apply for money to be deposited concerning margin transactions, etc.; and

(iii) in regard to subject securities related transactions, securities in the possession of an Association Member for the customer's account, or securities deposited by a customer with an Association Member (except for (i) and (ii) above and securities such as those that an Association Member is permitted to consume under a contract).

(2) Separate management of money

(i) money deposited by a customer as clearing margin, etc. concerning securities-related derivatives transactions;

(ii) money deposited by a customer as money to be deposited concerning margin transactions, etc.;

(iii) in regard to subject securities related transactions, money attributable to the customer's account or money deposited by a customer with an Association Member (except for money listed in (i) and (ii) above); and

(iv) among (i) through (iii) of (1), in regard to derivatives transactions, etc., money equivalent to the securities pledged as collateral pursuant to the consent of a customer, such as clearing margin,

Furthermore, separate management does not apply to the following: [i] transactions involving the borrowing and lending of securities in connection with incidental businesses, as well as transactions involving the business set forth in Article 35(1)(x) *et seq*. of the FIEA and other businesses set forth in the items of Article 137 of the FIBCOO; and [ii] among OTC derivatives transactions involving securities related business as well as Sale and Purchase of Bonds with Options, etc., limited to those transactions of which the counterparty is a type 1 financial instruments business operator, registered financial institution, qualified institutional investor, a person equivalent to these under the laws and regulations of a foreign country or joint-stock company (*kabushiki kaisha*), etc. with capital of 1 billion

yen or more) (FIEA, Article 43-2(1)(ii); FIEAEO, Article 1-8-6(1)(ii)(a) or (b) and Article 16-15; Definition Ordinance, Article 15; FIBCOO, Article 137, and Article 137-2; and "Designating Securities Related Transactions Exempted From Separate Management" (Public Notice No. 56 of the Financial Services Agency of August 2007)).

Main Examples of Assets under Separate Management

	Assets Under Separate Management	Assets Excluded from Separate Management
Money	Cash deposits	Collateralized (*hontanpo*) cash (cash proceeds generated by sale of shares that are loaned pursuant to a margin transaction)
	Margin for securities-related derivatives transactions or margin or margin deposits for subject commodity derivatives transaction-related transactions or derivatives transactions, etc.	
	Payments received, etc. for public offerings, etc.	
	Margin deposits for margin transactions and when-issued transactions (in the case of Regular Members only.)	
Securities	Securities received from a customer pursuant to a custodial service agreement or an agreement for management of book-entry transfer account	Collateralized (hontanpo) securities (securities bought that remain unsettled as the result of a margin transaction)
	Securities or the like used in place of margin deposits or security deposits	Securities or the like accepted under an agreement on deposits for consumption or a securities lending agreement

(3) Distinguished management of securities, money and other assets

With respect to the subject commodity derivatives transaction-related transactions or derivatives transactions, etc., money or securities deposited by the customer pursuant to the provisions of Article 119 of the FIEA and other assets deposited by the customer, or money and any other assets attributable to the customer's account.

13 Method of Separate Management, Etc.

(1) Separate management of securities

The methods of separate management of securities are different depending on (a) cases other than commingled custody (simple custody), (b) cases of commingled custody, (c) cases of management of accounts pursuant to the Book-Entry Transfer Act, and (d) cases of receiving the deposit of the rights to be indicated on securities set forth in the items of Article 2(1) of the FIEA which fall within the category of electronically recorded transferable rights to be indicated on securities, etc. prescribed in Article 1(4)(xvii) of the FIBCOO (hereinafter referred to as "security tokens")(Note).

(Note) In cases where an Association Member is able to voluntarily transfer property value, such as when the Association Member, independently or jointly with the contractor and without involvement of a customer, holds a private key for transferring property value on

which the rights, etc. of the security tokens that are customer securities are indicated, the Association Member is basically considered to have received the deposit of the security tokens.

(a) In the case of simple custody

a. If the Association Member stores the securities on its own premises, the place of storing the securities (hereinafter referred to as the "customer securities") which must be managed separately from the Association Member's own assets shall be clearly distinguished from the place of storing securities that are the proprietary assets of the Association Member and other securities other than customer securities, etc. (hereinafter referred to as the "proprietary securities, etc."). Customer securities must be managed by being stored separately for the customer or by serial number of the certificate, etc. so that it is possible to identify immediately the customer who owns each of the securities.

b. If the Association Member has the securities stored with a third party, the Association Member must have the management taken according to the same method of storing as the Association Member itself.

(b) In the case of commingled custody

a. If the Association Member stores the securities on its own premises, the place of storing customer securities must be clearly distinguished from that of proprietary securities, etc., and they must be managed by storing in a condition so that the share of each customer can be identified immediately from the company's ledger (or by computer).

b. If the Association Member has the securities stored with a third party, it is necessary to have them stored in a condition so that the share relevant to customer securities can be identified and the share of each customer can be identified immediately from the company's ledger, by means such as classification at the third party into a proprietary trading account and an account on behalf of customers of the Association Member.

(c) In the case of management of accounts pursuant to the Book-Entry Transfer Act

The securities must be managed clearly as customer securities on the book-entry transfer account pursuant to the Book-Entry Transfer Act (Note).

(Note) When an entry or record is to be made in the retentions column for an Association Member, it is necessary to distinguish it from the column for the purpose of transactions of the Association Member.

(d) In the case of receiving the deposit of security tokens

a. If the Association Member stores the security tokens on its own premises, the Association Member must clearly distinguish the security tokens, which are customer securities, from the proprietary securities, etc., and manage them in a condition so that which customer the security tokens belong to can be identified immediately. (Note 1) In addition, information necessary for transferring property value on which the security tokens that are customer securities are indicated (*e.g.,* a private key) must be managed by such means as a cold wallet

(Note 2).

b. If the Association Member has a third party store the security tokens, the Association Member must cause the third party to clearly distinguish the security tokens, which are customer securities, from the proprietary securities, etc., and to manage them in a condition so that which customer the security tokens belong to can be identified immediately (Note 1). In addition, the Association Member must have the third party manage the security tokens, which are customer securities, by a method reasonably found to ensure the protection of customers at an equivalent level to the level in the case of the management by the Association Member itself with regard to the preservation of the security tokens. (Note 3)

(Notes) 1. Including a condition so that each customer's share in the security tokens that are the customer securities can be identified immediately from the Association Member's ledger.

2. Meaning a method to manage the necessary information by recording it in electronic equipment always disconnected from the internet, an electronic or magnetic recording medium or other recording medium (including a document or any other object), or to manage such information by taking technical security control measures equivalent to the former; electric equipment that has been connected to the internet even once cannot be regarded as "electronic equipment always disconnected from the internet."

3. Excluding the minimum level of security tokens that are required to be managed by a method other than such method for the purpose of securing the convenience of the customers of the financial instruments business and promoting smooth conduct of the financial instruments business, in light of the situation of the financial instruments business that the Association Member conducts.

(2) Separate management of money

Money must be placed in trust with a trust company or the like in Japan as a separate monetary trust account for customers (FIEA, Article 43-2(2)). If customer securities are hypothecated to a third party with the customer's consent, the amount that is equivalent to the market price of the securities hypothecated must also be placed in a trust as a separate monetary account for customers. Under certain conditions, however, special exceptions under law and regulation apply which excuse margin securities in a margin transaction that are placed as substitute for margin deposit with a securities finance company, etc. from the requirement that they be treated as segregated customer funds (FIBCOO, Article 140).

When a Special Member (limited to a deposit-taking registered financial institution) handles money that has been deposited by a customer in connection with a transaction in the securities related business as deposits for its principal business, that money is excluded from the obligation of separate management (FIBO Supervision Guidelines VIII-2-6(1)).

(3) Distinguished management of securities, etc.

The methods of distinguished management (FIBCOO, Article 142-3) of (i) securities and other assets other than money deposited concerning commodity-related market derivatives transactions, and (ii) securities or commodities in the possession of the Association Member for the customer's account (including certificates issued for the deposited commodities) or securities or commodities deposited to the Association Member from the customer (excluding the securities and commodities set forth in (i) and securities and commodities that an Association Member is permitted to consume under a contract; hereinafter referred to as "securities, etc." in this section), are different depending on (a) cases other than commingled custody (simple custody), (b) cases of commingled custody, (c) cases of management of accounts pursuant to the Book-Entry Transfer Act, and (d) cases of receiving the deposit of security tokens.

(a) In the case of simple custody

a. If the Association Member stores the securities, etc., on its own premises, the place of storing the securities, etc. (hereinafter referred to as the "customer securities, etc.") which must be managed by distinguishing from the Association Member's own assets shall be clearly distinguished from the place of storing securities, etc. that are the proprietary assets of the Association Member and other securities other than customer securities, etc. (hereinafter referred to as the "proprietary securities, etc."). Customer securities, etc., must be managed by storing separately for the customer or by serial number of the certificate, etc. so that it is possible to identify immediately the customer who owns each of the securities.

b. If the Association Member has the securities stored with a third party, the Association Member must have the management taken according to the same method of storage as the Association Member itself.

(b) In the case of commingled custody

a. If the Association Member stores the securities, etc., on its own premises, the place of storing customer securities, etc. must be clearly distinguished from that of proprietary securities, etc., and they must be managed by storing in a condition so that the share of each customer can be identified immediately from the company's ledger (or by computer).

b. If the Association Member has the securities, etc., stored with a third party, it is necessary to have them stored in a condition so that the share relevant to customer securities, etc., can be identified and the share of each customer can be identified immediately from the company's ledger, by means such as classification at the third party into a proprietary trading account and an account on behalf of customers of the Association Member.

(c) In the case of management of accounts pursuant to the Book-Entry Transfer Act

The securities that the Book-Entry Transfer Act applies among the "securities, etc." must be managed by clearly distinguishing from customer securities, etc., on the book-entry transfer account pursuant to the Book-Entry Transfer Act (Note).

(Note) When an entry or record is to be made in the retentions column for an Association Member, it is necessary to distinguish it from the column for the purpose of transactions of the Association Member.

(d) In the case of receiving the deposit of security tokens

The security tokens must be managed in the same manner as that described in (1)(d) above.

(4) Distinguished management of money, etc.

When an Association Member manages money deposited by a customer pursuant to the provisions of Article 119 of the FIEA or other assets deposited by a customer, or money or any other certain assets attributable to customer's account in relation to the subject commodity derivatives transaction-related transactions, the Association Member shall manage money equivalent to the amount to be returned to the customer when the Association Member discontinues the financial instruments business (including when the Association Member ceased to engage in financial instruments business) by distinguishing from its own assets, and shall entrust to a trust company, etc. in Japan for the purpose of managing money equivalent to the amount to be returned to the customer when the Association Member discontinues the financial instruments business or when it cease to engage in financial instruments business, and such trust must satisfy the requirements specified in Article 142-5(1) of the FIBCOO, (FIBCOO, Article 142-4).

Regular Member

14 Audit on Separate Management Situation

With respect to the state of separate management, Regular Members and Specified Business Members who engage in the type 1 small amount electronic offering handling business (limited to business relating to securities listed in Article 29-4-2(10)(i) of the FIEA) shall prepare a management report concerning compliance with laws and regulations relating to separate management of customers' assets and shall be subject to a separate management audit related to assurance engagement concerning compliance with laws and regulations relating to separate management by certified public accountants or audit firms at least once every year pursuant to the provisions of the rules of the JSDA (FIEA, Article 43-2(3); FIBCOO, Article 142; Rules Concerning Appropriate Implementation, Etc. of Separate Management of Customer Assets, Article 2(1)).

Upon preparing the management report, a Regular Member shall establish and operate an effective internal system with respect to compliance with laws and regulations of separate management, take procedures to confirm that the customer assets are separately managed in compliance with laws and regulations, and prepare records of the matters discovered in the course of such procedures and the results of such procedures (Rules Concerning Appropriate Implementation, Etc. of Separate Management of Customer Assets, Article 2(2) and (3)).

In addition, when an audit in respect of separate management is commenced by a certified public accountant, etc. and when receiving a report on the results of the separate management audit, etc. (hereinafter referred to as a "separate management audit report"), the Regular Member shall promptly submit a "Report Concerning the Audit of Separate Management by Certified Public Accountant, Etc." to the JSDA (Rules Concerning Appropriate Implementation, Etc. of Separate Management of Customer

Assets, Article 2(4)). Furthermore, when a Regular Member receives a separate management audit report, it shall promptly release such audit report until the release of the next separate management audit report, by an appropriate method, such as by placing a copy of the separate management audit report and a copy of the management report at all sales offices or offices for public inspection (including the method of displaying such report on an image screen of a computer kept at such office) or by displaying it on the website (Rules Concerning Appropriate Implementation, Etc. of Separate Management of Customer Assets, Article 2(5)).

1 5 Disciplinary Action and Penal Provisions for Violations of Duty of Separate Management, Etc.

Separate management and distinguished management are required by laws and regulations and the disciplinary action and penal provisions are stipulated for cases where an Association Member has not carried out separate management or distinguished management in an appropriate manner. The details of the disciplinary action and penal provisions as prescribed in laws are as follows:

- An Association Member who violates the duty of separate management will be punished by revocation of its registration or suspension of its business for a period of not more than six months (FIEA, Article 52(1) and Article 52-2(1))
- An Association Member who violates the duty of separate management will be punished by a criminal fine of not more than 300 million yen (FIEA, Article 207(1)(iii))
- A representative, agent, employee or other staff of an Association Member who violates the duty to conduct separate management will be punished by imprisonment with work for not more than two years or by a criminal fine of not more than 3 million yen or both (FIEA, Article 198-5(i)).

<Relevant Laws and Regulations> FIBCOO, Article 136, Article 138, Article 139, Article 140-2, Article 140-3, Article 141, Article 141-2, Article 141-3 and Article 142-5

2 Registration and Examination of Seals

2 1 Registration and Examination of Seals

The seal impression which a customer registers using the Association Member's prescribed application form at the time of the commencement of the comprehensive transaction shall be the registered seal.

When an Association Member receives a request from a customer for return of securities kept in custodial service, or payment of money pursuant to a document on which the registered seal is required

to be affixed, the Association Member shall have the customer fill in the necessary matters in the prescribed document, as well as affix the customer's registered seal. The Association Member shall compare the seal with the registered seal with reasonable care.

In such event, the Association Member must properly notify the customer of the matters concerning the delivery of money or securities, except where money or securities are not delivered directly with the customer (such as where money is to be delivered through a financial institution, or the securities are to be delivered through book-entry transfer) (FIBCOO, Article 123(1)(viii); and FIBO Supervision Guidelines IV-3-1-2(2)(iv); applied *mutatis mutandis* to Special Members under VIII-1).

2 2 Disclaimer

As an example of disclaimer of Association Member, the Safe Custody Master Agreement Reference Form stipulates that "an Association Member shall not be responsible for any loss or damage caused to the customer in the event that the Association Member verifies a seal on the prescribed certificate as being the same as a registered seal and returns the deposited securities, or in the event the Association Member determines that the seal differs from the registered seal and refuses to return the deposited securities" (Deposit Rules, Article 3(2)(xiv), Safe Custody Master Agreement Reference Form, Article 19).

<Relevant Laws and Regulations> Civil Code, Article 478

<Relevant Sections of this Manual> Chapter III. 3 Management of Book-Entry Transfer Accounts and Custodial Service Accounts

3 Document to Be Delivered upon Conclusion of Contract

3 1 Delivery

An Association Member must, in the following cases, prepare a document (Document to Be Delivered Upon Conclusion of Contract) and deliver this to the customer without delay (FIEA, Article 37-4(1), FIBCOO, Article 98):

(i) At the time that a contract for financial instruments transaction has been formed;

(ii) At the time that all or a portion of an investment trust agreement in connection with beneficiary certificates to an investment trust or foreign investment trust or a trust agreement in connection with a foreign investment trust has been redeemed;

(iii) If refund of investment units has occurred;

(iv) If a contract for financial instruments transaction has been formed in connection with a sale and purchase or other transaction in securities or a derivatives transaction, etc. (excluding brokerage for clearing of securities, etc.); or

(v) At the time that a contract for financial instruments transaction in connection with a commodities fund related transaction has been entered into.

However, in the case provided for under the Cabinet Office Ordinance as a case deemed not to hinder the public interest or investor protection even if the Document to Be Delivered Upon Conclusion of Contract is not delivered to a customer in light of the content of the agreement and other circumstances, including the case where the other party to a contract for financial instruments transaction for which a financial instruments business operator, etc. has received an application or which a financial instruments business operator, etc. has concluded is a professional investor, the delivery is not required (See 3.4 below).

3 2 Matters to Be Stated

The matters set forth in (1) below shall be stated in the Document to Be Delivered Upon Conclusion of Contract.

(1) Common matters to be stated (FIBCOO, Article 99(1))

Item	Matters to Be Stated
(i)	Trade name or name of the financial instruments business operator, etc.
(ii)	Name of business office or office of the financial instruments business operator, etc.
(iii)	Summary of the contract for financial instruments transaction, or of full or partial redemptions or repayments of investment units in the investment trust agreement in connection with beneficiary certificates to an investment trust or foreign investment trust or the trust agreement in connection with the foreign investment trust
(iv)	Date of execution of the contract for financial instruments transaction, or of full or partial redemptions or repayments of investment units in the investment trust agreement in connection with beneficiary certificates to an investment trust or foreign investment trust or the trust agreement in connection with the foreign investment trust
(v)	Matters concerning commissions, etc. in connection with the contract for financial instruments transaction, or with full or partial redemptions or repayments of investment units in the investment trust agreement in connection with beneficiary certificates to an investment trust or foreign investment trust or the trust agreement in connection with the foreign investment trust * If a contract for financial instruments transaction is formed in connection with a market derivatives transaction in which an act of separating the order from settlement is carried out under the give-up system, a statement is to be made of the commissions, etc. that the order executing member, etc. and the clearing executing member, etc. will receive directly from the customer.
(vi)	Personal name or firm name of customer
(vii)	Method by which the customer will communicate with the financial instruments business operator, etc.

In addition, in cases where a contract for financial instruments transaction in connection with a sale and purchase or other transactions in securities or a derivatives transaction, etc. has been concluded, the matters set forth in (2) below must be stated in the Document to Be Delivered Upon Conclusion of Contract, in addition to the matters to be stated set forth in (1) above.

* Matters to be stated in the Document to Be Delivered Upon Conclusion of Contract: (1) + (2)

(2) Additional matters to be stated in the Document to Be Delivered Upon Conclusion of Contract (FIBCOO, Article 100(1))

Item	Matters to Be Stated
(i)	Whether the trade is principal trading or for the account of a client, and if it is for the account of a client (limited to those in connection with OTC derivatives transactions), the trade name or name and address or location of the counterparty
(ii)	Whether a sale, etc., or a purchase, etc.
(iii)	Issue (including financial instruments subject to the transaction, financial indicators and other information equivalent to the foregoing).
(iv)	Contract volume (in the case where there is no volume, measurements similar to volume or number of cases.)
(v)	Unit price, amount of consideration, contract value or other amount per unit of the transaction or quantitative volume
(vi)	Amount of money that the customer is to pay and the calculation method thereof
(vii)	Types of transactions
(viii)	Such matters as are necessary in order to accurately represent the transaction in addition to the above.

Furthermore, with regard to the contracts for financial instruments transactions pertaining to the subject transactions in (3) below, the matters stated in the Cabinet Office Ordinance as set forth in (3) below must be stated in the Document to Be Delivered Upon Conclusion of Contract, in addition to the additional matters to be stated as mentioned in (2) above, in accordance with each transaction.

* Matters to be stated in the Document to Be Delivered Upon Conclusion of Contract: (1) + (2) + (matters to be stated under the FIBCOO concerning each subject transaction in (3))

(3) Addition of matters to be stated (FIBCOO, Article 101 through Article 107)

Provisions of FIBCOO	Subject Transactions
Article 101	A sale and purchase or other transaction in securities or securities related derivatives, etc.
Article 102	A derivatives transaction, etc. (excluding securities-related derivatives transactions, etc. (excluding those under contracts for OTC derivatives transactions) and brokerage of securities, etc. clearing)
Article 103	A sale and purchase or other transaction in mortgage securities, etc.
Article 104	A commodity fund related transaction.
Article 105	A transaction in connection with the racehorse related investment business.
Article 106	An investment advisory agreement, etc.
Article 107	A discretionary investment agreement, etc.

3 3 Methods of Delivery

When a contract for financial instruments transaction has been formed, an Association Member must prepare the Document to Be Delivered Upon Conclusion of Contract and mail such document to the address or location of office of the customer, or the place designated by the said customer, without delay (FIEA, Article 37-4; and Deposit Rules, Article 11(3), as applied *mutatis mutandis* pursuant to Article

13(1) of the said Rules (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)).

Provided, however, that this shall not apply to cases where the Document to Be Delivered Upon Conclusion of Contract may be immediately delivered to the customer and which fall under either of the following cases: (i) a case where the person in charge of the Association Member's sales, inspection, auditing or administration department (hereinafter referred to as the "Chief Manager") or an employee authorized by the Chief Manager directly delivers the document to the customer over the counter; or (ii) a case where the customer has made a special offer about the method of delivery and a letter of comfort is collected in the form prescribed by the Association Member with all necessary matters stated therein (Deposit Rules, Article 11(4), as applied *mutatis mutandis* pursuant to Article 13(1) of the said Rules (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19); and Detailed Rules Related to the Deposit Rules, Article 2 (applied *mutatis mutandis* to Special Members under Article 4 and to Specified Business Members under Article 5)).

Moreover, in cases where the customer is a juridical person or an organization equivalent thereto, if the Chief Manager or an employee authorized by the Chief Manager has brought the Document to Be Delivered Upon Conclusion of Contract to the office of the customer and delivered it directly to the customer, such document shall be deemed to have been delivered by mail (Deposit Rules, Article 13(2) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)).

If the Association Member obtains a written or electromagnetic consent from a customer in advance with respect to providing the matters to be stated in the Document to Be Delivered Upon Conclusion of Contract by electromagnetic method, the Association Member may, in substitution for the delivery of the Document to Be Delivered Upon Conclusion of Contract in writing, provide [such matters] by electromagnetic method. In such case, the Association Member shall be regarded as having delivered the Document to Be Delivered Upon Conclusion of Contract (FIEA, Article 34-2(4) and Article 37-4(2); FIEAEO, Article 15-22; the Deposit Rules, Article 14(1) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19) and Rules Concerning Handling of Documents Delivery, Etc. Through Electromagnetic Method, Article 5).

(Notes)

(i) When an Association Member has delivered the document to the customer, the Association Member shall record the date of delivery and method of delivery in an out-going letter book or other record.

(ii) When the document sent by mail fails to reach a customer, an Association Member shall record and preserve the reason for the delivery failure, and preserve the Document to Be Delivered Upon Conclusion of Contract that did not reach the customer for five years after the preparation thereof.

(iii) When the above reason for delivery failure is resolved, an Association Member should deliver the Document to Be Delivered Upon Conclusion of Contract to the customer again.

3 4 Cases in Which Delivery Is Not Required

When it is found that not delivering the Document to Be Delivered Upon Conclusion of Contract to the customer would not hinder the public interest or the protection of investors in consideration of the content of the contract for financial instruments transaction or other circumstances, the Association Member is not required to deliver such document (FIEA, Article 37-4(1), *proviso*).

The major cases in which delivery is not required (when it is found that not delivering would not hinder the public interest or the protection of investors) are as follows (FIBCOO, Article 110(1)):

(i) In the case of a contract for financial instruments transaction such as set forth below where a document stating the contents of the contract for financial instruments transaction is periodically delivered to the customer and a system is in place under which a prompt answer can be given to individual inquiries by the relevant customer:
   a. Purchases of securities pursuant to a cumulative investment agreement or sales of securities that are made periodically based on a cumulative investment agreement;
   b. Those in which the same issues as the beneficiary certificates to an investment trust or a foreign investment trust owned by a customer, or interests in a collective investment scheme are to be purchased from earnings that occur from the same beneficiary certificates, or interests in the collective investment scheme; and
   c. Sale and purchase of the beneficiary certificates to an investment trust or a foreign investment trust (limited to beneficiary certificates of public and company bond investment trusts (limited to those for which the calculation period is one day) provided for in the Investment Trust Act Enforcement Ordinance, Article 25(ii)) or the termination of the investment trust agreement in connection with securities.

(ii) When a contract for financial instruments transaction set forth below has been formed and a written contract stating the terms of the transaction is delivered upon conclusion of each contract:
   a. Sale and purchase in certain bonds, etc. on condition of repurchase, or sale and purchase in certain bonds, etc. on condition of resale;
   b. Transactions in which there is a period of at least one month between the contract date and the date of delivery among sale and purchase in certain bonds, etc.;
   c. Sale and Purchase of Bonds with Options;
   d. OTC derivatives transactions;
   e. Intermediary, brokerage or agency of selling of securities (limited to cases where the customer relating to such contract for financial instruments transaction is the issuer or owner of the relevant securities);
   f. Intermediary or agency of purchasing of securities (limited to cases of intermediary or agency of purchasing of securities relating to a tender offer, with a tender offeror as counterparty);
   g. Underwriting of securities; and
   h. Handling of public offering or secondary distribution of securities or the handling of a private placement, or handling of an exclusive offer to sell, etc. to professional investors (limited to

cases where the customer relating to the contract for financial instruments transaction is the issuer or the owner of such securities).

(iii) When a contract for financial instruments transaction has been formed in connection with brokerage for clearing of securities, etc. that a clearing participant will carry out;

(iv) In a case of processing an incident;

(v) In a case in which a customer enters into a discretionary investment agreement with the relevant financial instruments business operator, etc., or another financial instruments business operator, etc. (limited to those engaged in the investment management business), and in which all of the requirements set forth in the Cabinet Office Ordinance are satisfied in connection with sale and purchase or other transactions in securities or derivatives transactions, etc., pursuant to the discretionary investment agreement;

(vi) In a case where a contract for financial instruments transaction is formed of a content that amends in part a contract for financial instruments transaction that has already been formed, when there is nothing to amend with respect to the matters stated in the Document to Be Delivered Upon Conclusion of Contract relating to the contract for financial instruments transaction that has been formed in accordance with such amendment, or when there is something to amend, upon delivering a document to such customer that states such matter that is to be amended; and

(vii) In the case of a market derivatives transaction in which an act of giving-up or separating the order from settlement has been carried out pursuant to instruction by the customer, and a written agreement has been reached in advance among the customer, the order executing member, etc. and the clearing executing member, etc. in connection with having the clearing executing member, etc. deliver the Document to Be Delivered Upon Conclusion of Contract, instead of having the order executing member, etc. deliver the document to the customer.

* If the other party with whom a contract for financial instruments transaction was concluded is a professional investor, some conduct control regulations (*e.g.,* the obligation to deliver a Document to Be Delivered Upon Conclusion of Contract) are exempt (FIEA, Article 45(ii)) (for details, see Chapter IV. “Supplement 3: Exclusions from Restriction Under Certain Conduct Control Regulations”).

3 5 Answers to Inquiries

In regard to the Document to Be Delivered Upon Conclusion of Contract, the receipt of inquiries from a customer relating to sale and purchase and other transactions in respect of the customer’s securities, derivative transactions related to securities, specified OTC derivative transactions, commodity-related market derivatives transactions or the replies thereto shall be made by the department of the Association Member responsible for inspection, oversight and control (Deposit Rules, Article

12(3), applied *mutatis mutandis* under Article 13(3)) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)). In the case where a system to promptly reply to inquiries from customers concerning individual transactions has not been established, it is necessary to note that there is an obligation to deliver the Document to Be Delivered Upon Conclusion of Contract, even if the other party to a contract for financial instruments transaction is a professional investor (FIEA, Article 45, *proviso*; FIBCOO, Article 156(i)).

3 6 Preservation of Copy and Record to Outgoing Letter Book

An Association Member must preserve a copy of the Document to Be Delivered Upon Conclusion of Contract for five years after the preparation thereof (FIBCOO, Article 157(2)). With respect to the copy of the Document to Be Delivered Upon Conclusion of Contract, other books of account prepared through automatic processing at the same time as such document, and describing all of the matters stated in such document may be substituted therefor (FIBO Supervision Guidelines III-3-3(1)(v), (applied *mutatis mutandis* to Special Members under VIII-2-3).

In addition, in case an Association Member has delivered the Document to Be Delivered Upon Conclusion of Contract to a customer, the Association Member must record the date of delivery and the method of delivery in an outgoing letter book or other record, so that the fact of delivery of the document may be readily confirmed (Deposit Rules, Article 11(6), as applied *mutatis mutandis* pursuant to Article 13(1) of the said Rules (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)).

<Relevant Laws and Regulations> FIBCOO, Article 98; Detailed Rules Related to the Deposit Rules, Article 2
<Relevant Sections of this Manual> Chapter III. 4 Delivery of Document to Be Delivered Prior to Conclusion of Contract and Document to Be Delivered upon Conclusion of Contract

4 Transaction Balance Statement

4 1 Delivery

When prescribed by the Cabinet Office Ordinance, an Association Member must prepare transaction balance statement so that its customer can confirm the content of the financial instruments transactions conducted within a certain period and the balance of securities and money at the end of such certain period, and deliver this to its customer (FIEA, Article 37-4(1); and FIBCOO, Article 98(1)(iii)(a) and (b)).

4 2 Matters to Be Stated

The following matters must be stated in the transaction balance statement:

Matters to be stated (FIBCOO, Article 108(1))

Item	Matters to Be Stated
(i)	Personal name or firm name of customer.
(ii)	The following matters concerning a contract for financial instruments transaction for which a transaction balance statement is to be delivered at each time of entering into the contract for financial instruments transaction or a contract for financial instruments transaction that is formed during the reporting period: a. Contract date; b. Delivery date of the securities or commodities (including certificates issued for the deposited commodities; hereinafter the same shall apply in this table); c. Whether the transaction is a sale, etc., or a purchase, etc.; d. Type of securities or the type of derivatives transaction; e. Issue (including the financial instruments that are the subject of the transaction, the financial index or the contract code stated on the contract or other particulars that identify the subject of the transaction); f. Contract volume (and in the case where the volume does not exist, the equivalent of the quantity or volume); g. Unit price, amount of consideration, contract value, option fee, or other monetary amount or value per transaction unit; h. Amount to be paid (including the commissions); and i. Whether the trade was a cash transaction or a margin transaction.
(iii)	Dates of delivery of securities that are carried out during the reporting period as well as types of securities and number of shares, number of units or total amount of the certificates.
(iii)-2	Dates on which commodities have been delivered during the reporting period, as well as the type and quantity of the said commodities.
(iv)	Dates on which cash has been delivered during the reporting period as well as the amount of the said cash.
(v)	Balance of cash, securities and commodities as of the last day of the reporting period.
(vi)	Details of the unsettled account and valuation gain or loss in margin transactions, when-issued transactions (excluding when-issued transactions of JGBs) and derivatives transactions as of the last day of the reporting period.
(vii)	If a contract for financial instruments transaction of (ii) above involves margin transactions, then (a) whether the margin transaction is a new position or a settlement, (b) repayment date, and (c) interest payable or receivable on the margin transaction or broker borrowing fees or broker lending fees in connection with the relevant margin transactions.
(viii) to (x)	Matters to be stated in the event that a contract for financial instruments transaction set forth in (ii) consists of a securities related market derivatives transaction, etc.
(xi) to (xiii)	Matters to be stated in the event that a contract for financial instruments transaction set forth in (ii) consists of securities related OTC derivatives transaction.

4 3 Method of Delivery

When an Association Member has executed a contract for financial instruments transaction with a customer in connection with the sale or purchase, or other transaction, of securities or derivatives transaction, etc., or has delivered securities, commodities (including certificates issued for the deposited commodities), or money to a customer, the Association Member must prepare a transaction balance statement for each customer's account and deliver it to the customer every quarter (FIBCOO, Article 98(1)(iii)(b)). In addition, upon request by the customer to deliver a transaction balance report every

time, the Association Member must deliver such report every time the contract is executed, or the securities or money is delivered (FIBCOO, Article 98(1)(iii)(a)).

However, in cases where the contract for financial instruments transaction has not been executed, or the delivery of the securities or money has not been made within one year from the date of the most recent delivery of a transaction balance sheet, and there is a positive balance in money or securities, it shall be sufficient to deliver a transaction balance statement to the customer on a yearly basis (FIBCOO, Article 98(1)(iii)(b)).

If certain conditions are met, the Association Member may, in substitution for the delivery of the transaction balance statement in writing, use methods employing electronic information processing systems, and the Association Member shall be regarded as having delivered the transaction balance statement (FIEA, Article 34-2(4) and Article 37-4(2)).

4 4 Cases in Which Delivery Is Not Required

In the cases in (i) through (vi) below, an Association Member shall not be required to deliver a transaction balance statement (FIEA, Article 37-4(1), *proviso*; FIBCOO, Article 111).

(i) Cases in which the customer is a foreign government, a government institution in a foreign country, a local government of a foreign country, a central bank of a foreign country, or an international institution of which Japan is a member, in which consent has been obtained in writing or by a method using data telecommunications that delivery of a transaction balance statement is not necessary from a person with appropriate authority at the said customer, and in which a system is in place that enables prompt answers to inquiries by the customer concerning transaction balances (excluding cases in which the customer is a qualified institutional investor, or a foreign corporation that is a professional investor).

(ii) Cases where intermediary or agency service for the purchase of securities is provided (limited to cases of providing intermediary or agency service for the purchase of securities in connection with a tender offer in which the other party is the public tender offeror).

(iii) Cases where the delivery in connection with a sale and purchase or other transaction in securities or a derivatives transaction, etc. (excluding brokerage for clearing of securities, etc.) involves the underwriting of securities.

(iv) Cases where the contract for financial instruments transaction or delivery in connection with a sale and purchase or other transaction in securities or a derivatives transaction, etc. (excluding brokerage for clearing of securities, etc.) involves the handling of a public offering or secondary distribution of securities, the handling of a private placement or the handling of an exclusive offer to sell, etc. to professional investors (limited to cases where the customer in connection with the handling of the public offering or secondary distribution, the handling of the private placement of the securities or the handling of an exclusive offer to sell, etc. to professional investors is the issuer or an owner of the securities).

(v) Cases where a sale and purchase or other transaction in securities, commodities (including

certificates issued for the deposited commodities), or a derivatives transaction, etc. (excluding brokerage for clearing of securities, etc.) that does not involve the delivery of securities or money is carried out.

(vi) If the case where the contract for financial instruments transaction is a market derivatives transaction in which an act of giving-up, or separating the order from settlement, has been carried out pursuant to instructions by the customer, and a written agreement has been reached in advance among the customer, the order executing member, etc., and the clearing executing member, etc., in connection with having the clearing executing member, etc. deliver the transaction balance statement, instead of having the order executing member, etc. deliver the statement to the customer.

* Professional investors are excluded from the application of some conduct control regulations (*e.g.,* the obligation to deliver a transaction balance sheet) (FIEA, Article 45(ii)) (for details, see Chapter IV. "Supplement 3: Exclusions from Restriction Under Certain Conduct Control Regulations").

4 5 Preservation of Duplicates

An Association Member must preserve a copy of the transaction balance statement for five years after the preparation thereof (FIBCOO, Article 157(2)). With respect to the copy of the transaction balance statement, other books of account prepared through automatic processing at the same time as such statement, and describing all of the matters stated in such statement may be substituted therefor (FIBO Supervision Guidelines III-3-3(1)(v), (applied *mutatis mutandis* to Special Members under VIII-2-3).

<Relevant Sections of this Manual> Chapter VI. 10 Storage and Maintenance of Books of Account

5 Notice of Reconciliation

5 1 Preparation and Report

An Association Member must report to each customer the balance of its claims and obligations to the customer (in the case of Special Members, those pertaining to the registered financial institution business; in the case of Specified Business Member, those pertaining to specified business) by providing

a notice of reconciliation (Deposit Rules, Article 9(1) (or Article 17(1) in the case of Special Members and Article 20(1) in the case of Specified Business Member)).

However, if a customer is professional investor, and an Association Member has established a system which enables a prompt reply to such a customer concerning the latest balance of the money or securities, the Association Member is allowed to omit making a report (Deposit Rules, Article 9(4) (or Article 17(5) in the case of Special Members and Article 20(3) in the case of Specified Business Member)).

The notice of reconciliation shall be prepared in an Association Member's inspection, auditing, or administration department. In addition, the Association Member must conspicuously indicate the matters in (i) through (iii) below in the notice of reconciliation (Deposit Rules, Article 11(1) and (2) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)):

(i) A customer shall, upon receipt of the notice of reconciliation, confirm the contents of the descriptions therein;

(ii) In the event of any mistake in or doubts regarding the descriptions in the notice of reconciliation, an inquiry shall be made directly to the responsible person in an Association Member's inspection, auditing or administration department without delay; and

(iii) Contact information in relation to (ii) above.

5 2 Matters to Be Stated

Regular Member

(i) Regular Members shall state the following matters in the notice of reconciliation (excluding matters related to cashing of MMFs or medium-term government bond funds, etc.).

Matters to be stated (Deposit Rules, Article 9(2))

Item	Matters to Be Stated
(i)	Latest balance of advance money, loaned money, deposited money, or borrowed money.
(ii)	Latest balance of securities deposited under a simple deposit contract, an entrustment contract, a commingled deposit contract or a contract of deposit for consumption and securities managed by entry or record, etc. in a book-entry clearing account book (excluding those set forth in (iii)).
(iii)	Latest balance of money or securities as the object of a pledge (*shichiken*).
(iv)	Latest balance of unsettled accounts for margin transactions.
(v)	Latest balance of securities involving when-issued transactions.
(vi)	Latest balance of unsettled accounts in connection with securities-related derivatives transactions, specified OTC derivatives transactions and commodity-related market derivatives transactions.

Special Member

(ii) Special Members shall state the following matters pertaining to the registered financial institution business in the notice of reconciliation.

Matters to be stated (Deposit Rules, Article 17(2))

Item	Matters to Be Stated
(i)	Latest balance of advance money or deposited money;
(ii)	Latest balance of securities deposited under a simple deposit contract, an entrustment contract or a commingled deposit contract and securities managed by entry or record, etc. in a book-entry clearing account book (excluding those set out in (iii) to (vi));
(iii)	Latest balance of margin and substitute securities for securities-related market derivatives transactions and commodity-related market derivatives transactions;
(iv)	Latest balance of cash collateral or collateral securities for securities-related OTC derivatives transactions (limited to those relating to the relevant transactions);
(v)	Latest balance of margin and substitute securities for Sale and Purchase of Bonds with Options;
(vi)	Latest balances of cash collateral and collateral securities for specified OTC derivatives transactions (limited to those relating to the relevant transactions); and
(vii)	Latest balance of unsettled accounts in connection with Sale and Purchase of Bonds with Options, securities-related market derivative transactions, securities-related OTC derivatives transactions, specified OTC derivatives transactions or commodity-related market derivatives transactions.

(iii) Specified Business Members shall state the following matters pertaining to the specified business in the notice of reconciliation.

Matters to be stated (Deposit Rules, Article 20(2))

Item	Matters to Be Stated
(i)	Latest balance of advance money and deposited money;
(ii)	Latest balances of cash collateral and collateral securities for specified OTC derivatives transactions (limited to those relating to the relevant transactions); and
(iii)	Latest balance of margin and substitute securities for commodity-related market derivatives transactions.
(iv)	Latest balance of unsettled accounts in connection with specified OTC derivatives transactions or commodity-related market derivatives transactions

5 3 Method of Delivery

When an Association Member delivers a notice of reconciliation to a customer, the Association Member must mail such notice to the address or the location of the office of the customer or the place designated by the customer (Deposit Rules, Article 11(3) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)).

Provided, however, that in cases where the notice of reconciliation is ready for immediate delivery to a customer and (i) the Chief Manager will make a direct delivery to the customer over the counter (in this case, the Chief Manager must promptly collect a reply to the notice of reconciliation from the said customer), or (ii) the customer has made a special offer about the method of delivery, and a letter of

comfort has been collected in the form prescribed by the Association Member with the necessary matters stated therein, mailing is not required (Deposit Rules, Article 11(4) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19), Detailed Rules Relating to the Deposit Rules, Article 2 (applied *mutatis mutandis* to Special Members under Article 4 and to Specified Business Members under Article 5)).

In addition, in cases where a Chief Manager has brought a notice of reconciliation to the address or the office of a customer and delivered it directly to the said customer, the notice of reconciliation shall be deemed to have been delivered by mail. In this case, the Chief Manager must promptly receive from the said customer a reply to the notice of reconciliation (Deposit Rules, Article 11(5) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)).

If the Association Member obtains a written or electromagnetic consent from the customer in advance with respect to providing the matters to be stated in the notices of reconciliation by electromagnetic method, the Association Member may, in substitution for the delivery of the notice of reconciliation in writing, provide [such matters] by electromagnetic method. In such case, the Association Member shall be regarded as having delivered the notice of reconciliation (Deposit Rules, Article 14(1) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19; Rules Concerning Handling of Document Delivery, Etc. through Electromagnetic Method)).

5.4 Frequency of Reports

The frequency of reports made by deliveries of notices of reconciliation from Association Members to their customers is determined by the Deposit Rules according to the classification of the customer, unless the customer is provided with a transaction balance statement on a periodic basis and the necessary matters are stated in such transaction balance statement (for details, see "5.2 Matters to Be Stated" in this Chapter).

The frequency of reports to the customers is as stated below:

Regular Member

((i) In the case of Regular Members

Frequency of Notification of Reconciliation (Deposit Rules, Article 9(1))

Item	Contents of Transactions by Customers, Etc.	Frequency of Reports
(i)	Customers who conduct sale and purchase in securities or other transactions	Once a year or more
(ii)	Customers who conduct securities-related derivatives transactions Customers who conduct specified OTC derivatives transactions Customers who conduct commodity-related market derivatives transactions	Twice a year or more
(iii)	Customers with a positive balance of money or securities who have not conducted deliveries or transactions set forth in (i) and (ii) above for one year or more	From time to time

Special Member

(ii) In the case of Special Members

Frequency of Notification of Reconciliation (Deposit Rules, Article 17(1))

Item	Contents of Transactions by Customers, Etc.	Frequency of Reports
(i)	Customers who conduct the following transactions: ・Securities-related market derivative transactions; ・Sale and Purchase of Bonds with Options; ・Securities-related OTC derivatives transactions; ・Specified OTC derivatives transactions; or ・Commodity-related market derivatives transactions	Twice a year or more
(ii)	Customers who have a positive balance of securities concerning the registered financial institution business (excluding customers who conduct the transactions listed in (i)).	Once a year or more
(iii)	Customers who have a positive balance of money or securities concerning the registered financial institution business and who have not conducted deliveries or transactions set forth in (i) above for one year or more.	From time to time

(iii) In the case of Specified Business Members

Frequency of Notification of Reconciliation (Deposit Rules, Article 20(1))

Item	Contents of Transactions by Customers, Etc.	Frequency of Reports
(i)	Customers who conduct sale and purchase in securities or other transactions.	Once a year or more
(ii)	Customers who conduct specified OTC derivatives transactions Customers who conduct commodity-related market derivatives transactions	Twice a year or more
(iii)	Customers (excluding customers who have transactions listed in the preceding two items) who have a positive balance of securities concerning business listed in the JSDA Articles of Association, Article 5(ii)(a) or (c) (business related to the specified OTC derivatives transactions, etc. or business related to brokerage, etc. of commodity-related market derivatives transactions)	Once a year or more
(iv)	Customers who have a positive balance of money or securities concerning the specified business and who have not conducted deliveries or transactions set forth in (i) or (ii) above for one year or more.	From time to time

* If a customer has no outstanding balance of money or securities at the time of the report, but has had a balance during a period less than one year since the most recent previous report, a report must be made to the customer by the notice of reconciliation to the effect that there is no such balance at present (Deposit Rules, Article 10 (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)).

5 5 Response to Balance Inquiries from Customers

In cases where an Association Member has received an inquiry from a customer concerning the balance of money or securities referred to in 5.2 (Matters to Be Stated) (in the case of Special Members, those pertaining to the registered financial institution business, and in the case of Specified Business Members, those pertaining to the specified business), the Association Member must make a reply

without delay to the said customer about such balance. In addition, said response shall be made by the Association Member's inspection, auditing, or administration department (Deposit Rules, Article 12 (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)).

5 6 Record to Outgoing Letter Book

In cases where an Association Member has delivered the notice of reconciliation to a customer, the Association Member must record the date of delivery and the method of delivery in an outgoing letter book or other record, so that the fact of delivery of the notice of reconciliation may be readily confirmed (Deposit Rules, Article 11(6) (applied *mutatis mutandis* to Special Members under Article 16 and to Specified Business Members under Article 19)).

<Relevant Sections of this Manual> Chapter VI. 10 Storage and Maintenance of Books of Account

(Note) Among the provisions of Article 19 of the Deposit Rules, replacement of Articles 10 through 14, and Article 20 shall not be applied to the Special Commodity Futures Member until the date on which the transaction balance statement set forth in Article 98 (1)(iii)(a) of the FIBCOO is delivered to customer for the first time (Commodity Derivatives Rules, Article 4(iv)).

6 Management of Purchase Price, Etc.

6 1 Advance Deposit of Purchase Prices, and Securities, Etc.

An Association Member must, in accepting an order from a new customer or a customer for a large-lot transaction, endeavor to ensure the safety of the transaction by such means as having the customer concerned deposit the whole or a part of the money for purchasing securities or securities for sale with the Association Member concerned in advance. (Investment Solicitation Rules, Article 17).

Regular Member

6 2 Default and Compensation

(i) If a customer fails to deliver, etc. the purchase price or securities to be sold for the sale and purchase transactions of the listed securities to the Association Member by the prescribed time, the Association Member may at its discretion settle the account through an offsetting trade for the customer's account.

(ii) An Association Member may invoice to the customer any losses accrued from the offsetting trades mentioned in (i) above.

Furthermore, the trading participant may appropriate the securities or money held by the trading participant for such customer for such losses (TSE Brokerage Rules, Article 53).

6 3 Default and Rights of Retention ("*Ryūchi-ken*")

When a customer does not honor its obligations arising from an agreement of consigning sale and purchase, the Association Member may retain the securities, etc. of the said customer until the obligation is honored (Civil Code, Article 295).

(i) Claims for payment of the purchase price:

If payment is not sufficient for the purchase price, steps shall be taken to accelerate deposit of payment.

(ii) Matters to be considered in the delivery of checks:

When checks are accepted, payment shall be deemed to have been received when the checks are cleared.

7 Management of Margin Deposits

7 1 Purpose

Margin deposits in margin transactions and those for futures and options transactions are prescribed under the FIEA and the brokerage rules, etc. of the respective financial instruments exchanges, and are for the purpose of preserving the soundness of Association Members and preventing investors from engaging in excessive transactions.

Regular Member

7 2 Margin Transactions

(1) Margin Deposits

When a purchase or a sale is formed in a margin transaction, the trading participant shall collect from the customer a margin deposit that is not less than the amount stated below by a date and time designated by the trading participant no later than noon of the third business day after the day on which the transaction is concluded (Cabinet Office Ordinance on Transactions under Article 161-2 of the Financial Instruments and Exchange Act and Deposits Related Thereto, Article 3; and TSE Brokerage Rules, Article 39).

(i) Where there is no margin deposit pertaining to the margin transaction of such customer (which refers to the actual deposited amounts; hereinafter the same) at the time of receipt:

a. If the amount obtained by multiplying the contract price by 30 percent (if the securities pertaining to the margin transaction are securities relating to a leveraged indicator, etc. (meaning a quotation on a financial instruments market (meaning the financial instruments market prescribed in Article 2(14) of the FIEA) or any other indicator, for which the daily fluctuation rate is calculated as the rate that is obtained by multiplying the daily fluctuation rate for another indicator by a certain number), the rate obtained by multiplying 30 percent by that certain number (if the certain number is less than zero, the number that remains after deducting the certain number from zero) (or 30 percent if the rate thus obtained is less than 30 percent)) (hereafter referred to as the "normal minimum amount" in this section) is 300,000 yen or more, such amount;

b. The amount shall be 300,000 yen, if the normal minimum amount is below 300,000 yen.

(ii) Where there is already a margin deposit pertaining to the margin transaction of such customer at the time of receipt:

a. The amount shall be normal minimum amount pertaining to the relevant margin transaction, if the total amount of the margin deposit and the normal minimum amount for the newly undertaken margin transaction is 300,000 yen or more in aggregate.

The total amount of the margin deposit shall be the remaining balance of the margin deposit (the total of the cash guaranty and the appraised value of the substitute securities) after deduction of the valuation loss on the position, the loss on the offsetting trades and expenses.

Total amount of margin deposit = deposited cash amount + (margin securities ("*daiyō shōken*") × current price thereof × cash conversion ratio ("*daiyō kakeme*")) –valuation loss on open positions – loss resulting from offsetting trades – expenses

b. If such aggregation is below 300,000 yen, such difference shall be added to the normal minimum amount pertaining to the relevant margin transaction.

Money that can be deposited as a margin deposit is either in Japanese yen or U.S. dollars. Note that the amount of margin deposit to be deposited in U.S. dollar shall be an amount obtained by multiplying the price converted into Japanese yen pursuant to the foreign exchange rate specified by the trading participant by 95/100 (TSE Brokerage Rules, Article 39-2).

Securities may be substituted for the entire amount of margin deposits (FIEA, Article 161- 2(2); and TSE Brokerage Rules, Article 40(1)). The substitute value shall not exceed the amount obtained by multiplying the market value on the date before the deposit date, by a prescribed ratio (TSE Brokerage Rules, Article 40(2)).

With respect to money or securities received from a customer as margin deposits pertaining to margin transaction, trading participants may withdraw to the extent equivalent to the amount obtained by subtracting the amount obtained by multiplying the contract value of all securities pertaining to the margin transaction by 30 percent (if the securities pertaining to the margin transaction are securities relating to a leveraged indicator, etc. (meaning a quotation on a financial instruments market (meaning the financial instruments market prescribed in Article 2(14) of the FIEA) or any other indicator, for which the daily fluctuation rate is calculated as the rate that is obtained by multiplying the daily fluctuation rate for another indicator by a certain number), the rate obtained by multiplying 30 percent by that certain number (if the certain number is less than zero, the number that remains after deducting the certain number from zero) (or 30 percent if the rate thus obtained is less than 30 percent)) from the total amount of margin deposits pertaining to the margin transaction of such customer (Cabinet Office Ordinance on Transactions under Article 161-2 of the Financial Instruments and Exchange Act, Article 7; and TSE Brokerage Rules, Article 44).

Furthermore, where a profit arises from offsetting trades, and when money equivalent to such profit is to be received from a customer as a margin deposit pertaining to margin transactions at the time of settlement of unsettled accounts via such offsetting trades, the total amount of the deposited margin may be calculated by adding the amount equivalent to such profit (Cabinet Office Ordinance on Transactions under Article 161-2 of the Financial Instruments and Exchange Act, Article 8(4); and TSE Brokerage Rules, Article 45(4)).

(2) Additional Margin Deposits

Where additional margin deposits become necessary due to valuation losses on positions or a decline in the price of the substitute securities (*i.e.*, when the total amount of the margin deposits received falls below the amount obtained by multiplying the contract value of all securities in connection with the margin transaction by 20%), the trading participant must have the customer deposit and additional margin as necessary to maintain the amount obtained by multiplying the contract value of all securities pertaining to the margin transaction by 20% by a date and time designated by the trading participant that is no later than noon of the third business day after the day on which the implicit loss has accrued (TSE Brokerage Rules, Article 48(1)).

When a customer files a request for settlement of an unsettled account subject to the implicit loss by a date and time designated by the trading participant no later than noon of the third business day after the day on which the implicit loss has accrued, the trading participant may subtract the amount obtained by multiplying the contract value of the securities for which such settlement request was filed by 20% from the margin that must be additionally deposited (TSE Brokerage Rules, Article 48(2)).

Furthermore, where a trading participant has received a deposit from the customer of an amount equivalent to: (i) the amount of losses from offsetting trades pertaining to an unsettled account subject to the implicit loss; and (ii) the amount to be borne by the customer pertaining to such unsettled account,

by a date and time designated by the trading participant that is no later than noon of the third business day after the day on which the implicit loss has accrued, the trading participant may subtract these amounts from the margin that must be additionally deposited during the period before the settlement of such offsetting trades (TSE Brokerage Rules, Article 48(3)).

7 3 Foreign Stocks Margin Transactions

(1) Margin Deposits

When a purchase or a sale is formed in a foreign stocks margin transaction introduced on July 1, 2022 (Note) (excluding offsetting trade conducted for the settlement of the foreign stocks margin transaction), a Regular Member shall collect from the customer a margin deposit that is not less than the amount stated below by a date and time designated by the Regular Member on the third business day counting from the contract date (Foreign Securities Rules, Article 33).

(Note) Foreign stocks margin transactions are margin transactions prescribed in Article 156-24(1) of the FIEA for which a Regular Member conducts the intermediary, brokerage or agency service for the sale and purchase of securities on a foreign financial instruments exchange by granting credit to a customer in Japan, and for which the Regular Member or the customer does not receive credit from the local securities dealer (meaning a foreign securities service provider prescribed in Article 58 of the FIEA acting as the counterparty with which a Regular Member conducts the intermediary, brokerage or agency service for the sale and purchase of securities on a foreign financial instruments exchange) (Foreign Securities Rules, Article 2(1)(xxiii)). Foreign shares, etc. that a Regular Member may handle in foreign stocks margin transactions are limited to those listed on a qualified foreign financial instruments exchange located in the United States (Foreign Securities Rules, Article 31(1)).

(i) Where there is no margin deposit pertaining to the foreign stocks margin transaction of such customer (which refers to the actual deposited amounts; hereinafter the same) at the time of receipt (Foreign Securities Rules, Article 33(i)):

The amount obtained by multiplying the contract value by 50% (hereinafter referred to as the "normal minimum amount" in this section); however, if the amount thus obtained falls below the amount in US dollars designated by the Regular Member as an amount equivalent to JPY300,000 or more (hereinafter referred to as the "designated minimum amount"), the designated minimum amount applies.

(ii) Where there is already a margin deposit pertaining to the foreign stocks margin transaction of such customer at the time of receipt (Foreign Securities Rules, Article 33(ii)):

a. The amount shall be the normal minimum amount for the foreign stocks margin transactions if the sum of the normal minimum amount for the foreign stocks margin transaction and the

total amount of margin deposit that has been received from the customer for foreign stocks margin transactions is equivalent to or more than the designated minimum amount.

b. If the sum of the normal minimum amount for the foreign stocks margin transaction and the total amount of margin deposit that has been received from the customer for foreign stocks margin transactions is less than the designated minimum amount, the difference shall be added to the normal minimum amount for the foreign stocks margin transaction.

Money that a Regular Member may receive as a margin deposit for foreign stocks margin transactions from a customer shall be denominated in Japanese yen or US dollars, and if such money is received in Japanese yen, the amount thereof shall be an amount obtained by multiplying the amount converted into the US dollar based on the foreign exchange rate designated by the Regular Member by 95% (Foreign Securities Rules, Article 34).

The entire amount of margin deposit for foreign stocks margin transactions may be substituted for by securities (Foreign Securities Rules, Article 35(1). The substitute price at the time of receipt of margin securities cannot exceed an amount obtained by multiplying the market price on the previous day by a prescribed ratio (Foreign Securities Rules, Article 35(2).

With respect to a sale pertaining to a foreign stocks margin transaction, a Regular Member shall lend a security for such sale on the delivery day for such sale, taking the sales proceeds and margin deposit as collateral. With respect to a purchase pertaining a foreign stocks margin transaction, a Regular Member shall lend money corresponding to the total amount of the contract value of such purchase on the delivery day for such purchase, taking the security purchased and margin deposit as collateral (Foreign Securities Rules, Article 36(1)).

The deadline for return or repayment of the securities sold or purchase consideration lent through foreign stocks margin transactions shall be the business day following the day of lending, and if the customer has not notified the Regular Member of the intention to return or repay by the day that is three business days prior to the deadline, the deadline shall be extended to the next business day sequentially. A Regular Member may designate the maximum number of times of such extension (Foreign Securities Rules, Article 36(2)).

Regarding money or securities which have been received from a customer as margin deposits for foreign stocks margin transactions, a Regular Member may allow the customer to withdraw money or securities up to the amount calculated by subtracting (b) from (a): (a) the total amount of margin deposit received for the customer's foreign stocks margin transactions (limited to foreign stocks margin transactions for which deposit of a margin deposit for such margin transactions was received); (b) the amount obtained by multiplying the contract value for all securities pertaining to the customer's foreign stocks margin transactions (excluding securities pertaining to offsetting trade or securities for which delivery of money or securities necessary for settlement by other methods than offsetting trade was received) by 50% (if the amount thus obtained is less than the designated minimum amount (except in the case where it is zero): the designated minimum amount) (Foreign Securities Rules, Article 37(1)).

Furthermore, where a profit arises from offsetting trades, and when money equivalent to such profit is to be received from a customer as a margin deposit pertaining to foreign stocks margin transactions at the time of settlement of unsettled accounts via such offsetting trades, the total amount of the deposited margin may be calculated by adding the amount equivalent to such profit (Foreign Securities Rules,

Article 38(4)).

(2) Additional Margin Deposits

On each business day, a Regular Member must calculate the total amount of margin deposit received for a customer's foreign stocks margin transactions and the amount obtained by multiplying the contract value for all securities pertaining to the customer's foreign stocks margin transactions by 30% (Foreign Securities Rules, Article 41(1)). If the total amount of margin deposit received for a customer's foreign stocks margin transactions falls below the amount obtained by multiplying the contract value for all securities pertaining to the customer's foreign stocks margin transactions by 30%, a Regular Member must receive from the customer an additional margin deposit in an amount necessary to maintain that total amount, by the date and time designated by the Regular Member on the third business day counting from the day on which the implicit loss occurred. However, this does not apply if a customer files a request for settlement of an unsettled account subject to the calculation of the implicit loss (in the case of settlement by a method other than offsetting trade, limited to cases where delivery of money or securities necessary for settlement by other methods than offsetting trade was received) (Foreign Securities Rules, Article 41(2)).

7 4 Futures and Options Transactions

A trading participant shall deposit a margin for a futures or options transaction by 11:00 a.m. of the business day following the end of the trading day on which the sale or purchase of futures transaction or the sale of options transaction was concluded (Japan Securities Clearing Corporation "Rules Concerning Clearing Margins, etc., relating to Futures and Options Transactions," Article 15).

If the total value of the margin deposit received from a customer falls below the required margin deposit value, or if the cash delivered or deposited by such customer as a margin (if cash in foreign currency is delivered or deposited, it shall be the amount obtained by multiplying (a) the amount converted to yen by the amount in yen per each currency unit at the telegraphic transfer buying rate on the Tokyo Foreign Exchange Market on the day before the calculation date with (b) a certain rate stipulated in the rules prescribed by Japan Securities Clearing Corporation; hereinafter the same shall apply in this paragraph) is less than the projected cash payment by such customer, the trading participant shall have the customer pledge or deposit an amount that is at least the amount of whichever is larger of: (i) the difference between the total value of the margin deposit received and the required margin deposit value (the shortfall in the total value); or (ii) the difference between the amount of cash pledged or deposited as the margin and the projected cash payment by the customer (hereinafter referred to as "cash shortfall") as a margin by a date and time designated by the trading participant that is no later than the business day following the day on which such shortfall occurred (or the third business day after the day on which the shortfall has accrued if such customer is a nonresident); provided, however, that if the required margin deposit value is increased pursuant to the provisions of the rules prescribed by Japan Securities Clearing Corporation, and when the trading participant (if such trading participant is a non-

clearance participant, its designated clearance participant) and the customer (if such customer is a broker, such customer and its subscriber) agree that the trading participant (if such trading participant is a non-clearance participant, its designated clearance participant) would deposit with Japan Securities Clearing Corporation the amount equivalent to the such increase with its own cash, and the trading participant (if such trading participant is a non-clearance participant, its designated clearance participant) filed to that effect with Japan Securities Clearing Corporation, such amount shall be deducted from the required margin deposit value (Osaka Exchange, Inc. "Rules on Margin and Transfer of Unsettled Contracts Pertaining to Futures/Options Contract," Article 30(1)).

Securities, etc. may be substituted for margin deposits but such substitution shall not be permitted for the amount of margin deposits equivalent to the amount of cash shortfall (Osaka Exchange, Inc. "Rules on Margin and Transfer of Unsettled Contracts Pertaining to Futures/Options Contract," Article 30(2)).

* The projected cash payment of the customer shall be the amount calculated by the following formula when the said amount is negative:
book gain or loss ± the settlement gain or loss of futures transactions for which delivery has yet to be completed with the customer ± option transaction prices for which payment to or receipt from the customer has not been completed – the amount that the trading participant recognizes necessary and that should be borne by the customer (Osaka Exchange, Inc. "Rules on Margin and Transfer of Unsettled Contracts Pertaining to Futures/Options Contract," Article 33(2) and (3))

Moreover, margins received from a customer (excluding amounts that are equivalent to the projected cash payment of the customer) shall be deposited directly with the Japan Securities Clearing Corporation as a clearing margin for the transactions consigned (direct deposit), or with the consent of the customer, all or a portion of the margin of the customer shall be converted to cash or securities held by the clearing participant, and deposited with the Japan Securities Clearing Corporation (replacement deposit).

7 5 Other Transactions

Margin deposits for foreign securities futures transactions etc. (meaning foreign securities futures transactions, foreign securities futures options transactions and foreign securities options transaction) as well as the accepting of trading margins in Sale and Purchase of Bonds with Options are regulated under the rules of the JSDA.

* Major provisions regarding margin deposits for foreign securities futures transactions, etc. include the deadline for accepting deposits of margins and the obligation of the Association Member to have in place a proper system for management of margins.

<Relevant Laws and Regulations>

- Foreign Futures Trading Rules
- Bonds with Options Rules
- Foreign Securities Rules

[Rules of the Tokyo Stock Exchange and the Osaka Exchange]

- Business Regulations
- Clearing and Settlement Regulations
- Brokerage Agreement Standards
- Rules on Margin and Transfer of Unsettled Contracts Pertaining to Futures/Options Contract

Regular Member

8 Cashing Related to MMFs and Medium-Term Government Bond (*Chūki Kokusai*) Funds, Etc.

8 1 Purpose

When a cancellation request is made by a customer who has deposited beneficiary certificates in MMFs, medium-term government bond fund or Money Reserve Fund (MRF), an Association Member may make a cash loan using the beneficiary certificates subject to the termination request as collateral until the time that the termination price is paid on the following business day in order to allow the Association Member to make payments equivalent to the amount of the termination price on the same day that the cancellation request is received (hereinafter referred to as "cashing") (FIEA, Article 35(1)(iii); and FIBCOO, Article 65(ii)).

8 2 Cashing Method, Etc.

The limit, term, and interest, etc., of cashing, are restricted as follows (FIBCOO, Article 65(ii)):

(i) Limit on amount of loan……The amount specified by each Association Member based on the refundable amount calculated on the basis of the balance or 5 million yen, whichever is smaller

(ii) Loan term……From the day that the cashing was carried out until the next business day.

(iii) Interest on loan……Net allotment of the MMFs, medium-term government bond fund and the Money Reserve Fund (MRF) from the day that the cashing was carried out until the day before the next business day.

(iv) Establishment of collateral……A pledge established against the beneficiary certificates (such as MMFs, medium-term government bond fund, and a Money

Reserve Fund (MRF)) in connection with the cancellation request.

(v) Repayment……Repayment is made from the termination price that would be payable to the customer on the first business day following the day on which cashing was carried out.

9 Putting in Place a System of Management of Loss-cut Transactions in Connection with Contract for Difference Transactions Conducted Over the Counter (OTC CFD Transactions)

If an Association Member intends to conduct with a customer an OTC CFD transaction (meaning an OTC CFD transaction as set forth in Article 3(ii) of the CFD Transaction Rules), the Association Member must, *inter alia*, determine a loss-cut level (meaning a loss-cut level as set forth in Article 3(viii) of the CFD Transaction Rules) in consideration of the price fluctuation risk as well as the liquidity risk and fully prepare a management system to conduct loss-cut transactions (meaning loss-cut transactions as set forth in Article 3(vii) of the CFD Transaction Rules) and ensure that this arrangement for loss-cut transactions is reflected in a contract with a customer, so that a customer will not incur a loss in excess of the margin deposit, etc. (meaning security money or securities deposited to the Association Member from the customer), Business relating to OTC CFD transactions must be conducted in accordance with the management system (CFD Transaction Rules, Article 5).

Regulations concerning margin rates, etc. of securities related OTC derivative transactions including OTC CFD transactions are stipulated in the FIBCOO.

<Relevant Laws and Regulations> FIEA, Article 28(8)(iv)(a) and (b); FIBCOO, Article 117(1)(xxix) and (xxx), (20), (21) and (22)

10 Storage and Maintenance of Books of Account

10 1 Purpose

The laws and regulations stipulate the obligation to prepare and maintain books of accounts concerning business as they protect investors by way of accurately reflecting the business or financial conditions and by verifying that the business is conducted appropriately and that it is financially sound, etc. As such, it is important to keep accurate records.

10 2 Books of Account and Retention Period

Regular Member

Regular Member and Specified Business Member must prepare and retain the following books of account, etc. as prescribed by the FIBCOO (FIEA, Article 46-2; and FIBCOO, Article 157):

Table 1 Books of Account (Type 1 financial instruments business operator)

	Books of Account	Retention Period
(i)	Letters of consent to requests to be treated as a person other than a professional investor.	Five years from the date of preparation
(ii)	Letters of consent in connection with requests to be treated as a professional investor (by individuals).	
(iii)	Documents to be delivered prior to conclusion of contract.	
(iv)	Document to Be Delivered Upon Conclusion of Contract.	
(v)	Documents stating the best execution policy, etc.	
(vi)	Written notices in connection with securities for professional investors.	
(vii)	Explanatory Document on Listed Securities, etc.	
(viii)	Prospectuses.	
(ix)	Contract amendment document.	
(x)	Letters of consent in connection with requests to be treated as a professional investor (by corporations).	Five years from the date of expiration
(xi)	Letters of consent to providing securities of a customer as collateral.	
(xii)	Letters of consent in connection with providing and receiving nonpublic information in connection with an issuer, etc.	
(xiii)	Order slips.	Seven years from the date of preparation
(xiv)	Records pertaining to confirming settlement measures.	
(xv)	Records pertaining to confirming transactions excluded from application of settlement measures.	
(xvi)	Records pertaining to the confirmation of Article 117(1)(xxiv-v) of the FIBCOO.	
(xvii)	Transaction diary.	Ten years from the date of preparation
(xviii)	Transaction records pertaining to intermediary or agency service.	
(xix)	Transaction records pertaining to brokerage of securities, etc., clearing.	
(xx)	Transaction records pertaining to a public offering or secondary distribution or a private placement, or an exclusive offer to sell, etc. to professional investors, etc.	
(xxi)	Transaction records pertaining to the handling of a public offering or secondary distribution or the handling of a private placement, or an exclusive offer to sell, etc. to professional investors, etc.	
(xxii)	Ledger of customer accounts.	
(xxiii)	Ledger of certificate code numbers of securities delivered.	
(xxiv)	Detailed statement of securities, etc. kept in custodial service.	
(xxv)	Records in connection with results of audits of separate management.	
(xxvi)	Ledger of trading instruments accounts.	
(xxvii)	Ledger of repurchase (*gensaki*) accounts.	

	Books of Account	Retention Period
(xxviii)	Transaction records pertaining to the operation of a proprietary trading system business if the business operator is a person who engages in the operation of a proprietary trading system business.	Ten years from the date of preparation
(xxix)	Records of the content of customer order (including those relating to change and cancellation) and other transaction records pertaining to the operation of an electronic trading platforms business if the business operator is a person who engages in the operation of an electronic trading platforms business.	

(If the business operator is a person who engages in the investment advisory or agency business)

	Books of Account	Retention Period
(xxx)	Documents that state the contents of the investment advisory agreements into which it has entered.	Ten years from the date of termination of the business activities in connection with the relevant agreement or other legal act
(xxxi)	Documents that state the contents of the advice based on the investment advisory agreements.	Ten years from the date of preparation
(xxxii)	Documents which state that a contract for financial instruments transaction is to be cancelled in the event that a contract for financial instruments transaction of this nature has been cancelled pursuant to Article 37-6(1) of the FIEA.	Five years from the date of preparation
(xxxiii)	Transaction records in connection with agency or intermediary in entering into an investment advisory agreement or a discretionary investment agreement.	Ten years from the date of preparation

(If the business operator is a person who engages in the investment management)

	Books of Account	Retention Period
(xxxiv)	Documents that state the contents of agreements or other legal acts as set forth in each Item of Article 42-3(1) of the FIEA (including a contract in connection with a consignment if consignment has taken place pursuant to the provisions of the said Paragraph).	Ten years from the date of termination of the business activities in connection with the relevant agreement or other legal act
(xxxv)	Copies of the investment management report as set forth in Article 42-7(1) of the FIEA.	Ten years from the date of preparation
(xxxvi)	Detailed investment report.	
(xxxvii)	Order slips.	Seven years from the date of preparation
(xxxviii)	In the case of an investment trust management company, matters listed below: · Detailed statements of unpaid managers' compensations; · Detailed statements of unpaid income distributions; · Detailed statements of unpaid redemptions; and · Detailed statements of unpaid commissions.	Ten years from the date of preparation

(If the business operator is a person who engages in the electronic subscription handling business)

	Books of Account	Retention Period
(xxxix)	Records pertaining to examinations based on measures as set forth in FIBCOO, Article 70-2(2) (iii).	Ten years from the date of preparation
(xxxx)	Records of matters displayed on the computer screen as set forth in FIBCOO, Article 146-2(1).	Five years from the date of preparation

Special Member

A Special Member must prepare and retain the following books of account, etc., as prescribed by the FIBCOO (FIEA, Article 48; and FIBCOO, Article 184):

Table 2 Books of Account (registered financial institution)

	Books of Account	Retention Period
(i)	Letters of consent to requests to be treated as a person other than a professional investor.	Five years from the date of preparation
(ii)	Letters of consent in connection with requests to be treated as a professional investor (by individuals).	
(iii)	Documents to be delivered prior to conclusion of contract.	
(iv)	Document to Be Delivered Upon Conclusion of Contract.	
(v)	Documents stating the best execution policy, etc.	
(vi)	Written notices in connection with securities for professional investors.	
(vii)	Explanatory Document on Listed Securities, etc.	
(viii)	Prospectuses.	
(ix)	Contract amendment document.	
(x)	Letters of consent in connection with requests to be treated as a professional investor (by corporations).	Five years from the date of expiration
(xi)	Letters of consent to providing securities of a customer as collateral.	

(Registered financial institution business, except for financial instruments intermediary service, investment advisory or agency business, and investment management business)

	Books of Account	Retention Period
(xii)	Order slips.	Seven years from the date of preparation
(xiii)	Records in connection with confirming settlement measures.	
(xiv)	Records in connection with confirming transactions excluded from application of settlement measures.	
(xv)	Records in connection with the confirmation of Article 117(1)(xxiv-v) of the FIBCOO.	

	Books of Account	Retention Period
(xvi)	Transaction diary.	Ten years from the date of preparation
(xvii)	Transaction records in connection with intermediary or agency service.	
(xviii)	Transaction records in connection with brokerage of securities, etc. clearing.	
(xix)	Transaction records in connection with a public offering or secondary distribution or a private placement, or an exclusive offer to sell, etc. to professional investors, etc.	
(xx)	Transaction records in connection with the handling of a public offering or secondary distribution or the handling of a private placement, or an exclusive offer to sell, etc. to professional investors, etc.	
(xxi)	Ledger of customer accounts.	
(xxii)	Ledger of certificate code numbers of securities delivered.	
(xxiii)	Detailed statement of securities, etc. kept in custodial service.	
(xxiv)	Ledger of trading instruments accounts.	
(xxv)	Ledger of repurchase (gensaki) accounts.	
(xxvi)	Records of the content of customer order (including those relating to change and cancellation) and other transaction records pertaining to the operation of an electronic trading platforms business if the business operator is a person who engages in the operation of an electronic trading platforms business.	

(If the registered financial institution is a person who engages in the financial instruments intermediary service)

	Books of Account	Retention Period
(xxvii)	Auxiliary book of the financial instruments intermediary service.	Seven years from the date of preparation
(xxviii)	Detailed statement of financial instruments kept in custodial service in the financial instruments intermediary service.	Ten years from the date of preparation

(If the registered financial institution is a person who engages in the investment advisory or agency business)

	Books of Account	Retention Period
(xxix)	Documents that state the contents of the investment advisory agreements into which it has entered.	Ten years from the date of termination of the business activities in connection with the relevant agreement or other legal act
(xxx)	Documents that state the contents of the advice based on the investment advisory agreements.	Ten years from the date of preparation

	Books of Account	Retention Period
(xxxi)	Documents which state that a contract for financial instruments transaction is to be cancelled if a contract for financial instruments transaction of this nature has been cancelled pursuant to Article 37-6(1) of the FIEA, or records pertaining to a notice to that effect by means of electronic or magnetic records.	Five years from the date of preparation
(xxxii)	Transaction records in connection with agency or intermediary in entering into an investment advisory agreement or a discretionary investment agreement.	Ten years from the date of preparation

(If the registered financial institution is a person who engages in the investment management business)

	Books of Account	Retention Period
(xxxiii)	Documents that state the contents of agreements or other legal acts as set forth in each Item of Article 42-3(1) of the FIEA (including a contract in connection with a consignment if the consignment has taken place pursuant to the provisions of the said Paragraph).	Ten years from the date of termination of the business activities in connection with the relevant agreement or other legal act
(xxxiv)	Copies of the investment management reports as set forth in Article 42-7(1) of the FIEA.	Ten years from the date of preparation
(xxxv)	Detailed investment reports.	
(xxxvi)	Order slips.	Seven years from the date of preparation
(xxxvii)	In the case of an investment trust management company, matters listed below: · Detailed statements of unpaid managers' compensations; · Detailed statements of unpaid income distributions; · Detailed statements of unpaid redemptions; and · Detailed statements of unpaid commissions.	Ten years from the date of preparation

(If the business operator is a person who engages in the electronic subscription handling business)

	Books of Account	Retention Period
(xxxviii)	Records pertaining to examinations based on measures as set forth in FIBCOO, Article 70-2(2) (iii).	Ten years from the date of preparation
(xxxix)	Records of matters displayed on the computer screen as set forth in FIBCOO, Article 146-2(1).	Five years from the date of preparation

10 3 Storage Method

(i) Preparing and Retention on Microfilm

If three years have passed since books of account were prepared and an inspection of the books of account has been carried out during this period by the inspection authorities (meaning the Executive Bureau of the Securities and Exchange Surveillance Commission or the Strategy Development and Management Bureau of the Financial Services Agency; the same shall apply hereinafter to all references thereto), books of account may be kept on microfilm that is prepared according to the generally accepted standards for formulation.

An Association Member may also prepare and keep its books of account on microfilm from the

time they are first created under the following cases (FIBO Supervision Guidelines III-3-3(2) (applied *mutatis mutandis* to Special Members under VIII-2-3):

Regular Member

(a) In the case of a type 1 financial instruments business operator (see Table 1):

a. When the books of account in question are:

- Those referred to in (iv), (xxii) or (xxiv) above;
- Those referred to in (xxxi) or (xxxii) above (Case where the business operator is a person who engages in the investment advisory or agency business);
- Those referred to in (xxxv), (xxxvi), (xxxvii) or (xxxviii) above (Case where the business operator is a person who engages in the investment management business);

b. When the books of account can be prepared within a reasonable period of time in written form at each business office at the time of an inspection or the like by the inspection authorities; and

c. When a person has been appointed to be responsible for preparing and keeping microfilm, and administration procedures have been put in place.

The books of account referred to in (xiii) and (xxxvii) above may under certain conditions be prepared by direct input into a computer.

Special Member

(b) In the case of a Special Member (see Table 2):

a. When the books of account in question are:

- Those referred to in (iv), (xxi) or (xxiii) above;
- Those referred to in (xxx) or (xxxi) above (Case where the business operator is a person who engages in the investment advisory or agency business);
- Those referred to in (xxxiv), (xxxv), (xxxvi) or (xxxvii) above (If the business operator is a person who engages in the investment management business);

b. When the books of account can be prepared within a reasonable period of time in written form at each business office at the time of an inspection or the like by the inspection authorities; and

c. When a person has been appointed to be responsible for preparing and keeping microfilm, and administration procedures have been put in place.

The books of account referred to in (xii) and (xxxvi) above may be prepared by direct input into a computer under certain conditions.

(ii) Storage of Books of Account Using Electronic Media

The points in a. through j. below shall be considered when using electronic media to store books of account (FIBO Supervision Guidelines III-3-3(6); applied *mutatis mutandis* to Special Members under VIII-2-3).

a. Handwritten books of account shall be saved as image data.

b. The electronic media for storage shall have sufficient durability to last for the storage period

prescribed in Article 157(2) and Article 181(3) of the FIBCOO.

c. One of the electronic media used for data storage shall be designated as “original” and shall be clearly labeled to that effect (judgment on the condition of storage of books accounts shall be made in conformity with this “original”).
d. A backup of the “original” mentioned in c. above shall be created and stored as a “copy.”
e. The system enables prompt response to client referrals.
f. The system allows hard copies of books of account stored as data to be created within a reasonable period of time.
g. The system can track deleted/corrected records, if deletion/correction of input history is made.
h. The system can accommodate internal audits.
i. Personnel in charge of formulation and storage have been appointed, and in-house regulations on the said formulation and storage have been developed.
j. When a handwritten postscript or supplement to a hard copy of a book or document created electronically is made, a copy of the said hard copy shall be made and saved as image data. If it is not stored as image data, the said hard copy shall be stored as the original.

10 4 Storage Location

(i) If three years have passed since books of account were prepared and an inspection of the books of account has been carried out during this period by the inspection authorities, then the storage center of the books of account may be centralized at the head office (including an administrative center or similar location; the same in (ii) below) (FIBO Supervision Guidelines III-3-3(3) (applied *mutatis mutandis* to Special Members under VIII-2-3)).

(ii) If the conditions in a. through c. below are met, the storage location of books of account may be centralized from the time of their creation, at the head office or the company to which the Association Member outsources the preparation of books of account:

a. A system has been established to enable timely responses to customer inquiries;
b. A system has been established to enable inspection of the books of account at the head office and branch offices within a reasonable period of time; and
c. There are no internal auditing problems.

Regular Member

11 Management in the Event of the Death of a Customer

11 1 Initiation of Inheritance Procedures

Even in a case concerning inheritance of deposit receivables, in light of the fact that the Supreme Court rendered on December 19, 2016 a decision that all of the jointly-inherited ordinary deposit receivables, the ordinary saving receivables and the fixed-term savings receivables are not automatically divided in proportion to the [relevant person's] share in inheritance at the same time as the initiation of inheritance procedures, but are to become subject to division of inheritance property, if the death of a customer has become known by some means, it shall be noted that procedures relating to inheritance shall, in principle, be taken after obtaining the consent of all of the heirs of the deceased customer, and until inheritance relations are identified and all inheritance procedures have been completed, there is to be no sale and purchase of securities, etc., return of the securities, or payment of money from the related account.

Namely, when inheritance occurs, a careful response is required as it is necessary to confirm the various circumstances under which the inheritance may be affected (such as the number of heirs, the existence or absence of a will, waiver of inheritance, disqualification and disinheritance of the successor, or bequest), and it is difficult to secure evidence as to whether the division of the inherited property has been completed or not, and it may lead to entanglement in problems associated with inheritance if there were any flaws in the inheritance procedures.

Nevertheless, if a customer has opened a margin trading account and dies with an open position, there may be cases in which, because urgency is needed as the possibility exists that losses will grow while the succession procedures are in progress, the closing out of a position may be permitted pursuant to the procedures prescribed by the Association Member, such as confirming the intentions of the representative of the heirs.

11 2 Handling of Related Matters After Inheritance Procedures Are Completed

When the inheritance procedures have been completed, documents that evidence the fact of inheritance as specified by the Association Member are to be received from the heirs in order to verify the facts regarding the inheritance. Such documents include the family register, estate division agreement, and a power of attorney. Thereafter, returning securities, etc. and cash payments can be made after making an adequate confirmation of the heirs and the details of the inheritance.

Even if the heirs wish to continue the same transactional relationship that was carried out while the decedent was alive using the trading account in the name of the decedent (the deceased customer), such

trading account in the name of the decedent shall not be used since the decedent (the deceased customer) can no longer be the subject of rights and obligation due to his/her death. Transactions with the heirs may be commenced upon opening a new trading account in the name of said heirs, and upon a book-entry transfer, etc., of securities, etc. based on the inheritance procedures.

<Relevant Laws and Regulations> Civil Code, Article 882 through Article 1050

Chapter VII. Regulations Regarding Association Members, Their Officers and Employees

☐ Prohibited Acts of Association Members, Their Officers and Employees

The FIEA, the FIEAEO, the related cabinet office ordinances as well as rules and the like of the JSDA prohibit Association Members and their officers or employees from committing various acts. These prohibitions have been put in place in order to protect investors, to ensure the fairness of financial instruments transactions and to maintain public trust in financial instruments business or the registered financial institution business, given the central role that Association Members and their officers or employees play in the market. Article 7 (Prohibited Acts) and Article 8 (Improper Acts) of the JSDA Employees Rules shall apply *mutatis mutandis* to officers of Specified Business Members who are in charge of specified business and officers of Special Members who are in charge of the registered financial institution business. Sales managers and internal administrators must advise and manage so as to prevent the officers or employees from engaging in these prohibited acts.

1 Prohibition Against Solicitation Through Provision, Etc. of Conclusive Evaluations

Association Members and their officers and employees must not solicit the conclusion of a contract for financial instruments transaction by providing a customer with conclusive evaluations on uncertain matters or with information that misleads him/her into believing the certainty of such matters (FIEA, Article 38(ii)).

By way of example, it is not permitted to carry out solicitation which provides a conclusive evaluation concerning the price of securities, such as “Buy this stock because it will rise,” “Sell this stock because it will fall,” “This stock will surely rise,” or “Sell this stock because the loss will increase even if you continue to hold it any longer.” Definitive statements about nonpublic information on increases or decreases in dividends or regarding the issuance of new stocks, which may have a significant influence on fluctuation of the price of securities, are also prohibited. It is necessary to be aware that even if the evaluation ultimately proves to be correct or consent is obtained from the customer after the evaluation has been provided, a violation of law or regulation will be deemed to have occurred if it is found that the evaluation was made conclusively at the time of its provision.

Moreover, the Financial Services Act states that the Association Members, for the period until the

sales of financial instruments, must not conduct an act of providing a customer with conclusive evaluations on uncertain matters or with information that misleads him/her into believing the certainty of such matters in connection with the sales of the said financial products (Financial Services Provision Act, Article 5). There are the special provisions of the Civil Code to the effect that an Association Member who violates this provision will be subject to a strict liability to compensate losses of a customer and that the amount of loss on principal is presumed to be the amount of loss that the customer has incurred as a result of the provision, etc. of the conclusive evaluations (Financial Services Act, Article 7 and Article 8).

2 Regulation of Transactions Pursuant to Discretionary Trading

Depending on the method used, discretionary trading not only present the danger of undermining the sound investment attitude that transactions must be based on the investor's judgment and responsibility, but may also cause disputes between an Association Member and its customers. Moreover, discretionary trading may encourage payment of compensation for losses, as well as trading in excessive volume (churning), and may result in a loss of trust in the Association Member.

As a result, if an Association Member will engage in a sale and purchase of securities or a derivatives transaction pursuant to the following contracts, as a type 1 financial instruments business operator, or a type 2 financial instruments business operator, the Association Member must put in place in advance an internal administration system that is sufficient to prevent the said act from causing an insufficiency in the protection of investors, injury to the fairness of transactions, or a loss in the reputation of the financial instruments business, etc. (FIEA, Article 40(ii); and FIBCOO, Article 123(1)(xiii)):

(i) A contract to the effect that the Association Member can determine the quantity and price after obtaining consent to whether to buy or sell or the issue from an affiliated foreign financial instruments business operator;

(ii) A contract to the effect that the Association Member can determine whether to buy or sell, the issue, quantity and price in connection with a transaction for the account of its affiliated foreign financial instruments business operator (a discretionary trading contract). Nevertheless, this shall be limited to cases in which the Association Member has notified the Commissioner of the Financial Services Agency, etc., prior to entering into the discretionary trading contract, stating its trade name or name, registration date, registration number, as well as the trade name or name and address of the affiliated financial instruments business operator that will be the counterparty to the agreement;

(iii) contract to the effect that after obtaining consent from the customer concerning whether to buy or sell, the issue and the quantity, the Association Member can determine the price within an agreed range (specified consent) of an appropriate size in view of the market at the time of the consent;

(iv) A contract to the effect that after obtaining consent from the customer concerning whether to buy or sell, the issue and the total amount of individual transactions and either the quantity or the price (including a specified consent in connection with the price), the Association Member may determine the other;

(v) A contract to the effect that after obtaining consent from the customer concerning the total amount, those matters for which consent cannot be obtained out of whether to buy or sell, the issue, the quantity and the price shall be determined according to processing by computer or other predetermined method in the event that certain events occur, and the Association Member shall execute the transaction in compliance therewith; and

(vi) A contract to the effect that the Association Member shall be able to determine the price after obtaining consent from a relative of an officer or employee of the Association Member (limited to a spouse or a person within two degrees of consanguinity or affinity) concerning whether to buy or sell, the issue, and the quantity.

<Relevant Laws and Regulations> FIBO Supervision Guideline IV-3-1-3 (applied *mutatis mutandis* to Special Members under VIII-1)

<Relevant Sections of this Manual> Chapter III. 14 Commencement and Management of Discretionary Trading

3 Prohibition Against Provision, Etc. of False Information

Association Members and their officers and employees must not provide a customer with false information concerning the conclusion of a contract for financial instruments transaction or the solicitation thereof (FIEA, Article 38(i)). Moreover, there is also a prohibition against making a false indication or misleading indication on important matters, with respect to the conclusion of a contract for financial instruments transaction or the solicitation thereof (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(ii)).

An Association Member is in the position of contacting general investors and soliciting sale and purchase or other transactions of securities. From the perspective of the general investor, an Association Member is viewed as being a specialist in securities transactions. A person in this position who makes a false or misleading indication to a customer with regard to concluding a contract or in connection with soliciting will have a significant impact on the investment decisions of a customer. Consequently, when an Association Member or its officers or employees are to make explanations or express opinions, particular caution should be exercised so as not to cause the customer to have a misunderstanding.

In addition, it should be noted that there is no limitation on the form of indication, which would include not only documents but also oral statements, images, broadcasts, videos and slides. Moreover, the misleading indication as mentioned here include indications which are not clearly misleading but are vague and could easily be understood to have other meanings, as well as those that lack particularly necessary indication due to inactions.

4 Prohibition Against Excessive Sales by Blanket Recommendation

Association Members and their officers and employees must not conduct an act of continuously, simultaneously and excessively soliciting the purchase or sale of a few specified issues of securities, or derivatives transactions or the consignment, etc. thereof, to many and unspecified customers over a certain period of time, in a manner which is likely to disrupt the fair price formation of the said securities (known as "sales by blanket recommendation") (FIEA, Article 38(ix); and FIBCOO, Article 117(1) (xvii)).

In principle, the price fluctuations that occur because of this act are the result of a concentration of orders, and while this act cannot be said to constitute market manipulation to the extent that such fluctuations are caused by the relationship between supply and demand, this act is prohibited as they present the risk of undermining fair price formation.

Moreover, Association Members and their officers and employees must not conduct simultaneously and excessively soliciting many and unspecified customers to purchase or sell securities or to engage in derivatives transactions or the consignment, etc. thereof, over a certain period of time, with an objective of using a fluctuation in the price, index, value or amount of consideration as a result of the customer transactions for the Association Member's own gain or that of a third party other than such customer (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xviii)).

In addition, the act of contracting to a registered financial institution that carries out financial instruments intermediary service, or a financial instruments intermediary service provider, and engaging in concentrated and excessive soliciting of many and unspecified customers, over a certain period of time, is prohibited (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xvii) and (xviii)).

The following, for example, may violate the law as an excessive sale by blanket recommendation or issues in question:

(i) Where a single Association Member maintains a high share of the market for a given security;
(ii) Where concentrated ordering or excessive ordering results;
(iii) Where repeated trades are carried out during a short time period for one investor or small number of investors; and
(iv) Where a certain security accounts for a high percentage of the total balance of shares in custodial service, or margin balance, etc. for a single division or branch.

When introducing noteworthy securities, Association Members have a duty to endeavor to provide objective and accurate information, and to avoid explanations that are exaggerated, inflammatory or arbitrary or that do not have a rational basis, and to avoid committing any of the prohibited acts mentioned above by having a bias toward specified issues.

The JSDA rules also prohibit an Association Member from recommending to its customers the securities of specific issues or the option related to the sale and purchase of such securities in a concentrated manner, which represents a subjective or arbitrary supply of information (Investment Solicitation Rules, Article 12(1)).

<Relevant Laws and Regulations> Employees Rules, Article 7(v)

5 Prohibition Against Solicitation by Offering Special Economic Benefits

Association Members and their officers and employees must not conduct the acts of promising special economic benefits to a customer or a person designated by the customer, or furnishing special economic benefits to a customer or a third party, in connection with a contract for financial instruments transaction (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(iii)). Acts of having a third party promise to provide special economic benefits or carry out the providing thereof are also prohibited.

In general, "special economic benefits" would include acts which are non-objective or unreasonable in consideration of general commercial practice, as well as improperly setting a special price which extends beyond the limits permitted as fair competition in the financial instruments business.

These practices deviate from the range of normal services which are acceptable under social norms. Carrying out these practices will not only undermine the credibility and fairness of financial instruments markets and financial instruments transactions but will also encourage customers to engage in financial instruments transactions without sufficient thought, and increase the possibility of future disputes, thereby threatening the sound operations of the Association Members.

Special Member

Under the JSDA Rules, Special Members are prohibited from making a transaction or soliciting a customer to make a transaction related to the registered financial institution business by promising to offer a special advantage related to the extension of loans and the giving of guarantees, etc. (special extension of credit) (Employees Rules, Article 7(xviii)).

Nevertheless, not all reductions in commissions, provisions of premiums or cash refunds or the like to customers that meet particular terms are prohibited in all cases, as long as they are within the scope considered to be appropriate in general societal terms, including that the conditions are not inappropriate, other customers who are in the same conditions are handled in the same manner, and they are not excessive.

<Relevant Laws and Regulations> Employees Rules, Article 7(i) through (iii)

6 Prohibition Against Artificial Creation of a Market Price, and Transactions of Market Manipulation

Association Members and their officers and employees are prohibited from committing any trade in listed financial instruments, etc. (meaning listed financial instruments, financial indicator or options; excluding crypto-and other assets, etc. (meaning crypto-and other assets, etc. prescribed in Article 185-23(1) of the FIEA)), derivatives transaction or committing any act of entrustment of a trade, etc. of

this nature, for the purpose of causing fluctuation or pegging, fixing or stabilizing a market price (including a value that is calculated on the basis of the market price or transaction volume) in listed financial instruments, etc. on a financial instruments exchange market. (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xix)).

Further, an Association Member or its officers or employees must not knowingly accept entrustment, etc. of trade, etc.in listed financial instruments, etc., or a derivatives transaction which would cause the fluctuation of, or would peg, fix, or cause the stabilization of the price (including a value that is calculated on the basis of the market price or transaction volume) or cause an increase in the trading volume of listed financial instruments, etc. on the financial instruments exchange market, thereby constituting an artificial creation which does not reflect actual circumstances (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xx)).

Market stabilization transactions and the entrustment, etc. thereof in order to facilitate primary offering and secondary distribution of securities have been excluded from this prohibition (FIBCOO, Article 117(2)).

Moreover, an Association Member must conduct its business in such manner that it will not be in a condition in which it can be found that its management of trading is not sufficient for the purpose of preventing trades in listed financial instruments, etc. or acts of application, entrustment, etc. or acceptance of the entrustment, etc. thereof that would cause the artificial creation of a market price that does not reflect the actual situation due to fluctuations, etc. in market prices or figures that are calculated based on market prices or transaction volume, or increases in transaction volume (FIEA, Article 40(ii); and FIBCOO, Article 123(1)(xii)). With respect to managing trades it is necessary to be particularly aware of the following (FIBO Supervision Guidelines IV-3-2-3(1)):

(i) Precise identification of customers' trading patterns and thorough management:

a. Whether the securities company, etc. has established specific procedures for identifying customers' trading patterns as represented by features such as the types of products they trade and the method and characteristics of their trading, and precisely identifies their trading motives by monitoring its trading activity as necessary in accordance with the procedures;

b. Whether the internal administration division makes sure that all officers and employees are aware of and follow the above procedures, and ensures the effectiveness thereof by revising them as necessary, for example;

c. (Omitted)

d. From the viewpoint of preventing illegal practices such as market manipulation and insider trading, whether the securities company, etc. strives to identify the original customers and the end-investors, with regard to transactions with investment business associations and orders placed from abroad;

e. In cases where the securities company, etc. has recognized the possibility of customers using accounts opened under fictitious names, whether they investigate the true identity of the customers and monitor transactions involving the said accounts with special care.

(ii) Establishment of trading examination criteria and efficient utilization thereof

a. Whether the securities company, etc. has established the criteria for selecting individual issues for screening, in light of factors such as the advancers-to-losers ratio, the own market involvement ratio and the trading status of specified customers, in order to ensure the fairness of customers' transactions and make appropriate selection based on the said criteria.

b. Whether the securities company, etc. conducts appropriate trading management regarding selected issues by, for example, establishing specific screening criteria and taking measures necessary (e.g., inquiries with customers, issuing alerts and suspending trading) for preventing illegal trading practices, such as market manipulation.

c. Whether the internal administration division has developed an environment for examining the consistency of the selection and screening criteria and the implemented measures with the actual status in a timely manner, and is ensuring the effectiveness of the measures and criteria by making revisions as necessary, for example.

(iii) Other

(Omitted)

Fair price formation is one of the most important goals, and the FIEA has eliminated numerous factors which may distort the price formation and prohibits acts which would obstruct the fair price formation. It also includes provisions for the punishment of offending parties. In addition, if the market indicators such as the value weighted average price (VWAP) which is a figure that is calculated on the basis of market prices and transaction volume, or the transaction volume of a market, do not reflect the actual conditions of the market, then such market indicators could distort other transactions on or off of a market that are conducted on the basis of the market VWAP, or cause errors in investment decisions on the part of market related persons who make investment decisions while referring to the transaction volume. Therefore, it is prohibited to carry out such transactions as would distort not only market prices but also market indicators like the market VWAP and transaction volume or to accept entrustment thereof. In order to extinguish completely acts which might disturb the fair price formation, Article 117(1)(xix) and (xx) of the FIBCOO set forth prohibitions on the most typical acts that might be carried out by an Association Member and their officers or employees who are engaged in the business of securities trading.

Further, Article 159(1) of the FIEA provides, as a similar provision to the above, that no person must commit the market manipulation that would damage the fairness of price formation in a financial instruments exchange market for the purpose of misleading other persons into believing sale and purchase of securities (securities listed in a financial instruments exchange, over-the-counter traded securities or handled securities (*e.g.*, Phoenix Issues)), market derivatives transactions or OTC derivatives transactions are thriving or for the purpose of otherwise misleading other persons about state of these transactions. A prohibition also exists against certain acts for the purpose of inducing any of the same transactions (FIEA, Article 159(2)). However, these provisions differ in requiring a subjective

purpose such as "for the purpose of misleading other persons about state of these transactions" or "for the purpose of inducing transactions." Moreover, although Article 159(2) of the FIEA prohibits "a series" of transactions, the provisions of Article 117(1)(xix) and (xx) of the FIBCOO shall apply to transactions that do not fall under the category of "a series" of transactions.

Where Association Members and their officers or employees are concerned, no regard is given to such subjective intent and the above-described provision is designed to regulate such acts objectively and externally.

An act by an Association Member of requesting a series of trades, etc. for its own account, for the purpose of inducing transactions, or pegging, fixing or stabilizing a price, is punishable by penal sanction as a "sham position (*misegyoku*)" (FIEA, Article 159(3)).

A person who violates the prohibition against acts of market manipulation will incur criminal penalties and administrative monetary penalty.

<Relevant Laws and Regulations> FIEA, Article 174-2

Regular Member

7 Prohibition Against Dual Trading in Margin Transaction

Association Members and their officers and employees are, where they match a margin transaction entrusted from a customer with a purchase or sale for their own account and used a method that does not involve delivery of cash and securities to cause a transaction to come into existence, prohibited from conducting an additional matching sale or purchase in order to settle the outstanding account in connection with the first purchase or sale (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xxiv)).

In acts of this nature, a customer and an Association Member have completely opposite interests since the Association Member stands to gain if the price of the securities falls and the customer incurs a loss. Such acts are, therefore, specifically prohibited as being a prime example of a breach of the fiduciary duty of a broker.

If an Association Member makes its own margin sale to match the entrustment of purchase in a margin transaction from a customer, and subsequently, match its own margin purchase to the margin sale when the customer entrusts a sale in order to settle its own margin purchase, this would enable the Association Member to engage in margin transactions without having to procure any shares or cash, and would also present problems from the perspective of maintaining sound financial operation on the part of the Association Member.

<Relevant Laws and Regulations> Employees Rules, Article 7(vii)

Regular Member

8 Prohibition Against Order Acceptance for Insider Trading

Association Members and their officers and employees are prohibited from accepting orders when they know that the sale and purchase or other transaction of securities, etc. by a customer constitutes or is likely to constitute insider trading (FIEA, Article 38(ix); FIBCOO, Article 117(1)(xiii)).

Insider trading involves employees or officers of the issuing company or other parties who are in a position to have easy access to important, unpublicized information regarding the business, etc. of the issuing company, utilizing such information in conducting transactions of securities issued by the company in question. It not only distorts the fair price formation, but it also undermines the trust of investors in the market, thereby hindering sound market development. As such, it is prohibited. The insider trading regulations also apply to sale and purchase of handled securities (Phoenix Issues).

Association Members must put in place an administration framework in connection with insider transactions in order to prevent insider trading of customers and to ensure fair transactions, including preparing insider registration cards, requiring notifications of whether or not they are officers, etc. of a listed company, and preparing internal regulations which stipulate matters in connection with preventing insider trading (Investment Solicitation Rules, Article 15(1) and (7)). Moreover, an Association Member must endeavor to develop a management system concerning insider trading, such as stipulating fundamental matters as internal rules that are necessary in connection with, *e.g.*, the management of nonpublic information that officers and employees (which in the event that the accounting advisor is a corporation shall include the member of the firm who is to carry out these duties) acquire in connection with their activities, the management of customers management of trades, etc. (Investment Solicitation Rules, Article 25)

(Please see Chapter VIII. “5 Insider Trading Regulations” concerning the details of the insider trading regulations.)

<Relevant Laws and Regulations> FIEA, Article 166; and Securities Transaction Ordinance, Article 59(1)

<Relevant Sections of this Manual> Chapter VIII. 5 Insider Trading Regulations
Chapter VIII. 6 Preventing Insider Trading

9 Prohibition Against Front Running

Association Members and their officers and employees are prohibited from accepting entrustment, etc., from a customer of a sale and purchase of securities, or a market derivatives transactions or a foreign market derivatives transaction, and making a sale and purchase of securities or a market derivatives transaction at the same price or a more advantageous price than the price in connection with

the entrustment of the sale and purchase of securities or the market derivatives transactions, etc., of that customer, for the purpose of trading for its own account in securities of the same issue, or in the same market derivatives transactions, etc. as those entrusted by the customer prior to executing the trade or transaction that is entrusted, etc. (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(x)). These regulations shall also apply to transactions that are conducted based on a contract that has a content by which, in connection with a transaction for the account of an affiliated foreign financial instruments business operators, the Association Member can designate whether to buy or sell, the issue, the quantity and price (a discretionary trading contract).

This type of activity (referred to as "front running") presents a strong possibility of damage to a customer, and is prohibited as an act that betrays the trust of a customer and undermines the credibility of the financial instruments trading business.

10 Prohibition Against Compensation of Loss or Addition to Profit, Etc.

10 1 Purpose

Association Members and their officers and employees are, with regard to the sale and purchase or other transaction of securities, etc. (including sale and purchase or other transactions of securities or derivatives transactions but excluding *gensaki* transactions of bonds carried out by the Association Member to raise capital for its own use; hereinafter the same in this Section), prohibited from (i) making prior proposals or promises related to compensation of loss or addition to profit; (ii) making *a posteriori* proposals or promises related to compensation of loss or addition to profit; or (iii) providing a posteriori compensation of loss or addition to profit (FIEA, Article 39).

Acts by an Association Member or its officers or its employees, such as compensating of loss, will violate the duty to maintain the fair price formation function in the financial instruments markets and the duty to maintain fairness and neutrality as a market intermediary. Moreover, they might cause investors to lose their trust in the financial instruments markets. Therefore, Association Members or their officers or their employees are prohibited from providing compensation of loss or from making addition to profit.

10 2 Scope of Prohibited Acts

(i) Prior offer or promises related to compensation of loss or addition to profit

Offers or promises with a customer to provide property benefits to compensate or make up for a loss, in whole or in part, in case where a customer, etc. incurs any loss or shortfall in the

predetermined amount of profit from the sale and purchase or other transaction of securities, etc.

(ii) *A posteriori* offers or promises related to compensation of loss or addition to profit

Offers or promises with a customer to provide property benefits as compensation, in whole or in part, for a loss suffered by the customer or to make addition to profit gained by the customer in the sale and purchase or other transaction of securities, etc.

(iii) Providing *a posteriori* compensation of loss or addition to profit

Providing property benefits to a customer in order to compensate, in whole or in part, for a loss suffered by the customer or to make addition to profit gained by the customer in a sale and purchase or other transaction of securities, etc.

All of these prohibitions relate not only to compensation of loss, but to the make up or addition to profit in the event that certain fixed profit level is not achieved.

"Property benefit" refers to anything of economic value, including cash, property, the purchase of securities for a premium or sale of securities at a discount, as well as the provision of securities which have a high probability of increasing in value.

An Association Member is also prohibited from having a third party such as an affiliated company of the Association Member to conduct the acts mentioned in (i) to (iii) above, or conducting the acts mentioned in (i) to (iii) above in regard to a third party other than the customer, for the purpose of compensation of loss incurred by the customer or making an addition to profit accrued to the customer.

Additionally, an investor who is a customer is also prohibited from demanding and having an Association Member promise to conduct the acts mentioned (i) to (iii) above, or receiving the property benefits in accordance with such promise (FIEA, Article 39(2)).

The rules of the JSDA also prohibit an Association Member from providing any property benefit to a customer or a third party with the aim of compensating for a customer's loss or addition to his/her profit (hereinafter referred to as "extraordinary transactions"). The following would constitute "extraordinary transactions" with a customer (OTC Bond Reference Price Rules, Article 16; and Foreign Securities Rules, Article 13):

(i) Transactions of securities in same issues in which sale and purchases are effected simultaneously at prices favorable to customers or the third parties, but unfavorable to the Association Members (excluding price differences that are equivalent to a fair level of interest based on differences in delivery dates, or price differences resulting from differences in delivery conditions between the certificate itself and registered bonds, etc.);

(ii) Transactions effected on the basis of promises in the course of trading of securities with the customer that offsetting trades will be made or contracts will be cancelled in favor of the customers (*gensaki* transactions of bonds are excluded); and

(iii) A transaction to be conducted in collusion with a third party promising in the course of trading of securities with the customer that the customer will be sure to gain profits by offsetting trades with the third party.

Association Members must also be aware that trading over a short term with a customer in which substantial profits occur may constitute "extraordinary transactions"; and Association Members must

endeavor to improve their strict observance in their internal administration, including contracts with customers, as well as confirmation thereof and maintaining records.

<Relevant Laws and Regulations> Employees Rules, Article 7(i) through (iii)

10 3 Liberalization of Trading Commissions and Compensation for Loss

The method of collecting commissions by Association Members has been expanded to allow for a variety of different approaches including discount on the basis of transaction history or setting a commission rate not based on each transaction but based on balance of assets under custody. In principle, under the FIEA and the JSDA rules, Association Members are now able to set terms such as commission discounts and partial refunds at their own discretion.

Nevertheless, there is a strong possibility that discounting or partial refund of a commission in the event of a loss on the part of a customer would constitute compensation of loss, and consequently thorough care is necessary in connection with the method of collecting commissions so that commission discounts, partial refunds or the like are not made "with the aim of compensating for loss or addition to profit."

10 4 Relationship to Compensation for Incidents

If an Association Member pays indemnities for losses to customers caused by the illegal or unjust acts of the Association Member or its officers or employees (hereinafter referred to as "incidents"), such acts are not considered to be prohibited compensation of loss and are not the subject of this provision, since the Association Member and its officers and employees have a responsibility for such compensation. As a rule, however, advance confirmation is necessary with the Director-General of the Local Finance Bureau as to whether the matter in question constitutes an "incident" (FIEA, Article 39(3)(7); FIBCOO, Article 120).

An act that would constitute an "incident" in connection with sale and purchase or other transaction of securities, etc. is an act that causes loss to a customer as a result of any of the following acts (FIBCOO, Article 118(i)):

(i) Conducting sale and purchase or other transaction of securities, etc. for the account of a customer without confirming the contents of the customer's order;

(ii) Acts of solicitation which may cause misunderstandings on the part of the customer with regard to any of the following:

a. The characteristics of the securities;

b. The transaction terms;

c. Increases or decreases in the price of financial instruments or the amount of the consideration

of options, increases or decreases in the agreed figure or actual figure of a transaction as set forth in Article 2(21)(ii) of the FIEA (including a similar transaction to the same among foreign market derivatives transactions) or a transaction as set forth in Article 2(22)(ii) of the FIEA, an increase or decrease in a financial indicator or a rise or fall in the price of financial instruments in connection with a transaction as set forth in Article 2(21)(iv) or (iv)-2 or Article 2(22)(v) of the FIEA, or the occurrence of a cause as set forth in Article 2(21)(v)(a) or (b) or Article 2(22)(vi)(a) or (b) of the FIEA in connection with a transaction as set forth in Article 2(21)(v) or Article 2(22)(vi) of the FIEA;

(iii) Mistakes in the administrative processing due to negligence in the course of executing a customer order;

(iv) An error in the execution of a customer's order as a result of a failure in electronic data processing system (computer system); or

(v) Other acts which are in violation of laws and regulations.

Under certain cases such as where there is a final and binding judgment of the court, judicial settlement, decision under the Civil Conciliation Act, settlement by dispute resolution proceedings of a designated dispute resolution organization, settlement by mediation of the bar association, etc., compensating customer losses without the confirmation of incident above would not constitute a violation of Article 39(1) of the FIEA (FIEA, Article 39(3) *proviso*; and FIBCOO, Article 119(1)).

In addition, when, under certain conditions, the committee established within the financial instruments firms association (incident confirmation committee) has been added to cases which payment of losses may be made without undergoing the confirmation of the incident by the Director-General of the Local Finance Bureau (FIEA, Article 39(3) *proviso*; and FIBCOO, Article 119(1)(ix)). (For details of the incident confirmation, see Chapter IX. "4. Reporting Incidents".)

<Relevant Laws and Regulations> (JSDA) Manual for Application for the Investigation and Confirmation by Committee

<Relevant Sections of this Manual> Chapter IX. 4 Reporting Incidents

Special Member

11 Prohibition Against Automatic Credit Extension for Depositing the Margin

Special Members shall not make an automatic credit extension to customers for the purpose of covering losses or depositing an initial margin or additional margin for the transactions related to the registered financial institution business (Investment Solicitation Rules, Article 22).

In addition, it is prohibited to make, in connection with a transaction relating to the registered financial institution business, any credit extension that clearly represents the provision of an initial or additional margin (Employees Rules, Article 7(xix)).

This act is prohibited because it is likely to give rise to a hotbed of excessive transactions and promote speculative transactions.

<Relevant Sections of this Manual> Chapter IV. 19 Prohibition Against Automatic Credit Extension

12 Prohibition Against Acceptance of Transactions, Etc. by Credit Extension

Association Members and their officers and employees are prohibited from accepting an entrustment, etc. for sales and purchase of securities on condition of extending credit (in the case of Regular Members, excluding margin transactions) (FIEA, Article 44-2; and FIBCOO, Article 148 and Article 149-2).

For example, when a customer's deposit balance falls short of the purchase price for shares or other securities, Association Members may not conduct a transaction of the shares, etc. as entrusted by the customer on condition of providing a loan to make up for such shortage.

However, accepting an entrustment, etc. for sale and purchase of securities through a cumulative investment contract by credit card, in which the amount of credit to be extended to the same person will not exceed 100,000 yen, is allowed (FIBCOO, Article 148 and Article 149-2).

13 Restrictions on Hypothecation of Deposited Securities from Customer

If an Association Member intends to provide as collateral to third parties, or lend to third parties, securities which are deposited to it by a customer (excluding a professional investor) or holds in its possession for the account of a customer, the Association Member must obtain written consent (a consent to collateralization; including a comprehensive consent to collateralization in the case of Regular Members) from the said customer (FIEA, Article 43-4; and FIBCOO, Article 146). Consent is necessary because the said securities would be placed under the control of the person receiving them as collateral or as a loan, thus giving rise to the risk that the customer may be injured as a result.

Regular Member

An "comprehensive consent to collateralization" means a document for the purpose of obtaining comprehensive consent in advance from the customer with respect to providing substitute securities for margin in a margin transaction as collateral to a securities finance company, or a "host" financial instruments business operator, etc. under certain requirements, and which satisfies the following conditions (FIBCOO, Article 146(2)):

(i) The scope of the securities to be provided as collateral is determined;

(ii) After the Regular Member which has concluded the agreement accepts the deposit of the securities in (i) above, the Regular Member confirms with the customer that his or her consent to the comprehensive agreement has been obtained, by the time of offering the securities as collateral;

(iii) When a Regular Member intends to deposit securities as collateral pursuant to the said agreement, the Regular Member will deliver to the customer a detailed statement of the securities to be offered as collateral (stating the type of securities, the issues and number of shares or total amount of the certificates), or provide a statement of the same by electromagnetic method; and

(iv) The customer may at any time cancel the comprehensive consent to hypothecation.

If certain conditions are met, including agreement by the customer, consent from the customer can be obtained by electromagnetic method rather than in writing (FIEA, Article 34- 2(12) applied *mutatis mutandis* through the FIEA, Article 43-4(3)).

Regular Member

14 Prohibition Against Credit Extension by Underwriter

A Regular Member which has become an underwriter of securities, upon selling the said securities, may not conduct money loan or other extension of credit to the purchaser of the securities for the purchase price until six months have elapsed from the date on which the Regular Member became an underwriter (FIEA, Article 44-4).

This prohibition against lending or extending credit has been put in place to prevent an Association Member from facilitating acquisition of securities by lending money or extending a credit to a person who wishes to purchase securities that the Regular Member has acquired as an underwriter, and thereby improperly shifting to the customer the risk that the Regular Member should bear in its underwriting business.

15 Prohibition Against Trading Without Consent

Association Members and their officers and employees are prohibited from engaging in sale and purchase or other transactions of securities, or derivatives transactions, etc. for the account of a customer, without prior consent of that customer (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xi)). It should also be noted that *a posteriori* approval—where the transaction is first carried out without the customer's consent and the relevant approval is obtained later—is also prohibited.

Sale and purchase, etc. of securities must be conducted on the basis of the customer's own judgment and liability, and making any transaction without the prior consent or agreement of the customer constitutes a prohibited act even if the acceptance of the customer is obtained subsequently, and even if there is no complaint from the customer because a gain was realized as a result of the trade.

When transactions are frequently conducted without confirming the content of a customer's order in advance, it is necessary to note that they may fall under separately prohibited acts (FIEA, Article 40(ii); and FIBCOO, Article 123(1)(i))

16 Prohibitions Against Solicitations or Transactions Utilizing a Promise for Shared Profits and Losses as well as Against Transactions Using Joint Account for Profit and Losses

Officers and employees of an Association Member are prohibited from soliciting a customer for sale and purchase or other transactions of securities by promising to share with the customer concerned profits or losses resulting from the transaction concerned, or carrying out such a promise (Employees Rules, Article 7(vi))

Regular Member

Moreover, a Regular Member is also, in principle, prohibited from engaging in sale and purchase or other transactions of OTC securities (unlisted shares, etc.) for the joint account of other Regular Members or customers (OTC Securities Rules, Article 9; and Phoenix Rules, Article 26).

17 Prohibition Against Lending Names for Transfer of Title

Officers and employees of an Association Member may not allow a customer to use their own name or address or the name or address of their relative or of a person who has a special relationship with them for sale and purchase or other transactions of securities, securities-related derivatives transactions, specified OTC derivatives transactions or commodity-related market derivatives transactions for transfer of title (Employees Rules, Article 7(viii)).

Regular Member

A Regular Member must not lend its name when a customer requests a transfer of title of share certificates (Investment Solicitation Rules, Article 13(2)).

Officers and employees of an Association Member are also prohibited from processing the title transfer of share certificates requested by their customer without procedure of the Association Member to which they belong (Employees Rules, Article 7(xi)).

18 Prohibition Against Transactions Utilizing Corporate Information

18 1 Content of Corporate Information

Corporate information shall mean the following (FIBCOO, Article 1(4)(xiv)):

(i) Material information that has not been made public concerning the operation, activities or assets of the listed company, etc., and which is recognized to have a significant impact on the investment judgments of customers; or

(ii) Information that has not been made public concerning a decision to launch or suspend a tender offer or equivalent buy up of share certificates, etc.

Corporate information is not limited to a restrictive list like the “material facts pertaining to business or other matters” (FIEA, Article 166(2)) and “facts concerning tender offers, etc.” (FIEA, Article 167(2)), but is defined in a broad and abstract fashion which is not restricted by factors such as exemptions. This drafting was used because material facts, etc. under insider trading regulations needed to be clearly defined as the scope for criminal sanction, while corporate information has been defined with a view that it should promote the fair and sound development of financial instruments markets, with Association Members being the carriers of the market.

18 2 Prohibition, Etc. Against Transactions, Etc. Utilizing Corporate Information

Association Members and their officers and employees are prohibited from engaging in sale and purchase or other transactions of securities, etc. for their own accounts (excluding sale and purchase of securities achieved through exercise of an option) based on corporate information or, in connection with sale and purchase and other transactions of securities or securities-related derivative transactions or intermediary, brokerage or agency services therefor, soliciting by offering corporate information to customers (FIEA, Article 38(ix); and FIBCOO, Article 117(1) (xvi) and (xiv)).

Furthermore, in addition to the above solicitation, with regard to the purchase and sale and other transactions of securities or derivative transactions pertaining to securities (hereinafter collectively referred to as "Purchase and Sale, etc." in this paragraph) or an intermediary, brokerage or agency service therefore, Association Members and their officers and employees are prohibited from soliciting a customer to implement said Purchase and Sale, etc. with the intent to have the customer gain interest by having the customer implement said Purchase and Sale, etc. before corporate information on the issuer of said securities comes to be disclosed, or to avoid causing loss to the customer (FIEA, Article 38(ix); FIBCOO, Article 117(1)(xiv-2)).

In order to ensure the fairness of financial instruments transactions and to maintain the trust of investors in financial instruments markets, it is necessary that investors have equal access to information that influences their investment decisions. As such, Association Members must thoroughly manage and control corporate information that officers and employees could gain in the course of business and make sure that they do not use such information in connection with sale and purchase or other transactions of securities, etc. Additionally, such corporate information must be strictly managed, so that it is not leaked outside.

18 3 Points of Concern Regarding Personal Trading by Officers and Employees

Even when the relevant act does not fall under the prohibited acts above, officers and employees of an Association Member must strictly adhere to relevant laws and regulations when engaging in trading of shares and the like, and consideration should be given to whether the subject securities trading is sound from a perspective of personal asset structuring, so that the trading does not give rise to suspicion among general investors that such transactions amount to insider or speculative trading, or other kinds of improper trading. Special attention should be paid to the following two points:

(i) Follow the trading procedures set forth in the internal rules; and

(ii) Self-restraint is to be exercised with regard to short-term sales of purchased shares, etc.

<Relevant Laws and Regulations> FIBO Supervision Guideline III-2-4; Rules Concerning Establishment of Confidential Corporate Information Management System by Association Members; Rules Concerning Sale and Purchase, Etc. of Specified Securities, Etc. of Listed Companies, Etc. by Employees of Association Members

<Relevant Sections of this Manual> Chapter VIII. 10 Managing Corporate Information

19 Acts Prohibited in Handling Customer Information and Personal Information Protection

An Association Member must ensure that its employees do not engage in any of the following acts with regard to information concerning customers (including information on prospective customers and customers of the underwriting division, investment bank division, etc., and excluding information in the public domain; the same applies hereinafter) (Employees Rules, Article 7(xv)):

a. Failing to return information concerning customers to the Association Member or delete such information upon retirement from the Association Member (including when a seconded worker leaves the Association Member and when a dispatch contract for a dispatched worker is terminated);

b. Illegally obtaining information concerning customers of another Association Member or information concerning customers of the financial instruments intermediary service of a financial instruments intermediary service provider;

c. Using information concerning customers retained in the case of a. or obtained in the case of b., or information concerning customers retained in the case of Article 24(xv)(a) of the Rules Concerning Financial Instruments Intermediary Service Providers or obtained in the case of Article 24(xv)(b) of the same Rules, in the course of one's duty;

d. Using information concerning customers in the course of one's duty, while knowing that the information is information concerning customers retained by another person in the case of a. or obtained by another person in the case of b., information concerning customers retained in the case of Article 24(xv)(a) of the Rules Concerning Financial Instruments Intermediary Service Providers or obtained in the case of Article 24(xv)(b) of the same Rules, or information concerning customers leaked from another Association Member or a financial instruments intermediary service provider; and

e. Leaking information concerning customers.

An Association Member must not leak information concerning customers (Investment Solicitation Rules, Article 13-2(1)). An Association Member must not illegally obtain information concerning customers of another Association Member or information concerning customers of the financial instruments intermediary service of a financial instruments intermediary service provider, or use illegally obtained information concerning customers for its business or leak such information (Investment Solicitation Rules, Article 13-2(2)). The officers and employees of an Association Member have a responsibility to make proper investment solicitation for sale and purchase or other transactions of securities, etc. by taking into account an individual investor's asset situation and investment experience and to include these matters in a customer card, and consequently, they are in a position to gather and acquire nonpublic information about customers. Leaking such information concerning customers to external parties is prohibited since it would betray the trust of customers, and could cause an Association Member to lose its credibility.

Moreover, an Association Member would normally fall under a business operator handling personal information (meaning a person who provides a personal information database, etc. for use in business) and is prohibited from sharing personal information(Note 1) which composes a personal information database, etc. (personal data) with a third party without obtaining prior consent from the person in

question, except where an exception applies such as those prescribed by laws or regulations, by means of opt-out(Note 2) (cases in which certain measures are taken and a filing is made with the Personal Information Protection Commission if the provision of information to third parties is to be suspended at the individual's request), outsourcing a business, business succession by mergers, etc., or joint use (Personal Information Protection Act, Article 27; and Personal Information Protection Guidelines, Article 14). The term "personal information" in this case is defined to include information concerning a living individual(Note 3) which can identify the specific individual by a name, date of birth or other description contained in such information (including information that can easily be used to make reference to other information and thereby enable to identify the specific individual) or individual identification code(Note 4) (Personal Information Protection Act, Article 2(1) and Personal Information Protection Guidelines, Article 2(i)).

The Act Partially Amending the Act on the Protection of Personal Information and Other Laws was promulgated on June 12, 2020, and entirely came into effect as of April 1, 2022 (Note 5). This amendment is made based on the provisions requiring a review of the Personal Information Protection Act to be made once every three years after the Act comes into effect (Article 12 of the Supplementary Provisions), in consideration of people's growing awareness of their own personal information, the balance between protection and utilization of personal information in light of technological innovation, and the necessity to deal with risks arising from the increase in the cross-border flow of data. Under one of the amendment provisions, even where individual-related information (Personal Information Protection Act, Article 31(1)) that an Association Member handles does not fall within the scope of personal information, if the Association Member provides an individual-related information database etc.(Note 6) for use in business, and it is assumed that a third party will acquire individual-related information as personal data, the Association Member is in principle prohibited from providing individual-related information to the third party without confirming in advance, as provided in the rules of the Personal Information Protection Commission, matters such as the fact that the third party has obtained consent from an individual to allow the third party to acquire individual-related information provided by an individual-related information handling business operator as personal data by which the individual can be identified (Personal Information Protection Act, Article 31(1)).

Under the amended Personal Information Protection Act, if an Association Member intends to obtain consent from an individual for providing the individual's personal data to a third party in a foreign country, the Association Member is required to provide the individual with reference information regarding such matters as the personal information protection system in the foreign country. The amended Act also provides for the obligation to develop a system as prescribed in Article 28(1) of the Act and continuously take action regarding management measures when providing personal data(Note 2).

(Notes) 1. However, Associate Members need to note that when providing sensitive information to a third party, the provisions of Article 27(2) of the Personal Information Protection Act (opt-out) shall not apply (Personal Information Protection Guidelines, Article 7(4)).
2. When providing personal information to a third party in a foreign country (limited to certain persons), it is necessary to obtain the consent to "authorize the provision of personal data to a third party in a foreign country" from the person in question, except

where an exception applies such as those prescribed by laws or regulations, or when information is provided to persons who have established a system, (Personal Information Protection Act, Article 28; Personal Information Protection Guidelines, Article 14-2). Under the Personal Information Protection Act, if a personal information handling business operator intends to obtain consent from the individual concerned, it must provide the individual in advance with information which serves as a reference for the individual concerning the system for protection of personal information in the foreign country, the action taken by the third party for protection of personal information and other matters (Personal Information Protection Act, Article 28(2)). Specifically, the information required to be provided to the individual includes: (i) the name of the foreign country; (ii) information concerning the system in the foreign country for protection of personal information that has been obtained by an appropriate and reasonable method; and (iii) information concerning the action taken by the third party for protection of personal information. In addition, if a personal information handling business operator provides personal data to a third party in a foreign country that is regarded as one that has established the system mentioned above, it must take necessary action to ensure that the third party continuously takes equivalent action, and must provide the individual with information concerning that necessary action upon the request of the individual (Personal Information Protection Act, Article 28(3)). Specifically, the necessary action mentioned above includes: (i) periodically monitoring, by an appropriate and reasonable method, the status of implementation of equivalent action by the third party, and whether there is a system in the foreign country that may have an effect on the implementation of equivalent action and the details of such system, if there is any; and (ii) taking necessary and appropriate action when the implementation of equivalent action by the third party is hindered, and suspending the provision of personal data to the third party when it becomes difficult to ensure that the third party continuously takes equivalent action.

3. "Information concerning an individual" is not limited to information that identifies the individual such as a name, address, gender, date of birth, or facial image, but also includes all information that represents a fact, determination or evaluation in connection with physical, financial, occupational or status attributes of an individual, and also includes appraisal information, information that has been made public such as in publications, or audio or video information, whether or not such information is kept confidential by encryption, etc. If this "information concerning an individual" can be coupled with a name, etc. so that "can identify the specific individual," then such information constitutes "personal information."
4. "Individual Identification Code" refers to character, letter, number, symbol or other codes that can identify the specific individual from such information alone, prescribed under Article 1 of the Enforcement Order for Act on the Protection of Personal Information (hereinafter referred to as the "Personal Information Protection Act Enforcement Order") (Personal Information Protection Guidelines, Article 2(i)-2). Any

information that includes the foregoing constitutes "personal information." Specifically, the following are given as examples:

(1) Character, letter, number, symbol or other codes produced by converting any of the bodily features listed in (a) through (g) below so as to be provided for use in computers that conform to the standards prescribed by the Ordinance for Enforcement of the Act on Protection of Personal Information (hereinafter referred to as the "Personal Information Protection Act Enforcement Ordinance") as sufficient to identify a specific individual:
(a) base sequence constituting Deoxyribonucleic Acid (also known as DNA) taken from a cell; (b) appearance as determined by facial bone structure and skin color as well as the position and shape of one's eyes, nose, mouth or other facial elements; (c) a linear pattern formed by an iris' surface undulation; (d) vocal cord vibration, glottis' closing motion as well as the shape of one's vocal tract and its change when uttering; (e) bodily posture and both arms' movements, step size and other physical appearance when walking; (f) intravenous shape decided by the junctions and endpoints of veins lying under the skin of the inner or outer surface of one's hands or fingers; and (g) a finger or palm print;
(2) Passport number;
(3) Basic pension number;
(4) Number of a driver's license;
(5) Resident record code;
(6) Individual number; or
(7) Numbers stated on a health insurance card that can identify the principal, etc.

5. The new provisions introduced in the amended Personal Information Protection Act which entirely came into effect as of April 1, 2022, are as outlined below.
   (i) Easing the requirements with regard to an individual's right to request discontinuance of utilization and deletion, etc. so that the right can be exercised in cases where a Person's rights or legitimate interests may be prejudiced, in addition to a case of violation of law, e.g., improper acquisition of personal data.
   (ii) Enabling a Person to designate the methods of disclosure of the retained personal data, including provision of electromagnetic record.
   (iii) Enabling a Person to request the disclosure of records of the transfer of the personal data to a third party.
   (iv) Treating the short-term retention data, which is deleted within six months, as part of retained personal data and subject to requests for disclosure and discontinuance of utilization, etc.
   (v) Limiting the scope of personal data that can be provided to a third party pursuant to the opt-out provisions by excluding personal data which is acquired by improper means and personal data which is provided based on the opt-out provisions.
   (vi) Making it mandatory to report to the Personal Information Protection Commission (PPC) and to notify a Person in the case where an incident including a leakage of

the personal data occurs that may prejudice a Person's rights and interests (limited to certain types of incidents, including a leakage of a certain number of personal data items).

(vii) Clarifying that personal information should not be utilized in improper ways such as potentially facilitating illegal or unjustifiable conduct.

(viii) Introducing, from the perspective of promoting innovation, a new category of "pseudonymously processed information," which is produced by deleting a person's name etc. from personal information. Obligations to deal with requests for disclosure, discontinuance of utilization, etc. will be eased on conditions such as the utilization being limited to the operators' internal analysis.

(ix) Regarding the terms of third party provision, ensuring that in the case of information which does not constitute as personal data for the provider but is expected to constitute as personal data for the recipient, the provider will be required to confirm the Person's consent for the provision of such personal data to the recipient.

(x) Reinforcing penalties for violation of an order issued by the PPC and false submission of a report, etc. to the PPC. Regarding fines for wrongful provision of personal information database, etc. and violation of an order issued by the PPC, increasing maximum fines for legal entities to make them severe than those for individuals, in consideration of the difference of solvency between legal entities and individuals.

(xi) Making foreign business operators who handle personal information of an individual in Japan subject to the call for reports and orders; the violation of which is subject to penalties.

(xii) Making it a requirement to provide a Person with more detailed information regarding the handling of personal information at a recipient operator, when providing personal data to a third party in a foreign country.

6. A collective body of information comprising individual-related information, which is systematically organized so as to be able to search for particular individual-related information using a computer, or which is prescribed by Cabinet Order as having been systematically organized so as to be able to easily search for individual-related personal information (Personal Information Protection Act, Article 16(7)).

When an Association Member provides personal data to a third party (excluding a national agency, etc. and a person set forth in each Item of Article 16(2) of the Personal Information Protection Act), it shall prepare a record regarding the date of the personal data provision, the name or appellation of the relevant third party and other matters prescribed in the Personal Information Protection Act Enforcement Ordinance (Personal Information Protection Act, Article 25; Personal Information Protection Guidelines, Article 14-3), except for (i) cases based on laws and regulations, (ii) cases in which there is a need to protect a human life, body or property, and when it is difficult to obtain a principal's consent, (iii) cases of business entrustment, (iv) cases of business succession by mergers, etc. or (v) cases of joint use (for

provision of personal data under the provisions of Article 28 of the Personal Information Protection Act, cases prescribed by laws and regulations or cases in which there is a need to protect a human life, body or property, and when it is difficult to obtain a principal's consent, etc.) (Personal Information Protection Act, Article 29; Personal Information Protection Guidelines, Article 14-3).

In addition, when an Association Member receives personal data from a third party, it shall confirm the third party's name or appellation and address, for a corporate body, the name of its representative (for a non-corporate body having appointed a representative or administrator, the said representative or administrator), and circumstances under which the said personal data was acquired by the said third party, and prepare a record concerning the matters set forth in Article 30(3) of the Personal Information Protection Act (Personal Information Protection Act, Article 26; Personal Information Protection Guidelines, Article 14-4), except for (i) cases prescribed by laws and regulations; (ii) cases in which there is a need to protect a human life, body or property, and when it is difficult to obtain a principal's consent; (iii) cases of business entrustment; (iv) cases of business succession by mergers, etc.; and (v) cases of joint use (Personal Information Protection Act, Article 30; Personal Information Protection Guidelines, Article 14-4)..

In the case of an Association Member, this would include a wide variety of information in addition to information on customers, and would extend to information in connection with individuals that has been obtained in the course of the securities business, such as information on prospective customers, and information on individuals at corporate clients as well as companies issuing securities, etc. As specific examples, it is possible that *e.g.*, information in connection with an individual that is stated on customer cards, insider registration cards, in personal identification records, as well as various letters of application and consent, information on transactions of or assets on deposit by a customer, as well as correspondence with customers might constitute personal information on individual customers (including information on former customers whose accounts have been closed). Information on prospective customers and individuals of companies issuing securities, etc. would include information stated on a name card in connection with an individual (information such as the personal name, corporate name, title, and telephone number), information concerning individuals that has been obtained from surveys and the like, information that has been obtained from mailing list dealers, etc. as well as information concerning individuals that has become public by means such as the Official Gazette or employee records. Furthermore, individual numbers are considered to be personal information; however, handling of individual numbers and specified personal information (personal information that includes individual number in such content) need to be noted as there may be separate provisions in the Act on the Use of Numbers to Identify a Specific Individual in the Administrative Procedure (hereinafter referred to as the "Numbers Act") and related cabinet order and ordinances as well as in related guidelines.

An Association Member must take such measures that are necessary and appropriate for the prevention of the leaking, loss or damage of information in connection with safe management of the information on individual customers that it handles (FIBCOO, Article 123(1)(vi); Personal Information Protection Act, Article 23; and Personal Information Protection Guidelines, Article 11).

It should be noted that "necessary and appropriate measures for managing the security of personal data" referred to in Article 23 of the Personal Information Protection Act include necessary and

appropriate measures for preventing the leaking, etc. (meaning leaking, loss or damage) of personal information that an Association Member has obtained or intends to obtain and that is expected to be handled by the Association Member as personal data.

An Association Member must take such measures that are necessary and appropriate for the prevention of the leaking, loss or damage of information in connection with supervision of its employees (including but not limited to regular employees, contract employees, term employees, part-time employees, temporary employees, directors, auditors, executive officers and temp staff, etc.) when having employees handle information concerning individual customers that it handles, or supervision of contractors when outsourcing the handling of such information (FIBCOO, Article 123(1)(vi); Personal Information Protection Act, Article 24 and Article 25; and Personal Information Protection Guidelines, Article 12 and Article 13). These necessary and appropriate measures shall include organizational steps for safe management such as clear designation of the responsibilities and authorities of officers and employees in connection with the safe management of personal data, preparation and implementation of regulations and the like concerning safe management, as well as monitoring and inspecting the state of implementation thereof; as well as human based safe management measures such as concluding confidentiality agreements with officers and employees, and implementing education and training, *et al.,* of officers and employees; physical safe management measures such as management of the areas where personal data is handled, prevention of theft of equipment and electronic media, etc., prevention of data leak when carrying electronic media, etc., and disposal, etc. of equipment and electronic media, etc.; technical steps for safe management including controlling access to information systems that handle personal data as well as monitoring information systems; and ascertaining the external environment such as ascertaining the personal information protection system in a foreign country when handling personal data in that country (Personal Information Protection Guidelines, Article 11). For instance, an example of a case where necessary and appropriate supervision was not implemented with respect to officers and employees is a case where a laptop computer and/or external recording medium that included personal data was repeatedly taken out of the office in violation of internal rules, etc. of the company, and ignoring these acts resulted in the loss of such computer and/or external recording medium and the divulgence of personal data; and an example of a case where necessary and appropriate measures relating to the supervision of a contractor were not taken is a case concerning the divulgence of personal data by a contractor as a result of entrusting business to external operators without knowing the status of their measures for the secure management of personal data at the time of the execution of agreement or subsequently thereafter (see Article 12 and Article 13 of the Commentary on “Guidelines for Protection of Personal Information”).

An Association Member must also take measures to ensure that information concerning the race, creed, lineage, locality of family register, health and medical records and criminal record as well as other particular information that has not been made public and has been obtained in the course of business in connection with an individual customer that it handles is not used for any purpose other than to ensure the proper conduct of business or any other reason that can be recognized to be necessary (FIBCOO, Article 123(1)(vii)). The obtainment, use, or provision to a third party of sensitive information(Note) including the information described above is limited to cases such as the following: (i) cases prescribed by laws and regulations (such as having a person submit (a copy of) the passbook for the physically

handicapped in order to confirm eligibility to use a tax advantageous program (*Maru Yu*) available for the handicapped); (ii) if necessary to protect human life, body or property (such as acquiring information on crimes for the purpose of identifying an antisocial force), (iii) if particularly necessary in order to improve public sanitation or to encourage the wholesome raising of children; (iv) if necessary to cooperate in the conduct by a national agency or local government, etc. of activities prescribed by laws or regulations; (v) obtaining sensitive information in the case set forth in Article 20(2)(vi) of the Personal Information Protection Act, using sensitive information in the case set forth in Article 18(3)(vi) of the Personal Information Protection Act, or providing sensitive information to a third party in the case set forth in Article 27(1)(vii) of the Personal Information Protection Act (obtaining, using or providing to a third party sensitive information when necessary in the relationship with an academic research institute, etc. for purposes of academic research; (vi) obtaining, using or providing to a third party such information is within the scope that is necessary for the implementation of administration of tax withholding, etc.; (vii) obtaining, using or providing to a third party such information to the extent necessary to carry out the transfer, etc. of rights or obligations under inheritance proceedings (for example obtaining a certified copy of family registry); (viii) obtaining, using or providing to a third party such information because of a necessity to ensure the proper conduct of a financial instruments business, etc. to the extent necessary to carry out such business activities, and with the consent of the individual; and (ix) using biometric data for personal identification with the individual's consent (Personal Information Protection Guidelines, Article 7(1)). When an Association Member obtains, uses or provides to a third party sensitive information in the above cases, it shall handle the information appropriately in accordance with the Personal Information Protection Act, etc. (Personal Information Protection Act 20(2)). For instance, among the sensitive information, when obtaining "special care-required personal information," it needs to be noted that, in principle, the consent of the principal shall be obtained (Personal Information Protection Act, Article 20(2)).

(Note) In the financial field, "sensitive information" means special care-required personal information, and information concerning membership in a labor union, locality of family register, health insurance, sex life (excluding that falling under special care-required personal information) (excluding information publicly released by the principal, a national agency, local government, academic research institute, etc. or the person listed in each Item of Article 57(1) of the Personal Information Protection Act or each Item of Article 6 of the Personal Information Protection Act Enforcement Ordinance, and externally apparent information that can be obtained from looking at or filming the principal) (Personal Information Protection Guidelines, Article 2(vii)).
Furthermore, "special care-required personal information" means personal information that includes a specific description, etc. indicating that it requires special care so that unlawful discrimination and/or prejudicial or other disadvantageous treatment will not occur (Personal Information Protection Guidelines, Article 2(vi)); specific examples are as follows (Personal Information Protection Act Article 2(3); Personal Information Protection Act Enforcement Order, Article 2):
(1) race;

(2) creed;
(3) social status;
(4) medical history;
(5) criminal record;
(6) the fact of being a victim of a crime;
(7) the fact of having physical disabilities, intellectual disabilities, mental disabilities (including developmental disabilities), or other physical and mental functional disabilities prescribed by the rules of the Personal Information Protection Commission;
(8) the results of a medical check-up or other examination for the prevention and early detection of a disease conducted on a principal by a medical doctor or other person engaged in duties related to medicine;
(9) the fact that guidance for the improvement of a mental or physical conditions, or medical care or a prescription has been given to a principal by a doctor etc. based on the results of a medical check-up etc. or due to a disease, injury or other mental or physical changes;
(10) the fact that an arrest, search, seizure, detention, commencement of prosecution or other procedures related to a criminal case have been carried out against a principal as a suspect or defendant;
(11) the fact that an investigation, measure for observation and protection, hearing and decision, protective measure or other procedures related to a juvenile protection case have been carried out against a principal as a juvenile delinquent or a person suspected of being the same under Article 3 (1) of the Juvenile Act.

Association Member shall establish an appropriate internal management system for its officers and employees in order to safely manage their personal data, and depending on the level of risk, Association Member shall provide necessary and proper supervision to its officers and employees (Personal Information Protection Guidelines, Article 12(1)). This includes executing a confidentiality agreement at the time of hiring, fully disseminating the duty of safe management, as well as confirming the compliance status, inspecting, and establishing an audit system (Personal Information Protection Guidelines, Article 12(2)).

In addition, since acquisition of the individual number is limited to the purpose of performing administrative work specified in the Numbers Act, Association Member shall be careful not to seek provision of such number from a prospective customer (Numbers Act, Article 15). Furthermore, since the personal information database that contains the individual number is considered to be specified personal information file, it is necessary to note that such database requires strict handling under the Numbers Act (Numbers Act, Article 2).

An Association Member must give full consideration to confidentiality and prescribe specific guidelines for managing customer information such as customer attributes, etc., and must thoroughly instruct its officers and employees concerning the guidelines (FIBO Supervision Guidelines III-2-4 (applied *mutatis mutandis* to Special Members under VIII-1)).

<Relevant Laws and Regulations> FIEA, Article 40(ii); Investment Solicitation Rules, Article 5(2); and (JSDA) Commentary on "Guidelines for Protection of Personal Information"

Regular Member

20 Prohibited Acts in Transactions Between a Regular Member and Its Parent Juridical Person, Etc. or Subsidiary Juridical Person, Etc.

Certain preventive measures against adverse effects will apply in the event that a Regular Member (including Specified Business Member; hereinafter the same in this Section) intends to conduct financial instruments transactions, etc. with a "parent juridical person, etc. or subsidiary juridical person, etc." with which the Regular Member has a certain capital or personal affiliation, including a situation such as when a financial institution such as a holding company or a bank, or a business entity, etc. has a Regular Member as a subsidiary, or a Regular Member has a bank or similar entity as a subsidiary. These regulations were put in place (i) to maintain the independence of the Regular Member; and (ii) to prevent market mechanisms from being distorted by financial instruments transactions, etc. that are carried out through the special parent-subsidiary relationship and to ensure the fairness of transactions, and to secure the sound development of the financial instruments markets.

Some of these preventive measures apply only between the Regular Member and its parent bank, etc., or subsidiary bank, etc. (meaning a financial institution such as a bank or insurance company that is a parent juridical person, etc. or subsidiary juridical person, etc.).

Regular Members and their officers and employees are prohibited from engaging in the following acts (FIEA, Article 44-3(1)):

(i) Conducting sale and purchase or other transactions of securities or OTC derivatives transactions with the parent juridical person, etc. or subsidiary juridical person, etc. of the Regular Member under terms and conditions that are different from ordinary terms and conditions and detrimental to the fairness of transactions (*id.,* Item (i));

(ii) Concluding a contract with a customer for financial instruments transaction, knowing that the parent juridical person, etc. or subsidiary juridical person, etc. of the Regular Member has extended credit to the customer on the condition that the said contract should be concluded with the Regular Member (*id.,* Item (ii)); and

(iii) Other than above, any of the acts involving the parent juridical person, etc. or subsidiary juridical person, etc. of the Regular Member that are set forth in a Cabinet Office Ordinance as being likely to result in insufficient protection of investors, harm the fairness of transactions or cause a loss of confidence in financial instruments business (*id.,* Item (iv); and FIBCOO, Article 153).

The FIBCOO prohibits the following transactions and acts with a parent juridical person, etc., or a subsidiary juridical person, etc.:

[Application of the Arm's Length Rule in Connection with General Transactions]

Engaging in sale and purchase or other transaction of assets with a parent juridical person, etc.,

or a subsidiary juridical person, etc., under terms that are significantly different from normal conditions of transactions (FIBCOO, Article 153(1)(i)).

[Prohibition Against Tie-in Acts Using a Transaction of a Parent]

Concluding a contract with a customer for financial instruments transaction, knowing that a parent juridical person, etc., or a subsidiary juridical person, etc., is engaging in the sale and purchase or other transaction of assets with the customer under the terms and conditions that are more advantageous to the customer than an ordinary terms and conditions, on condition that the contract for financial instruments transaction should be concluded with the Regular Member (FIBCOO, Article 153(1)(ii)).

[Regulations Requiring Disclosure of Conflicts of Interest]

When a Regular Member underwrites securities issued by a company which owes a debt pertaining to borrowings to a parent juridical person, etc., or a subsidiary juridical person, etc., of the Regular Member (excluding Japanese government bonds, municipal bonds or commercial paper), selling the securities, knowing that the funds which are raised will be used to repay such debt, without making explanation to that effect to the customer (FIBCOO, Article 153(1)(iii)).

[Restriction Against Becoming a Lead Managing Underwriter of Shares Newly Issued by Its Parent or Subsidiary Juridical Person]

Becoming the lead managing underwriter of securities which are issued by its parent juridical person, etc., or subsidiary juridical person, etc. (with the exception of share certificates, real estate investment trust certificates, share option certificates, investment equity subscription right certificates or bond certificates, etc. that have high market liquidity and those for which Regular Members that meet certain requirements are appropriately involved as a managing underwriter (independent managing underwriter member) in deciding the issue price in connection with the underwriting thereof) (FIBCOO, Article 153(1)(iv); and Underwriting Rules, Article 9 and Article 10).

[Prohibition Against Back Financing]

Within a period of six months from the time that a Regular Member becomes an underwriter for securities issued, selling such securities to a customer, knowing that the funds the customer will use to purchase the securities will be procured through borrowings or other loans from a parent juridical person, etc., or a subsidiary juridical person, etc. of the Regular Member (FIBCOO, Article 153(1)(v)).

[Restriction Against Sales of Underwritten Shares to a Parent or Subsidiary Juridical Person]

Within a period of six months from the time that a Regular Member becomes an underwriter for securities issued, selling such securities (excluding public bonds) to a parent juridical person, etc., or a subsidiary juridical person, etc. The following, however, shall be exceptions: (i) where a Regular Member which is a parent juridical person, etc., or a subsidiary juridical person, etc., receives a trading order of securities from a customer and acquires the same for the purpose of resale to the customer; (ii) where the trustor of a trust is not a parent juridical person, etc., or a subsidiary juridical person, etc., of the Regular Member, even if a trust bank which is a parent juridical person, etc., or a subsidiary juridical person, etc., will acquire the securities in trust assets under a specified monetary trust (*tokutei kinsen shintaku*) or the like; (iii) where a trust bank will acquire securities in trust assets which are managed by

an investment management business operator which is a parent juridical person, etc., or a subsidiary juridical person, etc. (excluding situations in which the trust bank is a parent juridical person, etc., or a subsidiary juridical person, etc.); and (iv) if the Regular Member engages in book building at the time of the public offering or secondary distribution of the said securities, and as a result thereof sufficient demand for investment in the securities can be properly identified, and fair and reasonable issuing terms have been determined (FIBCOO, Article 153(1)(vi); and the Business Rules Inquiry "Concerning Sales of Securities for Which a Securities Company Has Become the Underwriter To Investment Assets Under Management of Investment Trust Manager in a Parent/Subsidiary Relationship With the Securities Company").

[Prohibition Against Providing/Receiving or Using Nonpublic Information]

Without obtaining prior consent (including a comprehensive consent) in writing or by electronic or magnetic records from the customer or issuer (hereinafter collectively referred to as the "issuer, etc.") involved in the exchange of nonpublic information, exchanging nonpublic information between a Regular Member and a parent juridical person, etc., or a subsidiary juridical person, etc. (FIBCOO, Article 153(1)(vii)).

However, the exchange of such information is permitted in exceptional cases such as when exchanging information based on laws or regulations, etc., exchanging information that is necessary for the purpose of activities in connection with internal administration and operation, exchanging information that is necessary to prepare a letter of confirmation as set forth in Article 24-4-2 of the FIEA or an internal administration report as set forth in Article 24-4-4 of the FIEA, or providing the opt-out opportunity and making this easily known to the issuer, etc. in advance. In the event of exchanging for the purposes of internal administration and operation, measures shall be taken as appropriate so that nonpublic information is not divulged from the divisions handling the administration in connection with internal administration and operation, etc. of both parties carrying out the exchanging.

Moreover, concluding a contract for financial instruments transaction using nonpublic information in connection with a customer that is obtained from a parent juridical person, etc., or a subsidiary juridical person, etc., without obtaining prior consent obtained from the customer in writing or by electronic or magnetic records is prohibited (FIBCOO, Article 153(1)(viii)). If nonpublic information has been obtained without such consent based on laws or regulations, etc., care must be taken not to use such information in sales activities.

Prior consent in writing or by electronic or magnetic records to disclosing nonpublic information shall be deemed to have been given by the issuer, etc. in the event that the Regular Member or its parent juridical person, etc., or subsidiary juridical person, etc., have provided the issuer, etc. (limited to a corporation) with an appropriate opportunity to request the cessation of provision of nonpublic information concerning the issuer, etc. to the relevant parent juridical person, etc., or subsidiary juridical person, etc., or the Regular Member (so-called "opt out"), until such time as the issuer, etc. requests the cessation thereof (FIBCOO, Article 153(2)).

If the opt out is to be used, notice of the opt out opportunity must be made in writing, etc. in a manner that is clearly understandable to the customer, a period of time necessary to make the decision of whether to opt out must be provided after making the notice of the opt out opportunity, a system must be in place to enable the opt out to be exercised at any time, and other measures must be taken (FIBO

Supervision Guidelines IV-3-1-4(1)).

The exchange of nonpublic information concerning a listed company, etc. is also permitted if the opt-out opportunity is provided and this is made easily known to the issuer, etc. in advance (FIBCOO, Article 153(1)(vii)(j)). In this case as well, appropriate measures are required to be taken such as always presenting the matters concerning nonpublic information at the store or on the website so that customers can clearly understand these matters (FIBO Supervision Guidelines IV-3-1-4(2)).

[Prohibition Against Abuse of Position of Superiority]

Concluding a contract for financial instruments transaction or soliciting therefor by a Regular Member, abusing superiority bargaining position in transactions of a parent bank, etc., or a subsidiary bank, etc. (FIBCOO, Article 153(1)(x)).

[Provision to Prevent Misunderstanding]

When a Regular Member visits a customer together with a parent bank, etc., or a subsidiary bank, etc., failing to disclose to the customer that it is a separate corporation from its parent bank, etc. or subsidiary bank, etc., or conducting an act which causes the customer to misunderstand that they are the same entity (FIBCOO, Article 153(1)(xi)).

If a Regular Member carries out its business by establishing its business office in the same building as another financial institution, the Regular Member must give the customer a written statement that the Regular Member and the said financial institution or the parent bank, etc. are separate entities and that the products and services offered by the Regular Member are not offered by the said financial institution or the parent bank, etc., and must give a full explanation concerning the same (FIBO Supervision Guidelines IV-3-1-5(1)).

[Provisions to Prevent Evasion of the Law]

Regardless of name, evading the prohibitions set forth above (FIBCOO, Article 153(1)(xv)).

Regular Member

21 Prohibition Against Engaging in Business Other Than the Securities-Related Business

A Regular Member (including Specified Business Member; hereinafter the same in this Section) may conduct a wide variety of business activities other than the financial instruments business, by filing a notification with the Prime Minister or obtaining approval from the Prime Minister (FIEA, Article 35).

Nevertheless, the following regulations have been put in place so that the conduct of business activities other than the securities-related business will not interfere with the protection of customers or the achieving of fairness in transaction on the part of Regular Members:

(i) Regulations in connection with concurrent operations of investment management business

The FIEA prohibits a Regular Member from committing any of the following in the event that the Regular Member engages in the investment management business or the investment advisory business:

a. Conducting sale and purchase or other transactions of securities, etc. based on its own account, or soliciting another customer for sale and purchase or other transactions of securities, etc. by using the information in connection with sale and purchase or other transactions of securities, etc. conducted pursuant to the investment management business or the investment advisory business in which the Regular Member concurrently engages (FIEA, Article 41-2(iv), Article 42-2(v) and Article 44(i));

b. Soliciting another customer for sale and purchase or other transactions of securities, etc. in order to complete the sale and purchase or other transactions of securities, etc., or make an offsetting trade thereof that is conducted pursuant to the investment management business or the investment advisory business in which the Regular Member concurrently engages, without giving explanation to that effect (FIBCOO, Article 147(i));

c. Making investment or giving investment advice for the benefit of a particular customer in connection with the investment management business or the investment advisory business in which a Regular Member concurrently engages based on nonpublic information in connection with an issuer of securities or a customer in the securities-related business (FIBCOO, Article 147(ii));

d. Making investment or giving advice intended to conduct a transaction with regard to his/ her investment management business or investment advisory business that is unnecessary in light of the policy of customer, the status of assets or the market conditions, for the purpose of gaining profit from securities-related businesses (FIEA, Article 44(ii));

e. Making investment or giving investment advice for the purpose of artificially creating a market that does not reflect real conditions, in order to influence the issue conditions, etc. of securities for which the Regular Member serves as the lead underwriting manager (FIBCOO, Article 147(iii)); or

f. Where the Regular Member conducts underwriting of securities, etc., and the numbers of offers to acquire or purchase the said securities are expected to be fewer than initially

planned, making investment or giving investment advice to purchase the said securities (FIBCOO, Article 147(iv)).

(ii) Prohibition against acceptance of entrustment, etc. for sale and purchase of securities on condition of lending money

A Regular Member or an officer or employee thereof is prohibited from accepting an entrustment, etc. for sale and purchase of securities on the condition of acceptance of a money loan by a method other than a margin transaction (FIEA, Article 44-2(1)(i)), except in the case of accepting an entrustment, etc. for sale and purchase of securities through a cumulative investment contract by credit card in which the amount of credit to be extended to the same person will not exceed 100,000 yen (FIBCOO, Article 148).

(iii) Restrictions in connection with concurrent business as agent of a financial institution

If a Regular Member will concurrently engage in a financial institution agency service such as the bank agency service, the Regular Member, its officers or employees shall not conduct either of the following acts:

a. Concluding a contract for financial instruments transaction or soliciting the same, on the condition that agency service or intermediary service for conclusion of a contract on loan of funds or discounting of bills and notes (FIBCOO, Article 149(i)), except in the case of executing or soliciting a cumulative investment contract by credit card in which the amount of credit to be extended to the same person will not exceed 100,000 yen, or executing or soliciting an agreement relating to equity-based crowdfunding by credit card in which the amount of credit to be extended to the same person will not exceed 100,000 yen (FIBCOO, Article 148 and Article 149(i)); or

b. An act in which an officer or employee who is engaged in the financial instruments business receives or provides nonpublic information on loans, etc. on a customer that is the issuer of securities, from or to an officer or employee that is engaged in financial institution agency business (meaning the business of agency service or intermediary service for conclusion of a contract of loan of funds or discounting of bills and notes for business purpose out of the financial institution agency service) (FIBCOO, Article 149(ii)).

Nevertheless, this excludes (a) cases in which a prior consent has been obtained in writing or by electronic or magnetic records for providing the nonpublic information on loans, etc.; (b) cases in which receiving the nonpublic information on loans, etc. from the officer or employee that is engaged in a financial institution agency service is recognized to be necessary in order to comply with laws or regulations in connection with a financial instruments business; (c) cases in which nonpublic information on loans, etc. is provided to an officer or employee who directs the operations of the organization that implements the financial instruments business; or (d) cases in which the opt-out opportunity is provided and this is made easily known to the issuer, etc. in advance.

This nonpublic information on loans, etc. means information that has not been made public or other special information in connection with the business in which the customer engages, which the officer or employee who is engaged in the loan business or financial institution agency service has obtained in the course of his or her duties, and can be found to

have an impact on the investment decision of the customer in connection with the securities for which solicitation is being conducted by the officer or employee who is engaged in the financial instruments business or financial instruments intermediary service; or information on trends in orders with respect to sale and purchase, etc. of securities on the part of the customer or other special information that the officer or employee which is engaged in the financial instruments business or financial instruments intermediary service has obtained in the course of his or her duties that can be found to have a material impact on the loan business or financial institution agency service involving the issuer of such securities (excluding such information concerning a foreign corporation (including a foreign organization without legal personality for which a representative person or administrator has been designated)) (FIBCOO, Article 1(4)(xiii)).

Moreover, an order of correction may be issued if there is a situation in which the officer or employee, who directs the operations of the organization that implements both the financial instruments business and the financial institution agency service, receives, either directly or through the officer or employee who is engaged in the financial institution agency service, nonpublic information on loans, etc. from a customer who is an issuer of securities (excluding national or local government bonds, foreign sovereign bonds or foreign municipal bonds) and engages in solicitation for acts of financial instruments transactions in the said securities (including a situation in which in connection with providing the nonpublic information on loans, etc. (excluding corporate information) the officer or employee in the said position of management provides the nonpublic information on loans, etc. of the customer to an officer or employee who is engaged in the financial instruments business, without obtaining prior consent in writing or by electronic or magnetic records from the customer) (FIBCOO, Article 123(1)(xix)).

On the other hand, the Banking Act also prohibits a bank agent from engaging in any of the following activity:

a. An act of improperly providing agency service or intermediary service for conclusion of a contract of loan of funds or discounting of bills notes to a customer, on the condition that the customer will carry out transactions in connection with the business conducted by the bank agent itself or a business entity designated by the bank agent (Banking Act, Article 52-45(iii); and Banking Act Enforcement Ordinance, Article 34-51);
b. An act of improperly providing agency service or intermediary service for conclusion of a contract on acceptance of deposits or exchange transaction to a customer, on the condition that transactions will be conducted with the bank agent (Banking Act Enforcement Ordinance, Article 34-53(ii));
c. An act of causing a disadvantage to a customer in the terms and conditions or implementation of a transaction by abusing the superior bargaining position in transactions as a bank agent (Banking Act Enforcement Ordinance, Article 34-53(iii));
d. An act of improperly having the customer conduct transactions with the bank agent itself, or a business entity designated by the bank agent, on the condition of providing agency service or intermediary service for conclusion of a contract on acceptance of deposits, loan of funds

or discounting of bills and notes, or exchange transaction to a customer (Banking Act Enforcement Ordinance, Article 34-53(iv)); or

e. An act of causing a disadvantage to a customer in the terms and conditions or implementation of a transaction pertaining to bank agency service by abusing a superior bargaining position in transactions within the concurrent business (Banking Act Enforcement Ordinance, Article 34-53(v)).

A Regular Member that is a bank agent must take measures to prevent confusion with deposit functions, etc., including that: (a) when engaging in the sales of financial products including securities, or agency service or intermediary service therefor, it must provide an explanation including that these are not deposits, etc. and are not covered by depositors insurance, as well as that the principal is not guaranteed; (b) it must post at the counter of the business office or office in which the bank agency services are conducted, in a manner that is easily visible to the customer, that it carries out bank agency services; and (c) a bank agent must take measures so that customers will not mistakenly understand sales counters which do not carry out bank agency services at the business office or offices to be counters that do carry out bank agency services (Banking Act Enforcement Ordinance, Article 13-5(2) and Article 34-45).

Regular Member

22 Excessive Competition for Underwriting, Etc.

When underwriting securities, an Association Member must give consideration to the actual condition of the market, which includes conducting surveys of investment demand where necessary, and determine reasonable issuing conditions, and must not underwrite securities that are significantly inappropriate in volume, price and other conditions (FIEA, Article 40(ii); FIBCOO, Article 123(1)(iii); and Underwriting Rules, Article 24).

When underwriting securities, Association Members and their officers and employees must fully consider the market conditions and the trends of investment demand and endeavor to distribute the relevant share certificates, etc. to customers in a fair manner and not concentrate on specific investors without a reasonable cause, and in principle, they must not sell the relevant securities to purchasers designated by the issuer (referred to as "preferential allotment (*oyahike*)," and including substantively similar situations such as when the issuer suggests a purchase) (Employees Rules, Article 7(xvi); and Distribution Rules, Article 2(1) and (2)).

<Relevant Sections of this Manual> Chapter IV. 15 Cautions Concerning Shares, Etc. in a Public Offering

Regular Member

23 Inappropriate Underwriting Examination

When an Association Member engages in wholesale underwriting of securities, the Association Member must carry out an appropriate examination of the financial conditions and results of operation of the issuer, as well as other matters that would contribute to the decision of whether it is proper to conduct the underwriting (FIEA, Article 40(ii); FIBCOO, Article 123(1)(iv); and Underwriting Rules, Article 12).

It is anticipated that when an Association Member intends to engage in wholesale underwriting of securities, the Association Member will conduct a careful inspection of particulars such as the financial condition, results of operation and forecast on the part of the issuer, thereby enabling investors to make appropriate investment decisions concerning the public offering or secondary distribution, and also serving to prevent investors from suffering unforeseen losses.

<Relevant Laws and Regulations> FIBO Supervision Guideline IV-3-2-2

24 Prohibition Against Solicitation at Inconvenient Hours

Association Members and their officers and employees must not carry out solicitation by telephone or visiting at times that would cause inconvenience to a customer who is an individual, in connection with concluding or terminating a contract for financial instruments transaction (FIEA, Article 38(xi); and FIBCOO, Article 117(1)(vii)).

Moreover, solicitation at inconvenient times is also prohibited in connection with sale and purchase or other transactions in commodities fund related beneficiary rights or financial futures transactions, etc., even if the customer is not an individual.

Whether a specific act of solicitation by telephone or visiting would contravene this regulation is to be determined on a substantive basis that is consistent with each individual case in view of common social mores, but unless there is good reason, such as obtaining prior agreement from the customer, there is a strong possibility that solicitation by telephoning or visiting at night or on ordinary holidays would constitute solicitation at inconvenient hours. For example, the Money Lending Business Act which states "the hours between 9:00 p.m. and 8:00 a.m. as being a time band that would be found to be inappropriate in view of the normal standards of society" (Money Lending Business Act, Article 21(1)(i); and the Money Lending Business Act Enforcement Ordinance, Article 19(1)) would appear to be one more item of reference in interpreting "times that would cause inconvenience to a customer" as prescribed in this clause.

25 Prohibited Acts in Connection with Soliciting, Etc. of Derivatives Transactions, Etc.

Association Members or their officers or employees must not commit either of the following acts in connection with soliciting, etc. of derivatives transaction, etc., conducted with a customer, who is an individual (excluding professional investors):

(i) An act of soliciting a customer who has not requested solicitation for conclusion of a contract for OTC derivatives transaction by means of visiting or telephoning for conclusion of such contract (excluding certain acts (transactions set forth in each Item of Article 116(1) of the FIBCOO) which are not likely to undermine investor protection, harm the fairness of transactions or damage the credibility in the financial instruments trading business such as acts of soliciting by an Association Member with an ongoing customer (limited to persons that have engaged in two or more contracts for financial instruments transaction concerning OTC derivatives transactions (excluding transactions set forth in Article 116(1)(iii) of the FIBCOO) within the one year prior to the date of solicitation and persons who have a balance of unsettled OTC derivatives transactions as of the date of solicitation) (FIEA, Article 38(iv); FIEAEO Article 16-4(1)(ii); and FIBCOO, Article 116(1)); or

(ii) In connection with conclusion of the following contracts, an act of soliciting a customer without confirming with the customer prior to the soliciting whether the customer has an intention to receive the soliciting, or an act of continuing to solicit even though a customer who has received solicitation has shown an intention not to conclude such contract (including an intent to the effect that the customer does not wish to receive further soliciting) (FIEA, Article 38(v) and (vi); FIEAEO Article 16-4(2); and CFD Transaction Rules, Article 4(1)):

a. a contract wherein an OTC derivatives transaction is carried out with customers or an intermediary, brokerage (excluding brokerage for clearing of securities, etc.), or agency service (referred to as “intermediary service, etc.” in b.) for OTC derivatives transactions is performed on behalf of or customers;

b. a contract whose substance is the undertaking of intermediary service, etc. for a market derivatives transaction which falls under the items of Article 16-4(2) of the FIEAEO (e.g., commodity-related market derivatives transactions) or a foreign market derivatives transaction on behalf of customers, or the undertaking of intermediary services, etc. for the entrustment of those transactions; or

c. CFD transaction agreements provided for in Article 3(iii) of the CFD Transaction Rules (excluding over-the-counter CFD transaction agreements provided for in Article 3(iv) of the same Rules).

(iii) When confirming [with a customer], in advance of solicitation, whether the customer wishes to receive the solicitation for the conclusion of commodity-related market derivatives transactions, any act using a method specified below (FIEA Article 38(ix); and FIBCOO Article 117(1)(viii)-2):

a. Making a visit or phone call; and

b. Assembling customers without clearly indicating to them in advance that the purpose of such assembly is solicitation.

(iv) With of acceptance of an entrustment, etc. of commodity-related market derivatives transactions, any act of recommending a customer to match the volume and maturity of a sale, purchase or other equivalent trade in commodity-related market derivatives transactions to be conducted by the customer with a corresponding transaction (meaning a transaction that would reduce the losses arising from those transactions) (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xxxv));

(v) With regard to transactions that match a sale or purchase of commodity-related market derivatives transactions and other transactions equivalent thereto (meaning transactions that would reduce the losses arising from those transactions), and that have different volumes and maturity from those transactions, any act of accepting an entrustment, etc. of such transactions from a customer who does not understand such transactions (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xxxvi));

(vi) Any act of conducting a transaction where an entrustment, etc. of commodity-related market derivatives transactions is accepted, and the transaction for which the entrustment, etc. was made was intentionally matched by a transaction on its own account, resulting in damage to the interests of the customer (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xxxvii)).

(vii) When accepting an entrustment, etc. of commodity-related market derivatives transactions from a customer in relation to a transaction where the commodities for which the entrustment, etc., are being made are the same or where the financial indicators or maturity pertaining to the commodities are the same, any act of an Association Member to accept the entrustment, etc. without explaining to the customer in advance of the following matters pertaining to the entrustment, etc. in spite of such Association Member conducting transactions on its own account to intentionally match the customer's transactions (hereinafter referred to as "specified transactions" in this paragraph) (FIEA, Article 38(ix); and FIBCOO, Article 117(1)(xxxviii));

a. The fact that such Association Member is conducting specified transactions; and;

b. The fact that a conflict of interest may arise between the customer entrusting, etc. and the Association Member if the transactions for which the entrustment, etc. are being made and the transactions of the financial instruments business operator, etc. on its own account are matched as a result of the specified transactions.

<Relevant Sections of this Manual> Chapter VI. 9 Putting in Place a System of Management of Loss-cut Transactions in Connection with Contract for Difference Transactions Conducted Over the Counter (OTC CFD Transactions)

<Reference: Regulations Concerning Acts of Solicitation in Connection with Financial Futures Transactions, Etc.>

An Association Member or an officer or employee thereof must comply with the following regulations in connection with solicitation to a customer other than a professional investor in foreign exchange margin transactions, OTC financial futures transactions, etc.[Note 1] such as currency options,

and market financial futures transactions, etc. (Note 2) (FIEA, Article 38(iv) through (vi); FIEAEO Article 16-4; and FIBCOO, Article 116, Article 117(1)(viii) and (ix)).

Regulations on the Method of Solicitation Regarding OTC Financial Futures Transactions

Types of Transaction	Details of Prohibited Acts
OTC Financial Futures Transactions, Etc.	**(i) Prohibition against uninvited solicitation** An act of solicitation by means of visiting or telephoning a customer who has not requested solicitation. There are acts that constitute exceptions to this prohibition including solicitation to a customer with an ongoing transaction relationship exists, or soliciting a corporate customer for the purposes of hedging (each of the Items of Article 116(1) of the FIBCOO).
	(ii) Prohibition against customer gathering without an explicit statement of objectives of solicitation An act of solicitation by gathering customers at seminars or the like without explicitly stating to customers in advance that an objective of solicitation
OTC Financial Futures Transactions, Etc.(Note 1) and Market Financial Futures Transactions, Etc.(Note 2)	**(i) Duty to confirm prior intention to receive solicitation** An act of solicitation without confirming with the customer prior to the solicitation whether the customer has the intention to accept solicitation
	(ii) Prohibition against repeated solicitation (1) An act of continuing solicitation even though the customer who has been solicited has expressed an intention not to conclude a contract (including an intention that the customer does not wish to continue to receive the solicitation)
	(iii) Prohibitions against repeated solicitation (2) An act of solicitation even though the customer first expresses an intention not to conclude a contract (including an intention that the customer does not wish to continue to receive the solicitation)

(Notes) 1. "OTC financial futures transactions, etc." means OTC derivatives transactions for which the underlying assets consist of deposit interest, etc. and currency; or the intermediary, brokerage or agency service thereof.
2. "Market financial futures, etc." means market derivatives transactions or foreign market derivatives transactions for which the underlying assets consist of deposit interest, etc. and currency; or the intermediary, brokerage or agency service thereof.

26 Provision of Rating by Unregistered Credit Rating Agencies

Upon soliciting a customer for the conclusion of a contract for financial instruments transaction, if an Association Member, its officer or employee provides a credit rating assigned by a person engaged in a credit rating business other than a credit rating agency (hereinafter referred to as "unregistered rating

agency"), the Association Member must explain to the customer that the unregistered rating agency is not registered with the Prime Minister and the significance of the registration as well as the following matters (FIEA, Article 38(iii); FIBCOO, Article 116-2 and Article 116-3):

a. The following matters concerning the unregistered rating agency;
   i. Trade name or name;
   ii. If a corporation is concerned, names of the officers; and
   iii. Name and address of the head office or other main business office or office;
b. Outline of the policies and methods used by the said unregistered rating agency for assigning the credit rating; and
c. Premises of credit rating, its significance and limits.

In addition, if an Association Member will provide a credit rating provided by an affiliate of a credit rating agency that has been designated by the Commissioner of the Financial Services Agency for a certain effective period (hereinafter referred to as a "Specified Related Corporation"), the Association Member must explain that the said Specified Related Corporation is not registered with the Prime Minister and the significance of the registration as well as the following matters:

a. Trade name or name and registration number of the credit rating agency;
b. Name used by the Specified Related Corporation to indicate the credit rating business;
c. Outline of the policies and methods used by the Specified Related Corporation to assign the credit rating and the manner of obtaining information concerning the outline from the credit rating agency; and
d. Premises of credit rating, its significance and limits.

Pursuant to the provisions of Article 80(1)(v), (vi) and (vii) of the FIBCOO, the matters to be stated in the Explanatory Document on Listed Securities, etc. and the Document to Be Delivered Prior to Conclusion of Contract in relation to some products may be provided to customers by electromagnetic methods, and similarly, the above stated matters may also be provided by electromagnetic methods.

<Relevant Laws and Regulations> FIEA, Article 66-27 through Article 66-49; and (JSDA) Questions and Answers Concerning Rating Regulations

Regular Member

27 Prohibited Acts, Etc. in Relation to Rights Offering on the Part of Association Members

As for a rights offering (*i.e.*, capital increase through allotment of share options without contribution), there is a commitment-type (where the underwriting member exercises share options that have not been exercised) and a non-commitment type. In cases where a commitment-type rights offering is to be implemented, by way of example, the following transactions are expected: (i) *gratis* allotment of share options by the issuer company to all of the shareholders; (ii) exercise of share options by the

shareholders; (iii) acquisition through the exercise of call options by the issuer company of share options yet to be exercised; (iv) acquisition of share options by an Association Member from the issuer company; (v) exercise of share options by an Association Member; and (vi) market sales of acquired shares by an Association Member. Under the FIEA, a person who acquires share options yet to be exercised and enters into an agreement whereby such person or a third party exercises such share options, upon the offering of share options, is defined as the "underwriter" (FIEA, Article 2(6)), and since acts by such underwriter are included in the "underwriting of securities" (Paragraph (8)(vi) of the said Article), if the Association Member conducts the acts in (iii) through (v), such Association Member will become an underwriter, and such acts will constitute underwriting of securities.

Association Members or their officers or employees are prohibited from conducting the following acts: (i) in relation to the solicitation for exercise of share options, an act of providing false information to a person who has obtained the share option certificates; and (ii) an act of soliciting the exercise of share options by providing to a person who has obtained the share options certificates with any conclusive evaluations with respect to an uncertain matter or giving information that is likely to have such person mistakenly believe an uncertain matter to be certain (FIBCOO, Article 117(1)(xxxiii)).

In addition, a rights offering may be made by investment corporations.

In cases where an underwriting member has acquired share option certificates or investment equity subscription right certificates from a listed issuer or another underwriting member in relation to the underwriting business related to a commitment-type rights offering, such underwriting member must disclose the status of acquisition of the share option certificates or the investment equity subscription right certificates promptly after such acquisition by the prescribed method, and the lead-managing underwriting member must request the listed issuer to make public in a press release the volume of the share option certificates or the investment equity subscription right certificates transferred to each underwriting member (Underwriting Rules, Article 30).

In cases where an underwriting member has acquired share option certificates or investment equity subscription right certificates from a listed issuer or another underwriting member in relation to the underwriting business related to a commitment-type rights offering, the first-mentioned underwriting member shall not exercise the voting rights pertaining to the share certificates it acquired by exercising such share options relating to such share option certificates or the voting rights pertaining to the investment securities it acquired by exercising such new investment unit subscription warrants relating to such investment equity subscription right certificates at the shareholders meeting or unitholders meeting for which the record date (meaning the record date prescribed in Article 124(1) of the Companies Act or the record date prescribed in Article 77-3(2) of the Investment Trust Act) has been established by the day on which 60 days have passed from the day of acquisition of the said share option certificates or the said investment equity subscription right certificates (Underwriting Rules, Article 31).

In cases where an underwriting member conducts an underwriting of a commitment-type rights offering in which the exercise of share options or new investment unit subscription warrants by shareholders or unitholders residing in specific foreign countries is restricted, such underwriting member shall conduct an underwriting examination from the viewpoint as to whether or not there are any factors that may impede the liquidation of share option certificates or investment equity subscription right certificates in the financial instruments exchange market (Underwriting Rules, Article 32).

☐ Prohibited Acts, Etc. Regarding Transactions on the Part of Officers and Employees of Association Members

28 Prohibition Against Bucket Trading (*Nomi Kōi*)

If an officer or employee of an Association Member receives an order from a customer for a sale and purchase or other transactions, etc. of securities the officer or employee must not effect the sale and purchase or other transactions, etc. of securities by becoming the counterparty to that transaction himself or herself (Employees Rules, Article 7(vii)).

29 Prohibition Against Borrowing Names

An officer or employee of an Association Member is prohibited from using the name or address of a customer for sale and purchase or other transactions of securities, securities-related derivatives transactions, specified OTC derivatives transactions or commodity-related market derivatives transactions (trading on a borrowed name) for the account of the officer or employee. This prohibition is for the purpose of preventing improper acts on the part of any officer or employee of an Association Member (Employees Rules, Article 7(x))

30 Prohibition Against Margin Transactions and Derivatives Transactions, Etc.

An officer or employee of an Association Member is prohibited from conducting sale and purchase or other transactions, etc. of securities solely for the purpose of pursuing speculative profits (FIBCOO, Article 117(1)(xii)). Accordingly, the Employees Rules prohibit engaging in margin transactions, securities-related derivatives transactions, specified OTC derivatives transactions or commodity-related market derivatives transactions (excluding offsetting trades that are made to settle such margin transactions, securities-related derivatives transactions, specified OTC derivatives transactions or commodity-related market derivatives transactions, as well as the actual receipt of stock purchased (*genhiki*) and the actual delivery of stock sold (*genwatashi*)) for the account of the officer or employee, regardless of what name or title is used. (Employees Rules, Article 7(iv)).

Nevertheless, options transactions that are conducted for the purposes of hedging during the period of time between the date of decision to provide shares or stock options that have been decided to be provided as partial compensation by the Association Member to which the officer or employee belongs, and the date of delivery or the starting date for exercise of the rights, shall be treated as an exception.

Because margin transactions and derivatives transactions are by their nature speculative, these regulations have been put in place to prevent officers or employees of Association Members from becoming personally involved in these types of speculative transactions and thereby causing damage both to customers and to the Association Member.

<Relevant Laws and Regulations> (TSE) Rules Regarding Margin Transactions and Loan Transactions, Article 5

31 Prohibition Against Sale and Purchase, Etc. Using Other Special Information

An officer or an employee of an Association Member must not engage in sale and purchase or other transactions of securities or derivatives transactions, by utilizing his or her occupational position, by utilizing the ordering trends on sale and purchase or other transactions of securities, etc. made by the customers or other special information learned during the course of conduct of the officer or employee's duties, or solely for the purpose of seeking to gain speculative profits (FIBCOO, Article 117(1)(xii)).

These acts may betray the trust of the customer, causing the financial instruments business to lose its credibility and resulting in unsound operation of the Association Member. As such, they are prohibited.

The requirements such as "by utilizing his or her occupational position," "by utilizing the ordering trends on sale and purchase or other transactions of securities, etc. made by the customers or other special information learned during the course of conduct of the officer or employee's duties" and "solely for the purpose of seeking to gain speculative profits" as mentioned here are provided as parallel and independent requirements and it is recognized that acts falling under any of the requirements are prohibited.

32 Prohibition Against Outsourcing of Transfers of Title

When an officer or employee of an Association Member has received a request from a customer to execute procedures for entry of a name change, he or she may not carry out such procedures without going through their own Association Member (Employees Rules, Article 7(xi)).

If an employee carries out the entry of a name change only by himself or herself, there is a danger that such activities may lead to the name lending or trading under a false name. Accordingly, this act is prohibited.

33 Prohibition Against Delays in Delivery

When entrusted with a customer's money or securities (in the case of Specified Business Member, limited to those pertaining to specified business, and in the case of Special Members, limited to those pertaining to the registered financial institution business; the same shall apply in this Section) for delivery to the Association Member, or when entrusted by the Association Member with money or securities for delivery to a customer, an officer or employee of an Association Member must carry out such delivery to the counterparty without delay (Employees Rules, Article 7(xii)). The same applies where the officer or employee has been entrusted with documents related to the business (in the case of Specified Business Member, limited to those pertaining to specified business, and in the case of Special Members, limited to those pertaining to registered financial institution business.) to be delivered to a customer (Employees Rules, Article 7(xiii)).

Where an Association Member deals with a customer outside of its offices, it must do so through sales representatives. In cases where the sales representative delays such deliveries, there is the possibility that the customer may suffer unforeseeable damages. Additionally, this may directly affect the rights and duties of the Association Member.

An Association Member must conduct its business so that circumstances do not occur in which it can be recognized that customers are not notified the status of delivery or other information necessary to customers in connection with sale and purchase or other transactions of securities, etc. by the customers (FIEA, Article 40(ii); and FIBCOO, Article 123(1)(viii)).

<Relevant Laws and Regulations> FIBO Supervision Guideline IV-3-1-2(2) (applied *mutatis mutandis* to Special Members under VIII-1)

34 Prohibition Against Loans of Money and Securities

An officer or employee of an Association Member is prohibited from entering into loan transactions with customers involving money or securities in connection with sale and purchase or other transactions of securities, etc. (including making payment of debts on behalf of a customer) (Employees Rules, Article 7(xiv)). Making or receiving such loans presents the possibility of obscuring who the debtor is and who the creditor is in the relationship between an officer or employee of the Association Member and the customer, and also presents the possibility of encouraging an officer or employee to engage in speculative transactions or the like, or giving rise to provision of special economic benefits or trading on the joint account with the customer.

Such eventualities may lead to incidents as well as problems with the customer; accordingly, such loans are prohibited.

☐ Acts, Etc. Prohibited in Market Trading

Regular Member

35 Stop Limit Orders

A "stop limit order" means an entrusted order with the condition that the entrusted person will, as soon as a market price of securities rises from that at the time of the entrustment and reaches the limit given in the entrustment or higher, purchase the securities, or, as soon as the market price falls from that at the time of the entrustment and reaches the limit given in the entrustment or lower, sell the securities.

Although such orders intensify a fluctuation of the market price, they are effective in some cases to secure profits on the books and to stem the magnification of loss. Accordingly, stop limit orders are not totally banned, but rather their scope is assigned to be determined by Cabinet Order (FIEA, Article 162(1)(ii)). However, to date no such Cabinet Order has been issued. Although stop limit orders are not prohibited, when accepting this type of order, a financial instruments business operator must exercise sufficient care to ensure: (i) that the order does not interfere with fair price formation; and (ii) that the internal organization and system for accepting orders is sufficient to avoid problems at the time of order acceptance.

Regular Member

36 Limitations on Short Selling

Short selling refers to the sale of securities that the seller does not own, or borrowing securities and then selling them. Since short selling can be used to drive down prices, and may accelerate a market decline, the following regulations have been imposed on short selling (FIEA, Article 162(1)(i)), including prohibition of short selling without ownership or arrangement to borrow shares at the time of sale (naked short selling) and a duty to report to the exchange concerning a certain volume of short positions (in principle, 0.2% or more of the total issued shares).

36 1 Confirmation, Etc. of Whether the Transaction Involves Short Selling

When an Association Member accepts an order to sell securities on a financial instruments exchange market (including transactions executed on the PTS), the Association Member must confirm whether or not the client is engaging in short selling of the securities (if an Association Member receives the

broking of entrustment of sales of securities, the Association Member must confirm the same with the applicant for such broking of entrustment). The applicant (the customer) for the entrustment of sales of or broking of entrustment of sales of securities must clarify, to the person with whom the customer places the entrustment, etc. whether or not the sale of the securities is a short sale (FIEAEO, Article 26-3(2) through (4))

36 2 Clarification, Etc. of Short Sale

A member, etc. of a financial instruments exchange must clarify to the financial instruments exchange whether or not a sale on the financial instruments exchange market (including transactions executed on the PTS), which the member makes for its own account or customer's account, is a short sale (FIEAEO, Article 26-3(1)).

In addition, as a reporting and public disclosure system for short positions, when the volume of short positions reaches 0.2% of the total issued shares, it is required to report to the exchange (reporting is also required upon every 0.1% increment thereafter and when the volume of short positions falls below 0.2%); and when the volume of short positions reaches 0.5% (or falls below 0.5%) of the total issued shares, this will be subject to public disclosure by the exchange (Securities Transaction Ordinance, Article 15-2 through Article 15-4).

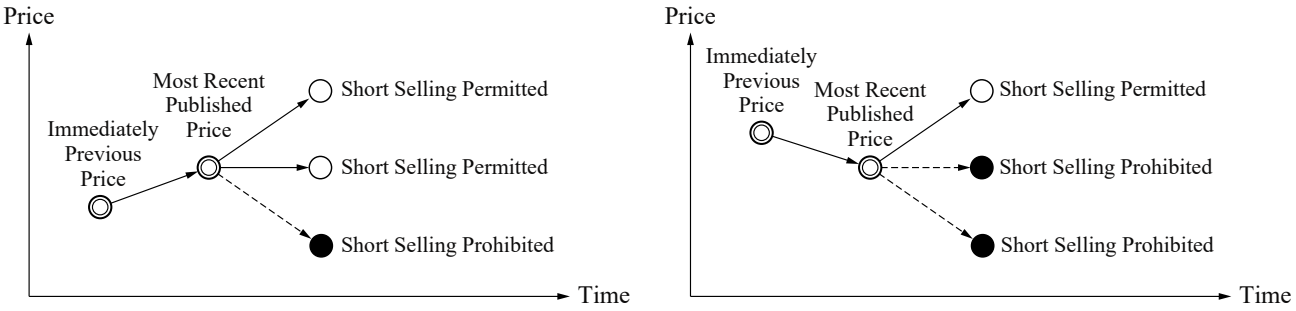
36 3 Price Restrictions on Short Selling

Certain price restrictions apply in connection with (i) short selling by an Association Member on a financial instruments exchange market for its own account or for the account of a customer, and (ii) short selling instructions made by an applicant (a customer) for the entrustment of sales of or brokering of entrustment of short selling (FIEAEO, Article 26-4).

In this regard, upon short selling on financial instruments exchange markets, the following framework called a "trigger" system has been introduced: (i) with regard to securities sold short on the financial instruments exchange market or the PTS, if the contract price falls below the base price (calculated on the basis of the previous day's closing price, etc.) by 10% or more, the price restriction applies during the period from that point in time until the closing time of the same day; (ii) if the price restriction applies on the major market for the securities sold short, the restriction applies on all financial instruments exchange markets and PTS including the said major market during the period from the opening time until the closing time on the following day (FIEAEO, Article 26-4; Securities Transaction Ordinance, Article 12).

Specifically, when the price restriction applies under the trigger system, short selling must not be conducted at a price that is equal to or below the price published most recently by the financial instruments exchange (hereinafter referred to as the "most recent published price"), unless the most

recent published price exceeds the immediately previous price, in which case short selling at the most recent published price is permitted. (See the following table.) The "most recent published price" in the event of a financial instruments exchange that uses the market making system means the highest buy quotation made by the market maker (meaning the member, etc. that has a duty to quote sell and buy prices on a continuous basis for particular issues) that was most recently published by the financial instruments exchange (Securities Transaction Ordinance, Article 12).



If the immediately previous published price is the same as the most recent published price, a further comparison is to be made with the immediately prior price before that, and (i) if the most recent published price is higher than the said previous price, short selling below the most recent published price is prohibited, while (ii) if the most recent published price is lower than the said previous price, short selling at or below the most recent published price is prohibited.

36 4 Exempted Transactions

Because of the nature of the following transactions, the duty to clarify and confirm short selling among the above regulations on short selling do not apply to the following (FIEAEO, Article 26-3(5); Securities Transaction Ordinance, Article 11(1) and Article 9-3(1)(i) through (xvii)):

(i) Securities futures transactions;

(ii) When-issued transactions;

(iii) Bond trades in instruments such as public bonds and straight bonds, excluding bonds with share options and exchangeable bonds, as well as JDRs (Japan Depositary Receipts) which are securities of custody of foreign bonds which have the same characteristics as the foregoing;

(iv) Instances in which settlement is to be made by sale of securities purchased, after they are purchased and before they are settled;

(v) Sale of securities that have been loaned (excluding those borrowed) in which it is clear that the securities will be returned by the time of settlement;

(vi) Off-auction market trading;

(vii) Sales within the quantity of share certificates that will be acquired through exercise of a right to receive an allocation of shares (a right as set forth in Article 202(1)(i) of the Companies Act) or share options or other cause (*i.e.*, a bridge sale);

(viii) Transactions of making a request to exchange an exchange traded fund (ETF) with the shares of stock in the trust assets thereof, and selling shares of stock of the same issues, within a limit of the same quantity of shares of stock to be acquired as a result of the said request;

(ix) Having applied for acquiring an ETF by exchange request with shares, and selling an ETF of the same issue within a limit of the same quantity of the ETF to be acquired as a result of the said request; and

(x) Selling for the purpose of market making of an ETF or investment securities.

In addition to the transactions mentioned above, the price restrictions also do not apply to the following (FIEAEO, Article 26-4(4); Securities Transaction Ordinance, Article 15(1) and the Items of Article 9-3(1) (excluding item (xviii))):

(i) Margin transactions on the part of individual investors, etc. (meaning margin transactions that are less than 50 trading units per sale, by a person other than a qualified institutional investor).

It is important to be aware, however, that the pricing restrictions would still apply to a situation where, in order to avoid the pricing restrictions, an order is intentionally divided into trading units of not more than 50 and multiple orders of not more than 50 units are made.

(ii) A transaction for the purpose of prior hedging of a VWAP guarantee transaction or a VWAP target transaction based on actual customer demand (meaning a transaction in which an Association Member conducts short selling in securities for its own account on a financial instruments exchange market, for the purpose of hedging where the Association Member has promised to purchase securities of the same issue owned by a customer at the value weighted average price (VWAP) on the financial instruments exchange market).

(iii) Arbitrage or risk hedging transactions between securities futures transactions, securities index futures transactions, or securities options transactions and the shares involved, and other arbitrage transactions, etc.

It is necessary to check the respective types of transactions which are excluded from the duty to clarify and confirm short selling and from the price restriction, by referring to the applicable clauses of the FIEAEO and the Securities Transaction Ordinance.

The self-regulation of the JSDA prohibits an officer or employee of an Association Member from accepting an entrustment from a customer to sell securities without confirming whether the sale is a short sale, and also prohibit making a short sale, etc. at a price that is below the most recently published price in connection with short selling entrusted from a customer (Employees Rules, Article 7(xxi) through (xxiii)).

Moreover, short selling of bonds and bond lending transactions are subject to the following rules in order to secure smooth transactions in bonds and sound management of Association Members (Rules Concerning Handling of Short Selling, and Borrowing and Lending Transactions of Bonds, Article 4 and Article 5):

a. In the event of short selling without purchase before a delivery date, bonds, etc. borrowed in a bond lending transaction shall be used for delivery; and

b. Prior to entering into a bond lending transaction, the borrower and lender shall conclude a

specific contract concerning particulars such as the security deposit and the method of payment of the rental fee.

36 5 Limitations on Short Selling Conducted After the Public Announcement of Capital Increase by Public Offering

In cases where an Association Member, during the period from the public announcement of the public offering or secondary distribution of securities until the day on which the issue price or the distribution price of the said securities has been decided (from the day immediately following the earliest day on which the disclosure documents pertaining to the public offering or secondary distribution have been offered for public inspection until the earliest day on which the disclosure documents pertaining to the price decision have been offered for public inspection), conducts short selling at a financial instruments exchange market (including transactions executed on the PTS) or the entrustment or an application for brokerage thereof of the same securities, the Association Member must not settle the borrowing of securities related to the short selling by the securities acquired in response to the public offering or secondary distribution (FIEAEO, Article 26-6).

This prohibits the settlement of the borrowing position related to the short selling by the new shares, etc. acquired in response to the capital increase by public offering when a short selling has been made during the period from the public announcement of the said capital increase until the determination of the issue price of the new shares, etc.

Moreover, in cases where an Association Member is engaged in dealing in public offering or secondary distribution of securities listed on a financial instruments exchange or over-the-counter traded securities (limited to the cases where the public offering or secondary distribution is to be conducted prior to the determination of the issue price or distribution price of the securities), and has the customers acquire such securities, if the Association Member is found not to have appropriately notified the following matters to the customers in writing or by electromagnetic method in advance, such Association Member may be subject to a correction order: (i) that, a person who has conducted short selling prescribed in Article 26-6 of the FIEAEO or the entrustment or an application for the brokerage thereof cannot settle the borrowing of securities pertaining to the short selling by the securities acquired in response to the public offering or secondary distribution; and (ii) in cases where a customer responds to the relevant public offering or secondary distribution to settle the borrowing of securities pertaining to the short selling it conducted, the Association Member may not have it acquire the securities by dealing in the public offering or secondary distribution (FIBCOO, Article 123(1)(xxvi)).

The Underwriting Rules also contains provisions corresponding to the abovementioned FIBCOO. Specifically, in cases where a lead manager of underwriting Regular Members conducts the underwriting of public offering or secondary distribution of share certificates, etc. listed on a financial instruments exchange, the lead manager of the underwriting Regular Members shall request the issuer of such share certificates, etc. to state the matters set forth in Article 123(1)(xxvi)(a) and (b) of the FIBCOO in the prospectus pertaining to the public offering or secondary distribution (Underwriting Rules, Article 23-2). Moreover, when a Regular Member has given the notice under Article 123(1)(xxvi) of the FIBCOO to

the customer, the Regular Member shall endeavor to explain the details of the notice to the customer (Underwriting Rules, Article 38).

Regular Member

37 Limitations on Purchases, Etc. During the Stabilization Period

In order to enhance the effectiveness of the regulations with regard to stabilizing transactions, a wholesale underwriting Association Member shall be prohibited to conduct any of the following (FIBCOO, Article 117(1)(xxii)):

(i) Purchase of shares for its own account during the stabilization period (except for purchases through a sale and purchase transactions of securities which comes into existence through the exercise of a right that it has acquired or granted in a securities related derivatives transaction, or a stabilization transaction or a purchase that is recognized to be necessary for the purpose of facilitating distribution of securities pursuant to regulations by a financial instruments exchange, or a purchase that is not based on an investment judgment of an individual issue);

(ii) Acts of entrusting, etc. purchases to other financial instruments business operators;

(iii) Acts of accepting the entrustment of purchase, etc. of share certificates based on the account of the company which is the issuer of the securities related to the stabilizing transaction;

(iv) Accepting an entrustment of purchase (excluding the acceptance of entrustment of brokerage for clearing of securities, as well as the purchase through a sale and purchase transaction of securities which comes into existence through the exercise of a right that it has acquired or granted through a securities related derivatives transaction, and the acceptance of entrustment of a stabilization transaction) based on the account of persons who are able to entrust stabilizing transactions such as officers of an issuer company; and

(v) Act of purchase based on a discretionary trading contract (excluding certain acts such as the purchase through the trade of securities which comes into existence through the exercise of a right acquired or granted through a securities-related derivatives transaction).

Association Members that have conducted or accepted the entrustment of a stabilizing transaction are further prohibited from, *inter alia*, accepting entrustment of sale or purchase in connection with the share certificates of the issue in question or accepting (a part of) entrustment, etc. of securities related derivatives transactions (limited to the acquisition of a call or the grant of a put) in connection with trades in the said securities, during the stabilization period, without indicating that stabilizing transactions have been performed (FIBCOO, Article 117(1)(xxiii)).

Furthermore, Association Members are prohibited from committing any of the following in connection with purchase, etc. of share certificates, etc. of the said issues during the stabilization period (TSE Rules Concerning Just and Equitable Principle of Trade, Article 7):

(i) Accepting the entrustment of purchase orders of securities related to stabilizing transactions from a person on the condition that such purchase shall be executed during the stabilization

period, knowing that such person placing the order is the issuer company;

(ii) Accepting entrustment of purchase orders of securities from a person on the condition that such purchase shall be executed during the stabilization period (except for stabilizing transactions), knowing that such person placing the order is a person with the power to entrust stabilizing transactions; and

(iii) Accepting entrustment of purchase and/or sales of share certificates, etc. without indicating that stabilizing is being conducted, knowing that stabilizing transactions are being conducted.

Association Members which conduct stabilizing transactions must submit to the Commissioner of the Financial Services Agency a report on stabilizing transactions which states the content of the said trades of securities from the day of the first stabilizing transaction through the final day of the stabilization period and other matters, by the day following the day on which the said trade was made, and must submit a copy thereof to the financial instruments exchange.

<Relevant Laws and Regulations> FIEAEO, Article 20 and Article 25; TSE Business Regulations, Article 67; and TSE Trading Participant Regulations, Article 42

<Relevant Sections of this Manual> Chapter V. 8 Managing Acceptance of Orders During Stabilization Period and Financing Period
Chapter VIII. 4.4 Stabilizing Transactions

Regular Member

38 Regulations Concerning OTC Securities Transactions

OTC transactions of OTC securities (including Phoenix Issues and shareholders community issues) is conducted outside of the fixed trading floor and in the form of negotiated transaction over-the-counter at Regular Members. Thus, the price of a particular issue of OTC securities may vary among Regular Members even though trading is carried out at the same point in time. Because of the relatively small trading volume and low liquidity of the issues concerned, OTC transactions has more risk compared to investment in securities traded on a financial instruments exchange market. In view of such special factors, the following regulations have been established to achieve fairness, facilitate OTC transactions and protect investors:

(i) Restrictions on accepting market orders (*nariyuki chūmon*) and margin transactions

Association Members must not conduct margin transactions (including transactions by an Association Member receiving credit) of OTC securities, and must not accept any market orders without limit for OTC Securiteis, except in transactions of unlisted PTS issues defined in Article 2(iv) of the Unlisted PTS Rules (OTC Securities Rules, Article 13 (1) and 2); Phoenix Rules, Article 30(1) and (2); and Shareholders Community Rules, Article 24(1) and (2)).

(ii) Restrictions on Regular Members' proprietary trading

When Regular Members sell or purchase OTC securities for their own account they must take care not to damage fair price formation or sound management (OTC Securities Rules, Article 8; Phoenix Rules, Article 25; and Shareholders Community Rules, Article 19).

Regular Members must not conduct OTC transactions that are excessive in light of their own financial capability and the marketability of the OTC securities concerned (OTC Securities Rules, Article 11; Phoenix Rules, Article 28; and Shareholders Community Rules, Article 22).

Regular Members must not engage in OTC transactions for the purpose of distributing OTC securities among Regular Members, in connection with OTC securities other than Phoenix Issues and shareholders community issues, with the exception of cases for which investment soliciting is permitted (OTC Securities Rules, Article 14).

(iii) Prohibition against trading on joint account

A Regular Member must not conduct OTC transactions in OTC securities for the joint account of itself and another Regular Member or a customer (OTC Securities Rules, Article 9; Phoenix Rules, Article 26; and Shareholders Community Rules, Article 20).

(iv) Restrictions on OTC transactions of unissued OTC securities

Association Members must not conduct OTC transactions in unissued OTC securities (OTC Securities Rules, Article 13(3); and Shareholders Community Rules, Article 24(3)).

The restrictions against unfair trading also apply to Phoenix Issues (the "Handled Securities" under Article 67-18(iv) of the FIEA), including the prohibitions against market manipulation (FIEA, Article 159(1) and (2)), as well as the prohibition against insider trading (FIEA, Article 166 and Article 167).

In addition, the OTC transactions in the shareholders community shares shall be made between the participants of the shareholders community operated by the Operating Member or between participant and Operating Member (Shareholders Community Rules, Article 17).

<Relevant Laws and Regulations> FIEA, Article 163(1)

<Relevant Sections of this Manual> Chapter III. 6 Commencing OTC Transactions
Chapter V. 11 Managing Acceptance of Orders for OTC Securities

Special Member

39 Preventing Confusion with Deposits, Etc.

A Special Member must use a method such as delivery of a document to explain matters such as the following in order to prevent the misunderstanding that shares or bonds, etc. which it handles are deposits, etc. which are covered by deposit insurance: (a) that these are not deposits, etc. (or in the event of an insurance company that these are not an insurance policy); (b) that they are not covered by deposit insurance (or in the event of an insurance company that there is no indemnity contract); (c) that they are excluded from compensation by the Investors Protection Fund (if securities are deposited by a

customer); (d) that return of the principal is not guaranteed; and (e) the contracting entities (Banking Act Enforcement Ordinance, Article 13-5(1) and (2); Insurance Business Act Enforcement Ordinance, Article 53-2(1) and (2); and Investment Solicitation Rules, Article 10(1) and (2)).

When a Special Member handles securities at its business office or office, the Special Member must display the matters set forth in (a) to (d) above at a place where the customers using such securities handling counter can see them on the spot; provided, however, that if a Special Member (excluding insurance companies) gives the above explanation prior to handling such securities, and if a document will be delivered or presented (including being displayed on the screen of a tablet terminal, etc.) before execution, the aforementioned matters may be presented at a place other than the said place (Investment Solicitation Rules, Article 10(3)).

<Relevant Sections of this Manual> Chapter IV. 10.6 Explanation Necessary for Preventing Confusion with Deposits, Etc.

Special Member

40 Regulations on Back Financing, Etc.

(i) Prohibition against provision of facilities, including loan extensions

When a Special Member, its officers or employees conduct or solicit the conduct of a transaction related to the registered financial institution business to a customer, it must not promise to provide any special benefits in connection with loans or guarantees to the customer (Investment Solicitation Rules, Article 21; and the Employees Rules, Article 7(xviii)).

(ii) Prohibition against automatic extension of credit

When a Special Member, an officer or employee thereof conduct transactions related to the financial instruments intermediary service and the outstanding amount in the transaction account opened for the entrusting financial instruments business operator is not sufficient, the Special Member, its officer or employee must not conduct the transactions related to the financial instruments intermediary service by making an automatic credit extension or by promising to do so (Investment Solicitation Rules, Article 22(3); Employees Rules, Article 7(xx); and FIBO Supervision Guidelines VIII-1-1(4)(ii)).

For example, if a customer's deposit balance is insufficient to pay the purchase price for shares or bonds, etc., it is not permissible to make an overdraft from the general account of the customer in an amount equivalent to the shortfall, and send this to the entrusting financial instruments business operator, without confirming with the customer. In this event, it is necessary to confirm with the customer each time an overdraft is to be made, and remit the funds after receiving instructions from the customer.

Special Member

41 Prohibition Against Bundled Sales and Abuse of a Superior Bargaining Position

A Special Member, its officers or employees must not commit an act of concluding or soliciting the conclusion a contract for financial instruments transaction, abusing its superior bargaining position in the transaction (FIBCOO, Article 150(iii)).

If a Special Member uses its influence through loans, thereby in practice compelling a borrower company to carry out transactions involving the acts of financial instruments intermediation with that Special Member, the conduct of transactions through the free and independent decision of the borrower will be obstructed, presenting the risk of the competitors being placed in a disadvantageous position, and transactions such as the following also present the risk of problems under the Antimonopoly Act (Fair Trade Commission, "Concerning Methods of Unfair Trade in Association With Liberalization of Business Categories and Expansion of Scope of Business of Financial Institutions"):

(i) If a financial institution suggests to a borrower company that it will stop lending or give adverse treatment in lending in the event that the borrower does not enter into a transaction with the financial institution, thereby in practice compelling the borrower to engage in transactions such as intermediating in sale and purchase of securities with the financial institution (compelling transactions, abuse of superior bargaining position); and

(ii) If a financial institution demands that a company engages in transactions such as intermediating in sale and purchase of securities with the financial institution, in exchange for a loan to the company, thereby in practice compelling the company to accept such demands (bundled sales, etc.).

<Relevant Laws and Regulations> Antimonopoly Act (Act on Prohibition of Private Monopolization and Maintenance of Fair Trade), Article 19; and the Methods of Preventing Unfair Transactions (Public Notice No. 15 of 1982 by the Fair Trade Commission)

42 Management System of Conflicts of Interest

In order to ensure the effectiveness of preventing adverse effects due to conflicts of interest, Association Members are obligated to build conflicts of interest management system so interests of customer are not unjustly impaired in connection with transactions by Association Members themselves or their group companies.

In particular, type 1 financial instruments business operators engaged in securities related business and registered financial institutions (hereinafter referred to as "Specified Financial Instruments Business Operator, etc.") are required to appropriately manage information concerning financial instruments

related business and to establish a system to properly supervise the implementation status of such financial instruments related business and to take any other measures that are necessary, so that, as a result of any transactions conducted by Specified Financial Instruments Business Operator, etc., or its parent financial institution, etc. or subsidiary financial institution, etc.,(Note 1) the interests of a customer pertaining to such financial instruments related business(Note 2) conducted by the said Specified Financial Instruments Business Operator, etc. or its subsidiary financial institution, etc. would not be unjustly impaired (FIEA, Article 36(2)).

The measures to be taken by Specified Financial Instruments Business Operator, etc. are: (i) establishment of a system for identifying a subject transaction in an appropriate manner; (ii) establishing of a system for ensuring an appropriate manner the protection of customers by certain means(Note 3), (iii) formulation of policies for implementing the measures listed in (i) and (ii) above and publication of an overview thereof by an appropriate means and (iv) storage the records pertaining to identification of subject transactions performed under the system under (i) and the records pertaining to the measures for ensuring in an appropriate manner the protection of customers performed under the system under (ii) (preserve for five years after the preparation thereof) (FIBCOO, Article 70-4).

(Notes) 1. Parent financial institution, etc. and subsidiary financial institution, etc. are companies that are closely related with the relevant Specified Financial Instruments Business Operator, etc. and engaged in finance industry business (FIEA, Article 36(4) and (5); FIEAEO, Article 15-28 and Article 15-16).

2. The "financial instruments related business" means (i) financial instruments business or registered financial institution business or (ii) business incidental to financial instruments business as set forth in Article 35(1) of the FIEA. (In respect of type 1 financial instruments business operators engaged in Securities-Related Business, this includes business equivalent to said business conducted by subsidiary financial institutions, etc.) (FIBCOO, Article 70-3).

3. (i) Means of separating the division conducting the subject transactions and the division conducting a transaction with such customers, (ii) means of changing the terms or method of the subject transactions or the transactions with such customer, (iii) means of discontinuing the subject transactions or the transaction with such customer, and (iv) means of disclosing in an appropriate fashion that as a result of the subject transaction, the interests of such customer might be unjustly impaired, are illustrated (FIBCOO, Article 70-4).

Special Member

43 Disclosing Conflicts of Interest

A Special Member that engages in the financial instruments intermediary act, or its officers and employees, are prohibited from conducting the following acts:

(i) Where the entrusting financial instruments business operator underwrites the securities issued by the issuer who owes a debt to the parent juridical person, etc. or subsidiary juridical person, etc. (such as a bank) of such entrusting financial instruments business operator, conducting an act of financial instruments intermediation in connection with such securities, knowing that the net proceeds from the securities issued are to be used for the repayment of the deb but without informing the customer to that effect (limited to the acts of financial instruments intermediation pertaining to the case where the securities are to be sold within the period between the day on which the entrusting financial instruments business operator which has underwritten the securities has become the underwriter and the day when six months have elapsed therefrom) (FIBCOO, Article 117(1) (xxxi));

(ii) Conducting an act of financial instruments intermediation in connection with securities, knowing that the net proceeds from such securities issued by a person who owes a debt to it will be used for the repayment of such debt but without informing the customer to that effect; or

(iii) Where the securities are being issued by an entity for which it is the main lender (limited to cases in which the fact of being a lender is stated in a securities registration statement or other disclosure document), conducting an act of financial instruments intermediation in connection with such securities without informing the customer to that effect (FIBCOO, Article 150(iv)).

Special Member

44 Management of Nonpublic Information on Loans, Etc.

(i) Prohibition against receipt or providing of nonpublic information on loans, etc.

An officer or an employee who is engaged in financial instruments intermediary service of a Special Member is prohibited from receiving nonpublic information on loans, etc. of a customer who is the issuer of securities, from an officer or employee who is engaged in the loan business, or providing information to an officer or employee who is engaged in the loan business, except in the following cases: (a) where prior consent from the customer has been obtained in writing or by electronic or magnetic records in connection with disclosing of nonpublic information on loans, etc.; (b) where it is found to be necessary to receive nonpublic information on loans, etc. from an officer or employee who is engaged in the loan business in order to comply with laws and regulations in connection with the registered

financial institution business; (c) in the event of providing to an officer or employee who supervises business of the organization conducting the financial instruments intermediary service; or (d) in the event of providing the opt-out opportunity and making this easily known to the issuer, etc. in advance (FIBCOO, Article 150(v)).

"Nonpublic information on loans, etc." refers to (a) information of which an officer or employee who is engaged in the loan business or financial institution agency service has obtained knowledge in the course of his or her duties, and which is nonpublic information in connection with the business of the customer or other special information, that would be found to have an impact on the investment decisions of customers in connection with the securities for which soliciting is being conducted by an officer or employee who is engaged in the financial instruments business or financial instruments intermediary service; or (b) ordering trend on sale and purchase of securities, etc. made by a customer or other special information of which an officer or employee who is engaged in the financial instruments business or financial instruments intermediary service has obtained knowledge in the course of his or her duties that would be found to have a significant impact on the loan business or financial institution agency service in connection with the issuer of the said securities (excluding such information concerning a foreign corporation (including a foreign organization without legal personality for which a representative person or administrator has been designated)) (FIBCOO, Article 1(4)(xiii)).

(ii) Prohibition against solicitation, etc. utilizing nonpublic information on loans, etc.

An officer or employee of a Special Member who supervises the operations of the organization implementing both the financial instruments intermediary service and the loan business must neither obtain nonpublic information on loan, etc. of an issuer of securities himself or herself or receive the same from an officer or employee who is engaged in the loan business or the financial institution agency business and solicit transactions, etc. in connection with the said securities, nor without obtaining prior consent in writing or by electronic or magnetic records from the customer provide this nonpublic information on loans, etc. to an officer or employee who is engaged in the financial instruments business or financial instruments intermediary service (FIBCOO, Article 123(1)(xix)). Moreover, a supervising officer or employee must neither provide any nonpublic information on loan, etc. that has been received from a person who is engaged in the loan business, financial institution agency service or deposit, etc. intermediary business operations to an officer or employee who is engaged in the financial instruments intermediary service, nor use in the loan business any nonpublic information on loan, etc. that has been received from a person who is engaged in the financial instruments intermediary service or provide the same to an officer or employee who is engaged in the loan business, financial institution agency service or deposit, etc. intermediary business operations (FIBO Supervision Guidelines VIII-1-1(8)).

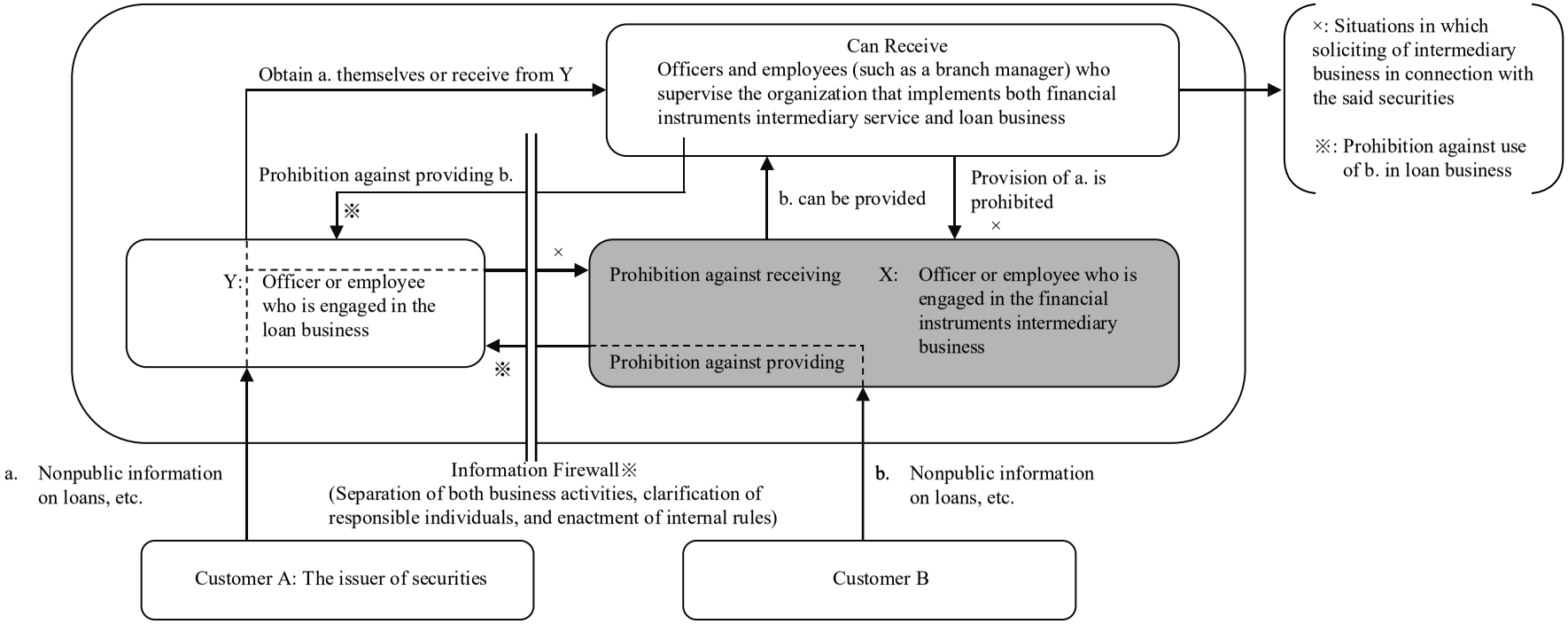
(iii) Thorough management of nonpublic information on loans, etc.

When engaging in financial instruments intermediary service, a Special Member must take care to cut off the flow of information on nonpublic information on loans, etc. of customers who are issuers of securities, between persons engaged in the financial instruments intermediary

service and persons engaged in the loan business. For this purpose, a registered financial institution must establish internal regulations concerning the management of nonpublic information on loans, etc. in order to prevent improper transactions based on the information, and must thoroughly notify its officers and employees as well as endeavor to ensure compliance therewith (FIBO Supervision Guideline VIII-2-1(2)(vi); and Investment Solicitation Rules, Article 23).

Firewalls and Management of Nonpublic Information on Loans, Etc. in the Financial Instruments Intermediary Service of Banks, Etc.

○ Organization that Implements Both Financial Instruments Intermediary Service and Loan Business



a: Information that has not been publicly disclosed in connection with business of the issuer of securities, or other special information, which has been obtained in the course of the loan business and which will have an impact on the investment decisions of a customer in the said securities.

×(Prohibition): FIBCOO, Article 123(1)(xix) and Article 150(v)

b: Ordering trend on sale and purchase of securities, etc. made by a customer or other special information, which has been obtained in the course of the financial instruments intermediary service and which is deemed to have a significant impact on the loan business in connection with the issuer of the relevant securities.

※(Prohibition): Financial Instruments Business Operators Supervision Guidelines VIII-1-1-(8), VIII-2-1(2)(vi)

Special Member

45 Prohibition Against Exchanging Customer Information with the Entrusting Financial Instruments Business Operator

A Special Member who engages in a financial instruments intermediary service must not, without obtaining prior consent in writing or by electronic or magnetic records from a customer, provide to an entrusting financial instruments business operator customer information (meaning information that has not been disclosed concerning the assets of the customer, or other special information) or use customer information that it has received from the entrusting financial instruments business operator (unless the entrusting financial instruments business operator has obtained consent in writing or by electronic or magnetic records from that customer) for the purpose of soliciting sale and purchase or other transactions, etc. of securities.

The customer information for which the exchange thereof is prohibited does not include (a) information for which providing to the entrusting financial instruments business operator can be recognized to be necessary in order for the Special Member to carry out a financial instruments intermediary act, and (b) information that has been obtained during the course of the financial instruments intermediary service in connection with the entrustment from the said entrusting financial instruments business operator, and for which providing to the entrusting financial instruments business operator can be recognized to be necessary in order for the Special Member to comply with laws and regulations (FIBCOO, Article 123(1)(xxiv)).

If the opt-out opportunity is provided and this is made easily known to the customer, the information subject to the opt-out is not included in the scope of customer information for which the exchange thereof is prohibited (FIBCOO, Article 123(1)(xxiv)(f)).

Special Member

46 Preventive Measures Against Adverse Effects in Parent Subsidiary Relationships Involving a Special Member

Certain preventive measures against adverse effects will apply in the event of financial instruments transactions or the like between a Special Member that engages in financial instruments intermediary service and a “parent juridical person, etc., or subsidiary juridical person, etc.” with which the Special Member has a certain capital or personal affiliation.

In specific, the following measures have been enacted.

[Application of the Arm’s Length Rule with Respect to Financial Instruments Intermediary Service]

A Special Member that engages in financial instruments intermediary service or its officers or employees are prohibited from conducting sale and purchase or other transactions of securities or derivatives transactions with a parent juridical person, etc. or subsidiary juridical person, etc. of the

Special Member under terms and conditions that are different from ordinary terms and conditions and detrimental to the fairness of transactions (FIEA, Article 44-3(2)(i)).

Moreover, a Special Member that engages in financial instruments intermediary service or its officers or employees are prohibited from conducting financial instruments intermediary service with a customer, while conducting sale and purchase or other transactions in assets on terms that are more advantageous to the customer than normal on condition that a contact for financial instruments transaction should be concluded with a parent juridical person, etc. or subsidiary juridical person, etc. of the Special Member (FIBCOO, Article 154(i)).

[Bundled Sales Using Extension of Credit]

A Special Member that engages in financial instruments intermediary service or its officers or employees are prohibited from conducting a financial instruments intermediary act with a customer, while extending credit to the customer on condition that a contact for financial instruments transaction should be concluded with a parent juridical person, etc. or subsidiary juridical person, etc. of the Special Member (FIEA, Article 44-3(2)(ii)).

[Prohibition Against Back Financing]

A Special Member or its officers or employees that engages in financial instruments intermediary service are prohibited from conducting financial instruments intermediary service for a customer in connection with securities while promising to lend the customer the purchase price for the securities or extend other credit within the period from the date that an entrusting financial instruments business operator that is a parent juridical person, etc. or a subsidiary juridical person, etc. has become the underwriter of the securities in question until the day on which six months have elapsed therefrom (FIBCOO, Article 154(iii)).

[Prohibition Against Exchanging Nonpublic Information]

An officer or employee who engages in financial instruments intermediary service of a Special Member is prohibited from providing nonpublic information concerning the issuer or a customer (meaning undisclosed material information on operations, business or property of the company that is the issuer, and which is recognized as having an influence on the investment decisions of the customer, or ordering trends on sale and purchase of securities, etc. made by a customer or other special information which an officer or employee of the Special Member or its parent juridical person, etc. or the subsidiary juridical person, etc. has obtained in the course of his or her duties) to a parent juridical person, etc. or a subsidiary juridical person, etc. (limited to ordering trends on sale and purchase, etc. of securities made by a customer or other special information) or receiving nonpublic information on loans, etc. on a customer that is the issuer of securities, from a parent juridical person, etc. or subsidiary juridical person, etc., unless prior consent has been obtained in writing or by electronic or magnetic records from the issuer or customer, or unless other exemption is available, or soliciting sale and purchase or other transactions of securities, etc., utilizing nonpublic information on a customer that has been obtained from a parent juridical person, etc. or subsidiary juridical person, etc. (FIBCOO, Article 154(iv) and (v)).

☐ Other Regulations Imposed on Association Members

Regular Member

47 Restrictions on Administrative Work for Tender Offers and Tender Offeror-Related Parties

In the event of a tender offer, administrative work such as the management of the share certificates, etc. and payment for the purchase, etc. must be performed by a type 1 financial instruments business operator or a bank, etc. to secure the safety of transactions (FIEA, Article 27-2(4)).

When a Regular Member assumes such administrative work in connection with a tender offer, or becomes an agent for a tender offeror (hereinafter referred to as a "tender offeror-related party"), the Regular Member shall not purchase share certificates, etc. issued by the targeted company in the tender offer other than by means of a tender offer, which is a separate purchase (*betto kaitsuke*), since actions of this type present the possibility of unfair transactions such as insider trading and market manipulation, etc. in connection with the tender offer. There are exceptions to this prohibition, however, in certain limited situations, such as purchases for the account of a customer other than the tender offeror, purchases that are recognized to be made for the purpose of facilitating distribution of securities within the regulations of a financial instruments exchange, and acquiring shares through exercising the right to receive an allocation of shares (right prescribed under Company Act, Article 202(1)(i)) or the share options (FIEA, Article 27-5; and FIEAEO Article 12).

(i) Prohibition of insider trading, etc.

A Regular Member must not commit any of the following acts after it decides to be a tender offeror-related party (TSE Rules Concerning Just and Equitable Principle of Trade, Article 6):

a. Carrying purchase, etc. of share certificates, etc. issued by the issuer of share certificates, etc. pertaining to the tender offer for its own account, for the purpose of carrying out sales, etc. of the same to the tender offeror, etc. as prescribed in Article 27-3(3) of the FIEA prior to the public notice of the tender offer.

Article 27-17 of the FIEA prescribes that a Regular Member which makes a separate purchase (*betto kaitsuke*) that is prohibited during the tender offer period as set forth above will have a duty to compensate against the accepting shareholders who have accepted the said tender offer, for the losses that the said shareholders incur thereby.

b. Divulge or steal to use special information concerning tender offers, obtained in the course of his/her duties.

Since tender offers are transactions that seek to purchase many securities during a short period of time, a tender offer usually sets an offering price higher than the market price. Information that a tender offer will be made consequently constitutes significant information which will have an impact on the decision to invest in securities, and for this reason tender offeror-related parties who are aware of this information are prohibited from improperly leaking the information to another party, or from improperly using the same.

(ii) Prohibition against aiding market manipulation

A Regular Member must not knowingly become a tender offeror-related party in connection with a tender offer for which the tender offeror intends to gain undue benefits from sales of the securities it owns at a favorable price through the tender offer.

In general, if a tender offer is carried out at a purchase price that is higher than the market price, the market price of the share certificates, etc. concerned can be expected to rise as a result of the influence of the offering price. A tender offeror that carries out a tender offer with the objective of selling its own share certificates, etc. at a market price influenced by the tender offer price is committing an act which constitutes market manipulation. Thus, a Regular Member would be deemed to be aiding market manipulation if it were to become an agent for the tender offeror knowing that the tender offeror had this intention, and consequently this type of action is prohibited.

(iii) Miscellaneous

According to the JSDA and the TSE, "purchasing or conducting broking for the purchase of share certificates upon direct or indirect entrustment by a person who has an intention to buy up the share certificates and sell them to persons related to the issuing company against their will on advantageous terms by making use of a position as a block holder of share certificates, or to conduct similar acts" falls under a violation of the good faith principle. (JSDA Articles of Association Enforcement Rules, Article 14(iii); and TSE Trading Participant Regulations, Article 42(iii)). Therefore, a Regular Member shall not become a tender offeror-related party where the tender offeror intends to implement a tender offer with the intention described above.

Tender offeror-related parties consist of insiders of the party who carry out tender offers, etc. (officers, shareholders, etc.), quasi-insiders (parties to a contract, etc. with the aforementioned persons) and information recipients. Once they acquire knowledge of the fact of implementation or cancellation of a tender offer, etc., they are prohibited from purchasing or selling shares before the publication of such fact, as is the case under insider trading regulations (FIEA, Article 167). In principle, however, periodic purchases of issues by a shareholding association, etc. (an employee shareholding association, an extended employee shareholding association, a director shareholding association, or a business partner shareholding association) of the company itself or pursuant to a cumulative investment contract are excluded from application even in the event of a tender offeror-related party (Securities Transaction Ordinance, Article 63).

<Relevant Laws and Regulations> FIEA, Article 27-4; FIEAEO, Article 6 through Article 10; and TSE Business Regulations, Article 66

<Relevant Sections of this Manual> Chapter VIII. 12.1 Tender Offer Regulations

48 Acts in Breach of the Fair and Equitable Principles of Transactions

The acts in breach of the good faith principles of business transactions are prohibited. Such acts are the following acts and other acts which damage the credibility of the JSDA, financial instruments exchanges or Association Members, or violate the duty of good faith owed to the JSDA, financial instruments exchanges, or Association Members (JSDA Articles of Association, Article 28; Articles of Association Enforcement Rules, Article 14; and TSE Trading Participant Regulations, Article 42):

(i) To intervene in or interfere with the business activities of the JSDA or financial instruments exchanges or other Association Members or other trading participants;

(ii) To conduct fraudulent acts, or suspicious or inappropriate acts, or significantly careless or delinquent administration concerning the sale and purchase or other transactions of securities; and

(iii) To purchase or conduct broking for the purchase of share certificates upon direct or indirect entrustment by a person who has an intention to buy up the share certificates and sell them to persons related to the issuing company against their will on advantageous terms by making use of a position as a block holder of share certificates, or to conduct similar acts.

49 Management of the Scope of Duties of Sales Representatives

An Association Member must have persons who conduct the acts of sale and purchase or other transaction of securities, etc. on behalf of the Association Member register in the registry of sales representatives with their names and other matters (FIEA, Article 64(1)), and must not have any person other than a registered sales representative conduct the acts of sale and purchase or other transaction, etc. of securities as set forth in the Items of FIEA, Article 64(1) (FIEA, Article 64(2)).

A sales representative shall be deemed to have the authority to conduct any extra-judicial acts concerning the sale and purchase or other transactions of securities on behalf of the Association Member to which he or she belongs (FIEA, Article 64-3).

Accordingly, acts not only of registered and but also of unregistered sales representatives shall be directly attributed to the Association Member to which the sales representative belongs, and such Association Member shall be responsible for directly performing the obligations incurred by the acts of these persons. Moreover, even if an Association Member limits the scope of authority of its sales representative, the Association Member must be responsible for unauthorized acts conducted by a sales representative so long as the customer concerned was not aware of such conduct being unauthorized.

The FIEA provides that persons who fall under any of the causes for disqualification specified in Article 29-4(1)(ii), (a) through (i) of the FIEA (Note) shall be refused registration as sales representatives and that sales representatives shall be subject to the rescission of their registration or other disposition if

they commit violations of law or for other statutory reasons, thereby ensuring the qualification of sales representatives (FIEA, Article 64-2, Article 64-4, Article 64-5 and Article 64-6).

Additionally, the JSDA prescribes the respective scope of the duties of sales representatives of Association Members (meaning acts as set forth in each Item of Article 64(1) of the FIEA that are conducted on behalf of an Association Member concerning business activities according to the classification of Association Member as set forth in each Item of Article 5 of the JSDA Articles of Association (Regular Member, Specified Business Member, or Special Member); the same shall apply hereinafter.) as follows, and an Association Member must not have a class-1 sales representative, a margin transaction sales representative, or a class-2 sales representative, etc. engage in sales representative duties outside of its scope of duties as prescribed in accordance with the respective classification of each sales representative (Sales Representative Rules, Article 5).

Association Members must carry out proper management so that there is no violation of these laws and regulations in connection with the duties of sales representatives on the part of its officers and employees.

(Note) Major causes for disqualification as sales representatives (for details, see FIEA, Article 29-4(1)(ii) (a) through (i))

- a person who cannot properly conduct business relating to financial instruments business due to a mental or physical disorder
- a person who has been subject to an order of commencement of bankruptcy proceedings, where his/her rights have not restored
- a person who has been sentenced to imprisonment without work or severer punishment, where five years have not elapsed since the execution of the sentence
- a person who has been an officer of a financial instruments business operator that has been subject to the rescission of registration (within 30 days prior to the date of rescission), where five years have not elapsed from the date of rescission
- an officer who has been subject to an order of dismissal or removal under the FIEA, where five years have not elapsed from the date of order
- a person who has been sentenced to a fine for violation of the FIEA, the Act on Prevention of Unjust Acts by Organized Crime Group Members, or any other laws or for commission of a crime under the Penal Code, etc., where five years have not elapsed since the execution of the fine

(i) Scope of business of sales representation and types of sales representatives

The types of sales representatives and scope of business of sales representation are as set forth below, pursuant to the JSDA Rules (Sales Representative Rules, Article 2, Article 4-2, Article 4-3; Detailed Rules to the Sales Representative Rules, Article 2; and Commodity Derivatives Rules, Article 5).

Types of Sales Representatives	Scope of Business of Sales Representation
Class-1 Sales Representative (*Isshu Gaimuin*)	May carry out the business of a sales representative, provided that a person who does not fall under Article 4-2 of the Sales Representative Rules (Note 1) shall not be able to engage in the business in connection with specified OTC derivatives transactions, etc. (Note 2) Furthermore, a person who does not fall under Article 4-3 of the Sales Representative Rules (Note 3) shall not be able to engage in the business in connection with commodity-related market derivatives transactions, etc. (Note 4)
Margin Transaction Sales Representative (*Shinyo Torihiki Gaimuin*)	May carry out the business of a sales representative in connection with a Class-2 Sales Representative (*Nishu Gaimuin*) as well as margin transactions, etc. (Note 5), provided that a person who falls under Article 4-2(2) of the Sales Representative Rules (see (2) of Note 1) may engage in the business involving specified OTC derivatives transactions, etc.(Note 2)
Class-2 Sales Representative (*Nishu Gaimuin*)	May carry out the business of a sales representative in connection with securities (Note 6) (excluding those set forth below): a. Share option certificates (meaning those as set forth in the FIEA, Article 2(1)(ix) and those involving the FIEA, Article 2(1)(xvii)); b. Investment equity subscription right certificates (meaning those as set forth in the FIEA, Article 2(1)(xi) and certificates similar to the investment equity subscription right certificates issued by foreign investment corporations as set forth in the Investment Trust Act, Article 220(1)); c. Covered warrants (meaning those as set forth in the FIEA, Article 2(1)(xix)); d. Certificates and instruments as set forth in the FIEA, Article 2(1)(xx) that are related to a. through c. e. Complex structured bonds that are similar to OTC derivatives transactions (meaning those as set forth in Investment Solicitation Rules, Article 2(vii)) f. Investment trusts that are similar to OTC derivatives transactions (meaning those as set forth in Investment Solicitation Rules, Article 2(viii)) g. Leveraged investment trusts (meaning those as set forth in Investment Solicitation Rules, Article 2(ix)) Accepting of orders with respect to the business in connection with margin transactions, etc. (Note 5) may be conducted as long as they are accompanied by a Class 1 Sales Representative or a Margin Transaction Sales Representative (including cases within a business office or office in which a Class 1 Sales Representative or a Margin Transaction Sales Representative confirms the sales activities of a Series 2 Sales Representative). Moreover, a person who falls under Article 4-2(1)(iii) or (2) of the Sales Representative Rules (see (1)(iii) and (2) of Note 1) may carry out business in connection with specified OTC derivatives transactions, etc.(Note 2) Business cannot be carried out in connection with securities related derivatives transactions, etc. (Note 7), or Sale and Purchase of Bonds with Options (Note 8)
Special Member's Class-1 Sales Representatives	Special Member may carry out the business of a sales representative in connection with registered financial institution business (Note 9) (excluding those in connection with registered financial institution financial instruments intermediary acts (Note 10) and the acts set forth in the FIEA, Article 33-2(1)), but a person who does not fall under Article 4-2 (Note 1) of the Sales Representative Rules may not carry out business in connection with specified OTC derivatives transactions, etc.(Note 2) Furthermore, a person who does not fall under Article 4-3 of the Sales Representative Rules(Note 3) shall not be able to engage in the business in connection with commodity-related market derivatives transactions, etc. (Note 4) Specified Business Member (limited to those who engage in business set forth in Article 5(ii)(a) of the JSDA Articles of Association) may carry out business of sales representatives in connection with specified OTC derivatives transaction, etc.(Note 2)

Types of Sales Representatives	Scope of Business of Sales Representation
Special Member's Class-2 Sales Representatives	May carry out the business of a sales representative in connection with the businesses set forth in the FIEA, Article 33(2)(i), (ii), (iii)(b) and (iv)(a) (excluding businesses in connection with investment equity subscription right certificates, complex structured bonds and investment trusts that are similar to OTC derivatives transactions, leveraged investment trusts, securities related derivatives transactions, etc., as well as Sale and Purchase of Bonds with Options) as well as the acts set forth in the FIEA, Article 33(2)(vi), and a person who falls under Article 4-2(1)(iii) or (2) of the Sales Representative Rules (see (1) (iii) and (2) of Note 1) may carry out business in connection with specified OTC derivatives transactions, etc.(Note 2)
Special Member's Class-4 Sales Representatives	May carry out the business of a sales representative in connection with the activities of the specified financial instruments business as set forth in the FIEA, Article 33-8(2) (excluding business in connection with investment equity subscription right certificates, complex structured trusts that are similar to OTC derivatives transactions, and leveraged investment trusts), but a person who does not fall under Article 4-2 (Note 1) of the Sales Representative Rules may not carry out business in connection with specified OTC derivatives transactions, etc.(Note 2)
Special Commodity Futures Sales Representatives	A person, among the Sales Representatives, who can carry out business in connection with commodity-related market derivatives transactions, etc.(Note 4)
Special Commodity Futures Sales Representatives (limited to dealing)	A person, among the Sales Representatives, who can carry out business in connection with commodity-related market derivatives transactions on the Association Member's own account (so-called self-dealing transactions).

(Note 1) [Sales Representative Rules, Article 4-2] (Overview)

(1) An Association Member must not allow any person to carry out the business of a sales representative in connection with specified OTC derivatives transactions, etc., unless that person satisfies one of the requirements set forth in (i) through (iii) below, and is a sales representative who is registered in accordance with the provisions of Article 3 of the Sales Representative Rules:

(i) A person who has passed a class-1 sales representative examination, or a Special Member's class-1 sales representative examination, or a Special Member's class-4 sales representatives examination in accordance with the Examination Rules that were implemented on or after April 1, 2009;

(ii) A person who has passed a class-1 sales representative examination or a Special Member's class-1 sales representative examination in accordance with the Examination Rules, that were implemented on or before March 31, 2009, and who has received internal training that was implemented on or after April 1, 2009, for the purpose of engaging in specified OTC derivatives transactions, etc. which training is conducted in accordance with a method designated by the JSDA and which the JSDA accepts as being valid corresponding to the sales representative qualification (hereinafter referred to as the "Paragraph 1 internal training"), and for whom the Association Member that implemented the Paragraph 1 internal training has reported the results thereof to the JSDA; or

(iii) A person who is engaged in the specified financial instruments business as prescribed in Article 33-8(2) (limited to the business activities set forth in (ii) of the said Paragraph) and who is a person who has passed a class-2 sales representatives examination, a Special Member's class-2 sales representatives examination or a Special Member's class-4 sales representative examination in accordance with the Examination Rules that was implemented on or before March 31, 2009, or who has completed the new sales representative training curriculum of the JSDA and has received the Paragraph 1 internal training and for whom the Association Member that implemented the Paragraph 1 internal training has reported the results thereof to the JSDA.

(2) Notwithstanding the provisions of (1), an Association Member may have a registered sales representative who satisfies the requirements of (i) through (iii) below carry out the business of a sales representative in connection with specified OTC derivatives transactions, etc. Moreover, in the event that transfers of officers or employees are made on an ongoing basis between an Association Member and another Association Member, and if the results of receiving the internal training as set forth in Article 7-2 of the "Sales Representatives Rules" prior to amendment of April 1, 2009 which was implemented on or before March 31, 2009 (hereinafter referred to as the "Paragraph 2 internal training") are shared, and the JSDA

finds it to be appropriate an Association Member may report as itself having implemented Paragraph 2 internal training that the said another Association Member has conducted in (ii) below:

(i) A person who satisfies the requirements set forth in each Item of Article 4 of the Sales Representative Rules as a result of an examination, etc. implemented on or before March 31, 2009;

(ii) A person who has received Paragraph 2 internal training and for whom the results thereof have been reported to the JSDA; and

(iii) A person who belongs to the Association Member who made the report of (2)(ii).

(Note 2) "Specified OTC derivatives transactions, etc." shall mean, among OTC derivatives transactions, etc., those categorized as specified OTC derivatives transactions (meaning OTC derivatives transactions defined in Article 2(22) of the FIEA (excluding those that fall under Article 1-8-6(1)(ii) of the FIEAEO), which do not fall under any of the following), or the intermediary, brokerage or agent service therefor:

(a) Transactions involving the rights set forth in each Item of Article 2(2) of the FIEA that are deemed to be securities under Article 2(2) of the FIEA;

(b) Securities-related derivatives transactions, etc. (meaning securities-related derivatives transactions defined in 28(8)(vi) of the FIEA (excluding those involving the rights set forth in each Item of Article 2(2) of the FIEA that are deemed to be securities under Article 2(2) of the FIEA));

(c) OTC financial futures transactions, etc.;

(d) Transactions defined in Article 2(22)(iv) of the FIEA (limited to those pertaining to the financial indicators set forth in Article 2(25)(i) or (iv) of the FIEA (limited to those set forth in Article 2(24)(iii))); and

(e) OTC derivatives transactions related to cryptoassets, etc. (meaning the cryptoassets, etc. defined in Article 1(4)(xx) of the FIBCOO) or financial indices (limited to the prices and interest rates, etc. of cryptoassets, etc. and figures calculated based on them)

(Note 3) [Sales Representative Rules, Article 4-3; Commodity Derivatives Rules, Article 5] (Overview)
An Association Member must not allow any person to carry out the business of a sales representative in connection with commodity-related market derivatives transactions, etc., unless that person satisfies one of the requirements set forth in (i) and (ii) below, and is a sales representative who is registered in accordance with the provisions of Article 3 of the Sales Representative Rules:

(i) A person who has passed a class-1 sales representative examination or a Special Member's class-1 sales representative examination in accordance with the Examination Rules that were implemented on or after July 1, 2020;

(ii) A person who has passed a class-1 sales representative examination or a Special Member's class-1 sales representative examination in accordance with the Examination Rules that were implemented on or before June 30, 2020, and who has completed (a) internal training that was for the purpose of engaging in commodity-related market derivatives transactions, etc. conducted by the Association Member in accordance with a method designated by the JSDA, or (b) the training course for the renewal of sales representative qualifications that is to be conducted by the JSDA on and after July 1, 2020; or

(iii) A person qualified as a special commodity futures sales representative or special commodity futures sales representative (limited to dealing).

(Note 4) "Commodity-related market derivatives transactions, etc." shall mean the commodity-related market derivatives transactions set forth in Article 2(8)(i) of the FIEA and the brokerage, etc. of commodity-related market derivatives transactions set forth in Article 43-2-2 of the FIEA.

(Note 5) Margin transaction, etc. refers to margin transaction and issued transactions (Sales Representatives Rules Article 2(iii)).

(Note 6) Securities mean securities provided for in Article 2(1) of the FIEA (including rights (excluding the rights provided for in each Item of the said Paragraph) deemed as securities pursuant to the provisions of Article 2(2)) (JSDA Articles of Association, Article 3(i)).

(Note 7) "Securities related derivatives transactions, etc." shall mean securities related derivatives transactions, etc. (excluding those involving the rights set forth in each Item of Article 2(2) of the FIEA that are deemed to be securities under Article 2(2) of the FIEA) as set forth in Article 33(3) of the FIEA (JSDA Articles of Association, Article 3(iv)).

(Note 8) "Sale and Purchase of Bonds with Options" shall mean those set forth in Article 2(i) of the Bonds with Options Rules.

(Note 9) "Registered financial institution business" shall mean, among the acts set forth in Article 33-2 of the FIEA, those set forth in the same Article, Item (i) (excluding those involving the rights set forth in each Item of Article 2(2) of the FIEA that are deemed to be securities under Article 2(2) of the FIEA), Item (ii) (excluding those involving the rights set forth in each Item of Article 2(2) of the FIEA that are deemed to be securities under Article 2(2) of the FIEA), Item (iii) (limited to those in connection with specified OTC derivatives transactions, etc.), or the securities, etc., management business (JSDA Articles of Association, Article 5(iii)).

(Note 10) "Registered financial institution financial instruments intermediary acts" shall mean the acts as set forth in

Article 33(2)(iii)(c) and (2)(iv)(b) of the FIEA (excluding those involving the rights set forth in each Item of Article 2(2) of the FIEA that are deemed to be securities under Article 2(2) of the FIEA) (Sales Representative Rules, Article 2(v)).

(ii) Having sales representatives take a training course for renewal of their qualification, etc.

The following states only the basic matters:

a. Training course for renewal of the sales representative qualification

An Association Member must have its registered sales representatives take the training course for renewal of the sales representative qualification (training courses for qualification renewal) every five years from its sales representative registration date during the period of one year from the first day of the month stated on the sales representative registration date (Sales Representative Rules, Article 18(1)). When an Association Member newly registers a person who was not registered as a sales representative, it must have such person participate in and complete the training courses for qualification renewal within 180 days from the sales representative registration date (required period to take the review course) (Sales Representative Rules, Article 18(2)). Persons such as those who have passed a certain level of the qualification examination as a sales representative within two years prior to the first day of the required period to take the training course or within the required period to take the training course (including those qualified as special commodity futures sales representatives and special commodity futures sales representatives (limited to dealing)) are not required to take the training course for qualification renewal (Detailed Rules for Sales Representative Rules, Article 9).

b. Suspension of the effectiveness of the sales representative qualification

If a person who is registered as a sales representative or is newly registered as a sales representative does not complete the training course for qualification renewal within the required period to take the course, his or her qualification as a sales representative will be suspended from the day following the final date of the required period to take the training course, and the Association Member must not allow the said person to perform the business of a sales representative until such time as this suspension is lifted (Sales Representative Rules, Article 18(3) and (4)).

c. Lifting of suspension of the effectiveness of the sales representative qualification

If an Association Member has a person who has not completed the training course for qualification renewal within the required period of the training course, the Association Member must endeavor to have the said individual take the training course for qualification renewal, within 180 days from the day following the final date of the required period of the training course (the grace period) (Sales Representative Rules, Article 18(5)). If the said individual completes the training course for qualification renewal within the grace period, the suspension of the individual's qualification as a sales representative will be lifted from the date on which the training course is completed (Sales Representative Rules, Article 18(6)).

d. Revocation of the sales representative qualification

All sales representative qualifications of a sales representative will be revoked on the day following the date of expiration of the grace period if the sales representative does not

complete the training course for qualification renewal within the grace period (including those who cancelled their registration as sales representatives during the grace period) (Sales Representative Rules, Article 18(7)).

(iii) Participation in internal training course

In addition to the training course for qualification renewal, an Association Member must have persons who are registered as sales representatives take an internal training course once a year for the purpose of improving the quality of sales representatives (Sales Representative Rules, Article 19).

<Supplement> Penal Provisions and Administrative Actions

Supplement 1 Penal Provisions Under the FIEA

The principal penal provisions under the FIEA relevant to this Manual are as follows:

(i) Re: Compensation of Losses

	Illegal Acts	Penal Provisions
a.	● Prior proposal/agreement of compensation of losses and/or addition to profits. ● *A posteriori* proposal/agreement of compensation of losses and/or addition to profits. ● Providing compensation of losses and/or addition to profits (Article 39(1)).	● A person who commits an act at left shall be punished by imprisonment with work for not more than three years or a fine of not more than 3 million yen, or both (Article 198-3). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 300 million yen (Article 207(1)(iii)).
b.	● Act of requesting and gaining a promise of compensation of losses and/or addition to profits in advance. ● Act of requesting and gaining a promise of *a posteriori* compensation of losses and/or addition to profits in advance (Article 39(2)(i) and (ii)).	● Customer (individual) in violation shall be punished by imprisonment with work for not more than one year or a fine of not more than 1 million yen, or both (Article 200(xiv)). ● Customer (corporation) in violation shall be punished by a fine of not more than 100 million yen (Article 207(1)(v)).
c.	● Act of requesting and receiving compensation of losses and/or addition to profits (Article 39(2)(iii)).	● Customers in violation shall be punished in the same manner as stated in B. above (Article 200(xiv)) ● Property benefits which received by an offender or a third party who knows circumstances shall be confiscated or collected (Article 200-2).

(ii) Re: Insider Trading

	Illegal Acts	Penal Provisions
a.	● Trading of share certificates, etc. by corporate insiders before disclosure of material fact (Article 166(1)). ● Trading of share certificates, etc. before disclosure of material fact, by a person who received material fact from corporate insiders, or by a person who was another officer, etc. of the juridical person to which the person who received material fact in his/her business belongs (Article 166(3)).	● A person who commits an act at left shall be punished by imprisonment with work for not more than five years or a fine of not more than 5 million yen, or both (Article 197-2(xiii)). ● Properties obtained through an act at left shall be confiscated or collected (Article 198-2). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500 million yen (Article 207(1)(ii)).
b.	● Failure to submit a report or misrepresentation in a report to the Prime Minister, concerning trading by officers, etc. of the company shares, etc. (Article 163). ● Violation of regulations on short-selling by officers, etc. of company shares, etc. (Article 165).	● A person who commits an act at left shall be punished by imprisonment with work for not more than six months or a fine of not more than 500,000 yen, or both (Article 205(xix) and (xx)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500,000 yen (Article 207(1)(vi)).
c.	● A corporate insider providing information on a material fact to another person or recommending another person to conduct sale and purchase, etc. of specified securities, etc. of a listed company, etc., for the purpose of having the person gain profits or preventing the person from incurring loss by having him/her conduct the sale and purchase, etc., before the publication of the material fact (Article 167-2(1)	● A person who commits an act at left shall be punished by imprisonment with work for not more than five years or a fine of not more than 5 million yen, or both (limited to cases where the persons who received the information or was given a recommendation to conduct the sale and purchase, etc. as prescribed in Article 167-2(1) actually engaged in the sale and purchase, etc. of the specified securities, etc. involved in such violation before the publication of the material fact(Article 197-2(xiv)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500 million yen (Article 207(1)(ii)).

Regular Member

(iii) Re: Tender Offer

	Illegal Acts	Penal Provisions
a.	● Separate purchase (*betto kaitsuke*) by tender offeror, etc. during the tender offer period (Article 27-5)	● The tender offeror, etc. in violation shall be punished by imprisonment with work for not more than one year or a fine of not more than 1 million yen, or both (Article 200(iii)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 100 million yen (Article 207(1)(v)).
b.	● Trading of share certificates, etc. by a person concerned with tender offeror, etc. before the disclosure of launch or suspension of the tender offer (Article 167(1)).	● The person concerned with tender offeror, etc. shall be punished by imprisonment with work for not more than five years or a fine of not more than 5 million yen (or both) (Article 197-2(xiii)). ● Confiscation or collection of property obtained through an act at left (Article 198-2). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500 million yen (Article 207(1)(ii)).

	Illegal Acts	Penal Provisions
c.	● A person concerned with tender offeror, etc. providing information on a fact concerning a tender offer, etc. to another person or recommending another person to conduct purchase, etc. of share certificates, etc. (if the fact is about the launch of a tender offer, etc.) or sale, etc. of share certificates, etc. (if the fact is about the suspension of a tender offer, etc.), for the purpose of having the person gain profits or preventing the person from incurring loss by having him/her conduct the purchase, etc. or sale, etc. before the publication of the fact concerning the tender offer, etc. (Article 167-2(2)).	● A person who commits an act at left shall be punished by imprisonment with work for not more than five years or a fine of not more than 5 million yen, or both (limited to cases where the persons who received the information or was given a recommendation to conduct the purchase, etc. or sale, etc. as prescribed in Article 167-2(2) actually engaged in the purchase, etc. or sale, etc. of the share certificates, etc. involved in such violation before the publication of the fact concerning the tender offer, etc.(Article 197-2(xv)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500 million yen (Article 207(1)(ii)).

(iv) Re: Disclosure of Large Volume Holding (5% Rule)

	Illegal Acts	Penal Provisions
a.	● Failure to submit or misrepresentation in the Report of Possession of Large Volume to the Prime Minister (Article 27-23(1)). ● Failure to submit or misrepresentation in the Change Report to the Prime Minister (Article 27- 25(1)).	● Large volume holders in violation shall be punished by imprisonment with work for not more than five years or a fine of not more than 5 million yen, or both (Article 197-2(v), (vi)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500 million yen (Article 207(1)(ii)).

(v) Re: Unfair Activities

	Violation	Penal Provisions
a.	(General Unlawful Activities) ● Engaged in wrongful means, schemes or techniques. ● Obtaining money, etc. by false statement or misrepresentation. ● Using a false quotation for the purpose of inducing trading, etc. (Article 157).	● A person who commits an act at left [(Note 1)] shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 10 million yen, or both (Article 197(1)(v)). ● A person who for the purpose of obtaining property benefit fluctuated, pegged, fixed, or stabilized the market price, through an act as set forth at left [(Note 2)], and engages in a transaction at that price shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 30 million yen (Article 197(2)(i)). ● Confiscation or collection of property obtained through an act at left (Article 198-2). ● A juridical person to which an individual who commits an act at left[(Note 3)] belongs shall be punished by a fine of not more than 700 million yen (Article 207(1)(i)).
b.	(Spreading Rumors, Etc.) ● Spreading rumors, using fraudulent means, committing assault of intimidation for the purpose of price fluctuation (Article 158).	

Violation		Penal Provisions
c.	(Fictitious Trading, Wash Sales) ● Fictitious trading (Article 159(1)(i) through (iii)). ● Wash sales (Article 159(1)(iv) through (viii)). ● Entrustment or acceptance of entrustment of fictitious trading or wash sales (Article 159(1) (ix)).	● A person who commits an act at left(Note 1) shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 10 million yen, or both (Article 197(1)(v)). ● A person who for the purpose of obtaining property benefit fluctuated, pegged, fixed, or stabilized the market price, through an act as set forth at left(Note 2), and engages in a transaction at that price shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 30 million yen (Article 197(2)). ● Confiscation or collection of property obtained through an act at left (Article 198-2). ● A juridical person to which an individual who commits an act at left(Note 3) belongs shall be punished by a fine of not more than 700 million yen (Article 207(1)(i)). ● Liability for damages (Article 160).
d.	(Market Manipulation) ● Market manipulation. ● Spreading rumors of market manipulation. ● Misrepresentation in connection with trading, etc. (Article 159(2)).	
e.	(Stabilizing Transactions) ● Stabilizing transactions in violation of the Cabinet Order. ● Entrustment or acceptance of entrustment of stabilizing transactions in violation of the Cabinet Order (Article 159(3)).	
f.	● Public notice of, or preparation and distribution of documents of, a false quotation (Article 168). ● Indication of advantageous purchase, etc. in connection with solicitation of securities to many and unspecified persons (Article 170).	● A person who commits an act at left shall be punished by imprisonment with work for not more than one year or a fine of not more than 1 million yen, or both (Article 200(xx) and (xxi)). ● A juridical person to which an individual who commits an act at left shall be punished by a fine of not more than 100 million yen (Article 207(1)(v)).
g.	● Indication of a fixed amount of dividend, etc. in connection with a public offering and secondary distribution (Article 171)	● Officers or employees, etc. of an issuer or financial instruments business operator shall be punished by imprisonment with work for not more than one year or a fine of not more than 1 million yen, or both (Article 200(xxi)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 100 million yen (Article 207(1)(v)).
h.	● Engaged in wrongful means, schemes or techniques regarding the sale and purchase or other transactions of crypto-and other assets or derivative transactions, etc. ● False statements or misrepresentations of material matters regarding the sale and purchase or other transactions of crypto-and other assets, or crypto-and other asset-related derivatives transactions, etc.(Note 4) ● Using a false quotation for the purpose of inducing the sale and purchase or other transactions of crypto-and other assets or crypto-and other asset-related derivatives transactions, etc. (Article 185-22(1))	● A person who commits any of the acts to the left shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 1 million yen or both (Article 197(1)(vi)) ● A person who, for the purpose of obtaining a property benefit, conducted the actions set forth to the left and fluctuated the market prices of crypto-and other assets, etc. and engaged in the sale and purchase or other transactions of crypto-and other assets or crypto-and other asset-related derivatives transactions, etc. involving those crypto-and other assets, etc. at those fluctuated market prices shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 30 million yen (Article 197(2)(i))

(Note 1) Those related to commodity-related market transactions for derivatives only shall be punished by imprisonment with work for not more than five years or a fine of not more than 5 million yen, or both (Article 197-2(v))

(Note 2) Those related to commodity-related market transactions for derivatives only are excluded.

(Note 3) Those related to commodity-related market transactions for derivatives only shall be punished by a fine of not more than 500 million yen (Article 207(1)(ii)).

(Note 4) "Crypto-and other assets-related derivatives transaction, etc." refers to a derivatives transaction, etc. pertaining to crypto-and other assets or a financial indicator (limited to the price or interest rate, etc. of crypto-and other assets or a numerical value calculated based on any of them) (Article 185-22(1)(i)).

(vi) Miscellaneous

	Violations	Penal Provisions
a.	● Conducting a public offering or secondary distribution before the registration statement is filed, or general solicitation for securities acquired by qualified institutional investors or general solicitation for securities acquired by professional investors, etc. (Article 4(1) and (2)). ● Selling securities to other person through a public offering or secondary distribution before the registration becomes effective (Article 15(1)).	● A person who commits an act at left shall be punished by imprisonment with work for not more than five years or a fine of not more than 5 million yen, or both (Article 197-2(i) and (iii)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500 million yen (Article 207(1)(ii)). ● Liability for damages (Article 16).
b.	● Failure to deliver a prospectus to customers (Article 15(2) through (4)).	● A person who commits an act at left shall be punished by imprisonment with work for not more than one year or a fine of not more than 1 million yen, or both (Article 200(iii)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 100 million yen (Article 207(1)(v)). ● Liability for damages (Article 16).
c.	● Failure to post a sign at a location that is easily visible to the public at each business office or office (Article 36-2(1))	● A person who commits an act at left shall be punished by a fine of not more than 300,000 yen (Article 205-2-3(iii)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by fine of not more than 300,000 yen (Article 207(1)(vi)).
d.	● Advertisements or the like that do not state legally prescribed matters, or excessive advertising, etc. (Article 37).	● A person who commits an act at left shall be punished by imprisonment with work for not more than six months or a fine of not more than 500,000 yen, or both (Article 205(x), (xi), (xii) and (xiii)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500,000 yen (Article 207(1)(vi)).
e.	● Failure to deliver a document delivered prior to contract execution, failure to state legally prescribed matters, making of a false statement or failure to file a notification to the Prime Minister (Article 37-3).	
f.	● Failure to deliver the Document to be Delivered Upon Conclusion of Contract, failure to state legally prescribed matters or making of a false statement (Article 37-4).	
g.	● Soliciting by giving false information in connection with entering into or soliciting a contract for financial instruments transaction (Article 38(i)).	● A person who commits an act at left shall be punished by imprisonment with work for not more than one year or a penal fine of not more than 3 million yen (Article 198-6(ii)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a penal fine of not more than 200 million yen (Article 207(1)(iv)).
h.	● Violation of obligation to collect a margin deposit for margin transactions (Article 161-2(1)).	● A representative or officer of a financial instruments business operator, etc. shall be punished by a non-penal fine of not more than 300,000 yen (Article 208(i)).
i.	● Having a person who is unregistered as a sales representative to perform the business of a sales representative (Article 64(2)).	● The officer or employee of a financial instruments business operator, etc. shall be punished by imprisonment with work for not more than one year or by a fine of not more than 1 million yen, or both (Article 201(vii)). ● A financial instruments business operator, etc. shall be punished by fine of not more than 1 million yen (Article 207(1)(vi)).

	Violations	Penal Provisions
j.	● Excessive trading under discretionary trading (Article 161).	● A person who commits an act at left shall be punished by imprisonment with work for not more than six months or by a fine of not more than 500,000 yen, or both (Article 205(xviii)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500,000 yen (Article 207(1)(vi)).
k.	● Violation of duty to prepare, retain and report concerning books of account, etc., required by law in connection with the business (Article 46-2 and Article 188).	● A person who commits an act at left shall be punished by imprisonment with work for not more than one year or by a fine of not more than 3 million yen, or both (Article 198-6(iii) and (xviii)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 200 million yen (Article 207(1)(iv)).
l.	● Providing or publishing matters that have a false statement of a material matter in connection with specified securities information or amended specified securities information, issuer information, or amended issuer information that is to be provided or published on a market targeting professional investors, etc. (Article 27-31).	● A person who commits an act at left shall be punished by imprisonment with work for not more than 10 years or a fine of not more than 10 million yen, or both (Article 197(1)(iv)-2). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 700 million yen (Article 207(1)(i)).
m.	● To make or handle a specified solicitation for which specified securities information has not been provided or published in connection with the relevant specified solicitation, etc. (Article 197-2(x)-2). ● A person who does not provide or publish issuer information pursuant to the provisions of Article 27-32(1) or (2) or who violates Article 27-32 (iv) (limited to the portion concerning issuer information) (Article 197-2(x)-3). ● Violating the restrictions against sale and purchase, etc. of securities for professional investors (Article 40-4).	● A person who commits an act at left shall be punished by imprisonment with work for not more than five years or a fine of not more than 5 million yen, or both (Article 197-2(x)-2, (x)-3 and (x)-7)). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 500 million yen (Article 207(1)(ii)).
n.	● Failure to provide or publish amended information of specified securities information, in connection with a material matter. ● Failure to carry out the subsequent ongoing duty of public disclosure (FIEL Article 27-31(4) and (5)).	● A person who commits an act at left shall be punished by imprisonment with work for not more than one year or a fine of not more than 1 million yen, or both (Article 200(xii)-2). ● A juridical person to which an individual who commits an act at left belongs shall be punished by a fine of not more than 100 million yen (Article 207(1)(v)).

Supplement 2 Administrative Actions Under the FIEA

An Association Member or an officer or employee thereof that violates laws or regulations shall be subject to administrative action in addition to the penalties set forth above.

(i) Orders to improve business operation to Association Members

When the Prime Minister (Commissioner of the Financial Services Agency) finds it necessary and appropriate for the public interest or protection of investors, with regard to an Association Member's business operation or the status of its property (in the case of a Special Member, the business operation of registered financial institution), he/she may order the said Association Member

to change the methods of business or take other necessary measures for improving its business operation or (regarding Regular Member and Specified Business Member) the status of its property, within the limit necessary (FIEA, Article 51 and Article 51-2).

Even if no legal or regulatory violation has occurred, an order to improve business operation may be issued to an Association Member if necessary and appropriate to protect investors or the public interest.

(ii) Supervisory action against Association Members

The Prime Minister (Commissioner of the Financial Services Agency) may rescind the registration of an Association Member or suspend all or a part of its business by specifying a period not exceeding six months or rescind the authorization (regarding Regular Member and Specified Business Member) in an event such as if the Association Member has violated a law or regulation or an administrative action based on a law or regulation in connection with the financial instruments business (in the case of a Special Member, the registered financial institution business) or business activities that are related thereto, has obtained registration through improper means or has violated conditions attached to the authorization (in the case of a Regular Member and Special Member), or a wrongful act or extremely unjust act has been conducted with regard to the financial instruments business (in the case of a Special Member, the registered financial institution business) and the circumstances are especially serious (FIEA, Article 52(1), Article 52-2(1)).

(iii) Administrative action against an officer of an Association Member

The Prime Minister (Commissioner of the Financial Services Agency) may order an Association Member to dismiss an officer who has committed a legal or regulatory violation in connection with the financial instruments business (in the case of a Special Member, the registered financial institution business) or business activities that are related thereto (FIEA, Article 52(2) and Article 52-2(2)).

(iv) Administrative action against sales representatives

In the event that any registered sales representative is found to have violated a law or regulation, or conducted extremely inappropriate acts concerning business of sales representations, the Prime Minister (Commissioner of the Financial Services Agency) may rescind his/her registration, or order suspension of his/her business by specifying a period not exceeding two years (FIEA, Article 64-5(1)).

(v) Penalization by administrative monetary penalty

The Prime Minister (Commissioner of the FSA) shall in accordance with certain tribunal proceedings order any of the following persons, for example, to pay an administrative monetary penalty into the national treasury in order to have that person disgorge illicitly gained profits: (a) an issuer, etc. who has submitted a securities registration statement, an annual securities report, a semiannual securities report, or an extraordinary report, or other disclosure document which contains a false statement; a person who has (b) failed to submit offering disclosure documents or ongoing disclosure documents, (c) failed to make a public notice for commencing tender offer, etc., (d) made a false statement in or has not submitted, etc. a report of possession of large volume, etc., (e) manipulated the securities market through spreading rumors or deceptive schemes, or (f) conducted sale and purchase, etc. of securities for the purpose of misleading others about the state of

transactions; a person who has engaged in (g) a fictitious trade or wash sale, (h) an illegal stabilizing transaction, or (i) a series of transactions to manipulate the price of listed financial instruments on the financial instruments exchange market for the purpose of inducing transactions; or (j) a person who has engaged in insider trading for its account (FIEA, Article 172 through Article 185-21).

Supplement 3 Disciplinary Action, Etc. by the JSDA, Etc.

(i) Disciplinary action against Association Members (JSDA Articles of Association, Article 28 (applied *mutatis mutandis* to Specified Business Members under the JSDA Articles of Association, Article 30, and to Special Members under the JSDA Articles of Association, Article 33))

In the event that an Association Member violates any law or regulation, any action imposed by administrative authorities under law or regulation, the JSDA Articles of Association or other rules of the JSDA or any actions based thereon, or the good faith principles of business transactions, then the JSDA first shall provide the Association Member an opportunity to explain, and then may issue a reprimand, impose a penalty money of not more than 500 million yen, or suspend or restrict the membership rights of the Regular Member (membership rights of Specified Business Member and membership rights of Special Member) (for a period of not more than six months) or dismiss the said Association Member from membership, etc. by resolution of the JSDA Board of Governors, provided that if unjust gains have been created by the legal or regulatory violation or the like, this amount may be added to the penalty money. The imposition of the administrative fine and the suspension or restriction of the membership rights may be jointly imposed.

(ii) Admonition to Association Members (JSDA Articles of Association, Article 29 (applied *mutatis mutandis* to Specified Business Members under the JSDA Articles of Association, Article 30, and to Special Members under the JSDA Articles of Association, Article 33))

If the observance by an Association Member of laws and regulations, disciplinary actions taken by administrative government offices pursuant to laws and regulations, or the JSDA Articles of Association and other regulations or the good faith principles of business transactions, and the Association Member's business or property is deemed inappropriate in light of the JSDA's purposes, the JSDA may admonish the Association Member by presenting reasons therefor.

(iii) Treatment of perpetrators of inappropriate acts (Employees Rules, Article 12(1))

In cases where the JSDA finds, as a result of the examination of an incident resolution report submitted by an Association Member in relation to the incident or any other materials that the JSDA considers appropriate (hereinafter referred to as the "materials"), that the employee concerned has resigned or has been internally disciplined by the Association Member concerned in a manner that is equivalent to discharge or has been under employment by an Association Member whose registration under the FIEA has been rescinded and that his/her act is deemed to be impairing a great deal of public confidence in the financial instruments business, it shall make a decision to regard such person as the perpetrator of an inappropriate act and shall revoke his/ her qualifications as a sales

representative, as well as sales manager and internal administrator. If this person is recognized to have committed an act that severely undermines the reputation of the financial instruments business, the JSDA may treat this person as a class 1 perpetrator of an inappropriate act for whom a prohibition against hiring as an employee of an Association Member is imposed without limitation. Other persons will be treated as a class 2 perpetrator of an inappropriate act for whom a prohibition on employment is imposed having five years duration.

If the JSDA decides to treat an employee, etc. of an Association Member as a perpetrator of an inappropriate act, it publicizes the name of the Association Member to which the employee, etc. who committed the act of violation of laws and regulations subject to publication belongs (excluding cases provided separately), the outline of the act, the date of the decision of treatment as a perpetrator of an inappropriate act, and the details of the treatment as a perpetrator of an inappropriate act (Rules Concerning Procedures for Disciplinary Action on Sales Representative, Etc. of Association Members (hereinafter referred to as the "Disciplinary Action Procedure Rules"), Article 29).

(iv) Prohibition of engagement in the duty of sales representative (Sales Representative Rules, Article 6)

If, as the result of its examination of the incident resolution report submitted by an Association Member in relation to the incident or any materials, the JSDA deems that a sales representative (including those who used to be sales representatives) breached laws and regulations relating to the business of sales representative or incidental business, as well as committed other extremely inappropriate acts in relation to the business of sales representative, the JSDA shall make a decision to take action to prohibit the Association Member, to which the sales representative belongs at the time of committing the said act, from assigning the subject sales representative to engage in the duty of sales representative for a period not exceeding five years (this measure shall hereinafter be referred to as "prohibition of engagement in the duty of sales representative"). However, this shall not apply when the JSDA treats the subject sales representative as a perpetrator of inappropriate act mentioned in (iii) above or takes disciplinary action against the same as mentioned in (v) below (Sales Representative Rules, Article 6(1)).

Moreover, the JSDA shall set the period for prohibiting engagement in the duty of sales representative referred to above as five years in cases such as when a person who received the decision to prohibit engagement in the duty of sales representative for more than one month has another reason for receiving a decision to prohibit engagement in the duty of sales representative for more than one month, within five years after the date of the former decision (Sales Representative Rules, Article 6(2)).

(v) Disciplinary action against sales representative (Sales Representative Rules, Article 11)

In cases such as when a registered sales representative of Association Member violates laws or regulations concerning business of sales representative or incidental business, or is otherwise recognized that he/she has done any of other significantly improper act with respect to business of sales representative, the JSDA may, upon delegation from the Prime Minister (Commissioner of the Financial Services Agency), pursuant to the provisions of Article 64-5(1) of the FIEA revoke his/her registration or impose suspension from business of sales representative for a period not exceeding two years.

If the JSDA cancels the registration of or imposes suspension from duty on a sales representative (in the case of a suspension from duty, limited to the case subject to recommendation concerning a sales representative issued by the Securities and Exchange Surveillance Commission), it publicizes the name of the Association Member or financial instruments intermediary service provider to which the sales representative who committed the act of violation of laws and regulations subject to publication belongs (excluding cases provided separately), the outline of the act, the date of the administrative disciplinary action, and the details of the administrative disciplinary action (Disciplinary Action Procedure Rules, Article 29).

(vi) Disciplinary action by a financial instruments exchange (TSE Trading Participant Regulations, Article 34)

In cases such as when a trading participant violates a law or regulation, or any action imposed by administrative authorities under a law or regulation, or the Articles of Incorporation, Business Regulations, Brokerage Agreement Standards or other rules of a financial instruments exchange, or any actions based thereon, or acts contrary to the just and equitable principles of trade, the financial instruments exchange may impose a fine not exceeding 100 million yen, a warning, a suspension or limitation of trading, etc. of securities on the market, or a cancellation of membership, provided that if the participant is recognized to have caused a significant injury to the reputation of the financial instruments exchange as a result of the legal or regulatory violation, the securities exchange may set the maximum fine at 500 million yen.

<Supplement> Act on the Provision of Financial Services and the Development of the Accessible Environment Thereto

On November 22, 2021, the law for amendment to the Act on Sales, etc. of Financial Instruments came into effect, and creating a new business category, “financial service intermediary business.” This does not result in the abolition or integration of the existing categories such as financial instruments intermediary services; nor does it mean that persons who have already been registered as a financial instruments intermediary service provider would be forced to be registered as a financial service intermediary or would automatically become a financial service intermediary. Meanwhile, the financial service intermediary business is subject to the regulations outlined below.

The Act on Sales, etc. of Financial Instruments was renamed “Act on the Provision of Financial Services” by the abovementioned amendment, and then further renamed “Act on the Provision of Financial Services and the Development of the Accessible Environment Thereto” (hereinafter referred to as the “Financial Services Act”) as of April 1, 2024.

(i) Contents of Financial Service Intermediary Business

Article 11(1) of the Financial Services Act define financial service intermediary business as engaging in any of the following on a regular basis: (a) deposit, etc. intermediary business operations; (b)

insurance intermediary business operations; (c) securities, etc. intermediary business operations; (d) or loan intermediary business operations. Under the Financial Services Act, it is possible to act as an intermediary to provide services across business fields such as banking, securities, insurance, and money lending just by being registered as a financial service intermediary, without needing to be registered or conduct other procedures as required respectively under the relevant laws such as the Banking Act, the Insurance Business Act, the FIEA, and the Money Lending Business Act. In addition, those engaging in financial service intermediary business are not required to be affiliated to any particular financial institutions. On the other hand, financial products that financial services intermediaries are authorized to deal with are currently limited to those that do not require highly professional explanations for customers.

The outlines of the contents of the categories of business operations mentioned in (a) to (d) above are as follows (Financial Services Act, Article 11(2) to (5)).

Category of business operations	Contents
Deposit, etc. intermediary business operations	- Intermediation of the conclusion of a contract on the acceptance of deposit, etc., the lending of funds, the discounting of bills and notes, or the funds transfer transactions between a bank, etc. and a customer - Excluding contracts requiring highly professional explanations of the contracts for customers
Insurance intermediary business operations	- Intermediation of the conclusion of an insurance contract between an insurance company, etc. and a customer - Excluding insurance contracts requiring highly professional explanations of the insurance contracts for customers
Securities, etc. intermediary business operations	- Intermediation of the purchase and sale of securities conducted between a financial instruments business operator engaging in type-I financial instruments business or investment management business or a registered financial institution and a customer - Intermediation of the entrustment of the purchase and sale of securities, or market derivatives transactions or foreign market derivatives transactions on an exchange conducted between a financial instruments business operator engaging in type-I financial instruments business or investment management business or a registered financial institution and a customer - Dealing in public offering of securities or secondary distribution of securities, or, dealing in private placement of securities or dealing in exclusive offer to sell, etc. to professional investors that are conducted for a financial instruments business operator engaging in type-I financial instruments business or investment management business or a registered financial institution and a customer - Intermediation of the conclusion of an investment advisory contract or a discretionary investment contract conducted between a financial instruments business operator engaging in type-I financial instruments business or investment management business or a registered financial institution and a customer - Excluding transactions, contracts, etc. requiring highly professional explanations of the transactions, contracts, etc. for customers

Category of business operations	Contents
Loan intermediary business operations	- Intermediation of the conclusion of a contract on the lending of funds or the discounting of bills and notes between a money lender and a customer - Excluding contracts requiring highly professional explanations of the contracts for customers

(ii) Regulations on Conduct of Financial Service Intermediary Business

The following regulations are imposed on the conduct of financial service intermediary business.

(a) Posting of Signs, Etc.

A financial service intermediary must post a sign in the form specified by the Cabinet Office Order in a place that is accessible to the public at each of its business offices or other offices for financial service intermediary business operations or publicize the particulars specified by Cabinet Office Order by means specified by Cabinet Office Order (Financial Services Act, Article 20(1)).

(b) Prohibition on Name Lending

A financial service intermediary must not allow another person to engage in financial service intermediary business using the name of the financial service intermediary (Financial Services Act, Article 21).

(c) Duty of Sincerity of Financial Service Intermediary

A financial service intermediary as well as its officers and employees must be sincere and fair to customers in the performance of its business operations (Financial Services Act, Article 24).

(d) Provision of Information

A financial service intermediary, when engaging in financial service intermediary business operations, must clearly indicate certain matters to customers in advance, such as the trade name or name and address of the financial service intermediary, and the category of business operations registered on the registry of financial service intermediaries (Financial Services Act, Article 25(1)).

A financial service intermediary, upon request of a customer, must disclose certain matters, such as the amount of commission, reward or any other consideration that the financial service intermediary receives for financial service intermediary business operations (Financial Services Act, Article 25(2)).

(e) Measures Concerning Business Operations

A financial service intermediary must explain important matters related to its financial service intermediary business operations to customers, appropriately handle customer information acquired in connection with its financial service intermediary business operations, and take other measures to ensure the sound and appropriate management of its financial service intermediary business (Financial Services Act, Article 26).

(f) Prohibition on the Depositing of Money

A financial service intermediary must not, for any reason, receive a deposit of money or other property from a customer, or have a person closely related to that financial service intermediary

deposit money or other property of a customer in connection with the financial service intermediary business it conducts, except where there is little likelihood of this resulting in insufficient protection of customers (Financial Services Act, Article 27).

(g) Obligation to Conclude a Contract with a Designated Dispute Resolution Organization

A financial service intermediary must take measures to conclude a contract with a designated dispute resolution organization according to the category of business operations it performs (Financial Services Act, Article 28(1)). Once a financial service intermediary has taken those measures, it must disclose the name or trade name of the designated dispute resolution organization (Financial Services Act, Article 28(3)).

(h) Provisions on Protection of Users

The Financial Services Act provides for matters for the protection of users, such as prohibition of acceptance of users' property (e.g., in the name of the purchase price for service) (Financial Services Act, Article 27), obligation to deposit a security deposit with the deposit office (Financial Services Act, Article 22(1)), conclusion of a financial service intermediary liability insurance contract (Financial Services Act, Article 23(1)).

(i) Application *Mutatis Mutandis* of Provisions of Other Laws and Regulations

In addition to the above, the Banking Act, the Insurance Business Act, the FIEA, and the Money Lending Business Act apply *mutatis mutandis* to financial service intermediaries according to the category of business operations they perform, and the regulations on conduct provided in the respective laws apply *mutatis mutandis* to them accordingly (Financial Services Act, Articles 29 to 32).

For example, Article 66-14 of the FIEA, which is a provision regarding the prohibited actions of financial instruments business operators (except for item (i)(a) and (b) and item (iii)), applies *mutatis mutandis* to financial service intermediaries engaging in securities, etc. intermediary business operations.

Chapter VIII. Regulations, Etc. on Unfair Transactions

Financial instruments transactions must be conducted freely and fairly, and any "intentional" market price formation must not be conducted. Accordingly, from the perspective of ensuring fairness in financial instruments transactions and protecting investors, the FIEA and other related laws provide for regulations on unfair transactions in financial instruments transactions and prohibit unfair practices, targeting wide ranged ordinary people.

Sales Managers and Internal Administrators of Association Members are required to guide and supervise officers and employees so as to prevent them from engaging in prohibited acts.

1 Regulations on Unfair Transactions Violating the Purpose of the Financial Instruments and Exchange Act

The purpose of the FIEA is to (i) accurately disclose information and efficiently distribute resources in the primary market, (ii) promptly and accurately disclose information in the secondary market, (iii) form fair prices of securities traded in the market, (iv) protect investors and (v) protect the reliance of investors in the securities market, etc., and in order to prevent acts violating these purposes, the FIEA has regulations against unfair transactions.

Below we will discuss major regulations on unfair transactions for each regulation, but the outline of the regulations is as set forth below:

	Regulations on Unfair Transactions	Criminal Penalty	Administrative Monetary Penalty
1	Comprehensive provision (Article 157)	Up to 10 years imprisonment with work and/or up to 10 million yen penalty	×
2	Spreading rumors, fraudulent means, etc. (Article 158)	Same as above	○
3	Market manipulation by fictitious trading and wash trading (Article 159(1))	Same as above	○
4	Market manipulation by actual transactions (Article 159(2)(i))	Same as above	○
5	Market manipulation by spreading rumor (Article 159(2)(ii)), false indication ((iii))	Same as above	×
6	Insider trading (Article 166(1), (3), Article 167(1), (3))	Up to 5 years imprisonment with work and/or up to 5 million yen penalty	○
7	Public notice, etc. of false quotations (Article 168)	Up to 1 year imprisonment with work and/or up to 1 million yen penalty	×
8	Indication of advantageous purchase, etc. (Article 170)	Same as above	×
9	Indication of a fixed amount of dividend, etc. (Article 171)	Same as above	×

Among the regulations on unfair transactions above, the types most often applied to in practice are 2. Spreading rumors, deceptive schemes, etc. (FIEA, Article 158), 3. Market manipulation by fictitious trading and wash trading (FIEA, Article 159(1)), 4. Market manipulation by actual transactions (FIEA, Article 159(2)(i)) and 6. Insider trading (FIEA, Article 166(1) and (3), Article 167(1) and (3)).

Unfair transactions are subject to criminal penalty and in some cases administrative monetary penalty, but the court may issue an urgent injunction (FIEA, Article 192(1)) where the court may order for prohibition or suspension of an act in violation of the FIEA (including unfair transactions). Article 192(1) of the FIEA provides that "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 filing of a petition by the Prime Minister or by the Prime Minister and Minister of Finance." The authority to make this petition for urgent injunction to the court is delegated by the Prime Minister to the Commissioner of the Financial Services Agency and the Securities and Exchange Surveillance Commission. Although the types of acts in violation of the FIEA are different from unfair transactions discussed in this Chapter, urgent injunctions are being issued and utilized against the companies, etc. which were soliciting unlisted stocks, etc. in the course of trade without registration.

2 Regulations on Unfair Transactions (FIEA, Article 157)

Article 157 of the FIEA regulates unfair transactions relating to sale and purchase or other transactions of securities or derivatives transactions, etc., and divides such transactions into three types.

The securities which are subject to this provision are all securities under the FIEA, whether listed or unlisted. Furthermore, "sale and purchase or other transactions of securities" not only includes buying and selling on the secondary market but also includes the public offering and secondary distribution of securities on the primary market, and includes a wide variety of acts of transaction centered on acts of transaction set forth in each Item of Article 2(8) of the FIEA.

(i) Comprehensive provision (FIEA, Article 157(i))

No person shall conduct the acts to use wrongful means, schemes or techniques with regard to sale and purchase or other transactions of securities or derivative transactions, etc.

As further described in this Chapter, the FIEA prohibits various types of unfair transactions in order to achieve its purpose, but since there are many types of unfair transactions, it is impossible to list all types of unfair transactions envisioned exhaustively in advance. Accordingly, the FIEA established this comprehensive provision in addition to the regulations envisioning individual, specific types of unfair transactions below.

There was a case where this comprehensive provision was applied and a criminal penalty was imposed in the Supreme Court, in which "wrongful means" was construed to mean all measures considered wrongful under conventional wisdom limited to securities transactions (May 25, 1965).

(ii) Acquisition of property using false indication, etc. (FIEA, Article 157(ii))

No person shall conduct the acts to acquire money or other property, using a document or other indication which contains false indication on important matters, or lacks indication about important matters necessary for avoiding misunderstanding, with regard to sale and purchase or other transactions of securities or derivative transactions, etc.

(iii) Use of false quotations (FIEA, Article 157(iii))

No person shall conduct the acts to use false quotations in order to induce sale and purchase or other transactions of securities or derivative transactions, etc.

<Relevant Laws and Regulations> FIEA, Article 197 and Article 207

3 Prohibition Against Spreading Rumors and Using Fraudulent Means, Etc. (FIEA, Article 158)

No person may (a) spread rumors or (b) use fraudulent means or (c) commit assault or intimidation (i) for the purpose of carrying out a public offering, secondary distribution or sale and purchase or other transactions of securities or derivatives transactions, etc., or (ii) for the purpose of causing fluctuations of quotations on securities, etc. (securities, options, financial instruments or financial indicator pertaining to derivatives) (FIEA, Article 158). In short, acts under (a), (b) or (c) for the purpose of (i) and acts under (a), (b) or (c) for the purpose of (ii) are prohibited. The latter is a type of a provision to prohibit market manipulation although it is different from the means of market manipulation explained in "4. Market Manipulation" below.

The prohibition of (b) the use of fraudulent means for the purpose of (i) provides for detailed types of conduct compared to the comprehensive provision under Article 157(i) of the FIEA, and functions as a comprehensive provision in practice in lieu of the said Item under the said Article, applied to various types of unfair transactions including fictitious capital increase and unfair acts in a capital increase through a public offering, etc.

While the contents of the rumors do not always have to be false, a person does not violate this prohibition if that person was not aware that the rumor was not based on reasonable grounds. A fraudulent means refers to acts designed to cause another party to have a mistaken impression.

The cases to which Article 158 of the FIEA, is most often applied are as follows: (a) spreading of rumors and (b) use of fraudulent means, and there were no cases involving (c) commitment of assault or intimidation until a case concerning assault or intimidation for the purpose of causing fluctuations of quotations on securities (a case where the accused sold listed shares through margin transaction in advance and subsequently set fire on the stores of the issuer of the said listed shares for the purpose of causing the price of the said listed shares to fall) was accused by the Securities and Exchange Surveillance Commission in 2008.

Committing an act that falls under Article 158 of the FIEA for the purpose of financial gain, thereby causing prices to fluctuate, and trading in securities at the price achieved is subject to even more severe

penal sanction (FIEA, Article 197 and Article 207).

4 Market Manipulation

The FIEA prohibits market manipulation. Market manipulation is an act to artificially affect the price (market price) of securities which shall be fundamentally formed under normal supply- demand relationship and is prohibited because it hinders the fair price formation in the market.

Article 159 of the FIEA, provides (i) fictitious trading and wash trading, etc. (*id.,* Paragraph (1)) and (ii) stock price manipulation by actual transactions (*id.,* Paragraph (2)(i)) as major means of market manipulation.

4 1 Market Manipulation by Fictitious Trading and Wash Trading, Etc. (FIEA, Article 159(1))

No person shall commit the fictitious trading and wash trading (these may be referred to as "fictitious trading" (*kasō baibai*) or "wash trading" (*nareai baibai*)) which are not substantially trading for the purpose of misleading other persons into believing sale and purchase of the following transactions are thriving or other purpose of misleading other persons about state of following transactions:

(i) Sale and purchase of securities (limited to sale and purchase of securities listed in a financial instruments exchange or tradable (or handled) securities); and
(ii) Market derivatives transactions or OTC derivatives transactions (limited to those pertaining to financial instruments listed in a financial instruments exchange, tradable (or handled) securities (including financial indicators calculated based on prices or interest rates thereof), or financial indicators listed in a financial instruments exchange).

For example, fictitious trading of securities means trading not intended to transfer the ownership rights to the securities in question. Since "transfer of rights" means substantive change in the entity to which the rights are attributed, a transaction in which both parties are the same person falls within this category.

Wash trading of securities mean to conspire in advance with another person so that at the same time as one's own sale or purchase of securities, the other person will purchase or sell the securities at the same price. Regarding "same time" and "same price," a case precedent exists which holds that wash trading will be found if both orders are placed on the market and there is a possibility to match both parties' buy and sell orders.

Regular Member

The rules of the JSDA also prohibit Regular Members from using wrongful means such as fictitious sales or wash sales, etc. in connection with OTC transactions of OTC securities (including Phoenix Issues and shareholders community issues) (OTC Securities Rules, Article 11; Phoenix Rules, Article 27; and Shareholders Community Rules, Article 21).

4 2 Market Manipulation by Actual Transactions (FIEA, Article 159(2)(i))

No person shall commit the acts to conduct a series of sale and purchase of securities, etc. (meaning sale and purchase of securities, market derivatives transactions or OTC derivatives transactions) or make an offer, entrustment, etc. or accepting an entrustment, etc. therefor that would mislead other persons into believing that sale and purchase of securities, etc. are thriving or would cause fluctuations in prices of listed financial instruments, etc. (meaning financial instruments, financial indicators or options listed in financial instruments exchange market) in a financial instruments exchange market for the purpose of inducing sale and purchase of securities, etc.

In order for the type of market manipulation above to be established, in addition to "purpose of inducing," the condition of "a series of sale and purchase transactions that would cause fluctuations in the prices of the said securities" must also be fulfilled. According to the Supreme Court these requirements are held to mean that "the purpose of inducing" refers to a purpose of inducing another investor to enter into a securities transaction on a securities market with the misunderstanding that the market price is formed by a natural supply and demand, notwithstanding that the market price is made to fluctuate by human manipulation. Moreover, "a series of sale and purchase transactions that would cause fluctuations in the prices of the said securities" means transactions which can cause the market price to fluctuate.

A person who committed market manipulation, etc. shall be liable for the damages suffered by any person who conducted, or entrusted another person with, sale and purchase of the securities in a financial instruments exchange market, market derivatives transactions, sale and purchase of securities in an over-the-counter securities market or sale and purchase of tradable (or handled) securities (hereinafter referred to as the "sale and purchase of securities, etc. in a financial instruments exchange market, etc.") for the financial instruments, financial indicators or options whose prices, agreed figures or amounts of compensations were formed by the said violation, at the so-formed prices, agreed figures or amounts of compensations, from the sale and purchase of securities, etc. in a financial instruments exchange market, etc. or the entrustment thereof (FIEA, Article 160).

Stricter penal sanctions also apply to any person who, for the purpose of financial gain, commits an act covered under the prohibition against market manipulation (FIEA, Article 159), and thereby causes a price to fluctuate, and then makes sale and purchase of the securities, etc. at that price (FIEA, Article 197 and Article 207).

4 3 Other Types of Market Manipulation (FIEA, Article 159(2)(ii) and (iii))

No person shall commit any of the following acts for the purpose of inducing sale and purchase of securities, etc. (meaning sale and purchase of securities, market derivatives transactions or OTC derivatives transactions):

(i) To spread a rumor to the effect that prices of listed financial instruments, etc. in a financial instruments exchange market would fluctuate by his/her own or other party's market manipulation (market manipulation by rumor) (FIEA, Article 159(2)(ii)); and

(ii) To intentionally make a false indication or an indication that would mislead other parties with regard to important matters when making sale and purchase of securities, etc. (market manipulation by false indication) (FIEA, Article 159(2)(iii)).

<Reference: Concerning Terms in "Sale and Purchase of Securities" in Article 159 of the FIEA and Other Provisions>

Sale and Purchase of Securities (FIEA, Article 2(8)(i))
This is stipulated in Article 2(8)(i) of the FIEA. Nevertheless, this is further restricted by Article 159 of the FIEA to "limited to sale and purchase of securities listed in a financial instruments exchange, OTC traded securities, or tradable (or handled) securities" (FIEA, Article 159(1)).

OTC Traded Securities (FIEA, Article 2(8)(x)(c))
Securities that have been registered pursuant to Article 67-11(1) of the FIEA (at the present time no such securities exist).

Tradable (or Handled) Securities (FIEA, Article 67-18(iv))
Means share certificates, bonds with share options and other securities as prescribed by Cabinet Office Ordinance for which the solicitation of sale and purchase and other transactions is not prohibited in the regulations of the authorized association (excluding securities that are listed on a financial instruments exchange and OTC traded securities). Phoenix Issues fall under these instruments (Phoenix Rules, Article 2).

Sale and Purchase of Securities, Etc. (FIEA, Article 159(2))
Means "sale and purchase of securities, market derivatives transactions and OTC derivatives transactions."

Listed Financial Instruments, Etc. (FIEA, Article 159(2)(i))
Means "financial instruments, financial indicators, or options listed in a financial instruments exchange market." Financial instruments here mean securities, etc. (FIEA, Article 2(24)), while financial indicators mean price, etc. of financial instruments (FIEA, Article 2(25)).

<Relevant Laws and Regulations> FIEA, Article 160, Article 197 and Article 207

Regular Member

4 4 Stabilizing Transactions (FIEA, Article 159(3))

(1) Requirements for a Stabilizing Transaction

Because stabilizing transactions (a series of sale and purchase of securities, etc. or make offer, entrustment, etc. or accepting an entrustment, etc. therefor for the purpose of pegging, fixing or stabilizing prices of listed financial instruments, etc. in a financial instruments exchange market) may improperly affect the price formation of the market, they are prohibited in principle. However, as it is necessary to facilitate the public offering or secondary distribution, etc. of securities, the FIEA provides that stabilization transactions are permitted if they meet the requirements set forth in Cabinet Order (FIEA, Article 159(3)).

Regular Members that can engage in stabilizing transactions for their own account are as follows (FIEAEO, Article 20(2)):

(i) If a securities registration statement has been filed, the Regular Member listed in the securities registration statement as the financial instruments business operator that entered into the wholesale underwriting agreement; and

(ii) If a securities registration statement is not required, the Regular Member for which the issuer has given notice in advance to the financial instruments exchange listing the securities to be issued by the issuer, as being the financial instruments business operator with which the issuer will enter into a wholesale underwriting agreement.

The parties that can make entrustment, etc. of stabilizing transactions are as follows (FIEAEO, Article 20(3)):

(i) Officers of the issuer;

(ii) Owners of the securities in connection with a secondary distribution or exclusive offer to sell, etc. to professional investors (*i.e.*, private secondary distribution to professional investors) (or if the said person has obtained the securities from the owner of the said securities according to a contract that states that the securities will be offered in a secondary distribution or exclusive offer to sell, etc. to professional investors, the counterparty to the said contract);

(iii) Officers of related companies of the issuer company;

Related companies are, specifically, parent companies, subsidiaries, affiliated companies and where the issuing company is an affiliated company of other companies, etc., such other companies, etc. The definition of "related company" as stated in (iii) and (iv), is as prescribed in Article 8 of the "Regulation on Terminology, Forms, and Preparation Methods of Financial Statements"

(iv) Related companies of the issuing company (excluding subsidiaries of the issuing company); and

(v) A person of whom the issuer has given advance notice to the relevant financial instruments exchange.

In addition to the above, rigorous conditions must be fulfilled, including statements in a prospectus

(FIEAEO, Article 21), to prevent abuses.

(2) General Matters Requiring Care Concerning Regular Members

Where a Regular Member receives an order for a stabilizing transaction, it must confirm that the order fulfills the stipulated conditions. Moreover, in some cases it may be necessary to inquire with the trading supervision division, etc. of the head office.

The Internal Administrator and the Sales Manager must cooperate with the trading supervision division, etc. of the head office to verify issues such as that, in connection with stabilizing transactions, a series of procedures including accepting consignment, execution on the market, reporting or notification with the Commissioner of the Financial Services Agency, and the checking system have been put in place. It is also necessary to monitor whether the inquiry and response policy has been put in place in relation to stabilizing transactions, etc., finance issues (*finance meigara*), and distribution of the list of entrusting person of stabilizing transactions.

<Relevant Laws and Regulations>	FIEAEO, Article 22 through Article 26; and Securities Transaction Ordinance, Article 4	
<Relevant Sections of this Manual>	Chapter V. 8	Managing Acceptance of Orders During Stabilization Period and Financing Period
	Chapter VII. 37	Limitations on Purchases, Etc. During the Stabilization Period

5 Insider Trading Regulations

Any person, such as a corporate insider, who has come to know a material fact pertaining to business, etc. of a listed company, etc., through a prescribed manner, must not make sale or purchase, other types of transfer for value, etc. or cause succession upon a merger or company split (hereinafter referred to as "sale and purchase, etc." in this section) of specified securities, etc. of the listed company, etc. before the material facts are publicized (FIEA, Article 166).

Officers, employees and the like of an issuing company, etc. are in a position to learn facts that can influence the investment decision of investors existing within the issuing company, etc., and if they undertake trading in specified securities, etc. of the issuing company, etc. with knowledge of those facts before they are publicized, then they are in an advantageous position in comparison with the general investor. If these kinds of transactions occur frequently, investors will lose confidence in the securities market. Consequently, insider trading has been prohibited in order to maintain the trust of investors in the fairness and soundness of the financial instruments markets.

In connection with a tender offer, etc. (including an "act of buying up" as prescribed in the FIEAEO), a person concerned with tender offeror, etc. who knows a fact concerning launch or

suspension of a tender offer, etc. of the share certificates, etc. in a listed company, etc., shall not make a purchase, etc. or sale, etc., (including succession upon a merger or company split; to be more precise, a purchase, etc. may not be made at the time of launch, and a sale, etc. may not be made at the time of suspension) of the share certificates, etc. (share certificates, etc. of the listed company, etc. involved in the tender offer, etc. or securities such as share certificates of the company that is the issuer of listed share certificates, etc., or securities or certificates representing options in connection with the same (*i.e.*, covered warrants)), before the relevant fact is publicized (FIEA, Article 167).

Important changes were made to insider trading regulations upon the 2012 FIEA amendment (effective as of September 6, 2013) and the 2013 FIEA amendment (effective as of April 1, 2014).

Furthermore, the Securities Transaction Ordinance was amended in 2015. The main points of the amendments are as follows.

[2012 FIEA Amendment]

* Transfer of shares through succession upon corporate reorganization, delivery of the treasury shares as consideration for corporate reorganization

The conventional insider trading regulations (FIEA, Article 166) were subject to criticism on the following points. (i) As these regulations were applicable only to "sale and purchase, etc. and other types of transfer for value or acceptance of such transfer for value" (hereinafter referred to as "transfer for value or acceptance thereof"), in the case of corporate reorganization, the transfer of specified share certificates, etc. would constitute "transfer for value or acceptance thereof" if it took place through a business transfer wherein individual rights and obligation are transferred, but such transfer cannot be regarded as a "transfer for value or acceptance thereof" if it took place through a merger or company split wherein rights and obligations are transferred in whole. In this respect, the conventional regulations were not neutral. (ii) Where specified share certificates, etc. are allotted as the consideration for corporate reorganization, the issue of new shares and the initial acquisition of newly issued shares are not regarded as "transfer for value or acceptance thereof" and therefore they are excluded from the regulations, whereas the delivery of the treasury shares and the acquisition of these shares are considered to be the transfer of already issued shares and therefore they are subject to the regulations. Thus, the conventional regulations lacked balance. With regard to (i), the 2012 amendment to the FIEA has expanded the scope of insider trading regulations by including the succession through a merger or a company split. And if the proportion of listed share certificates among the succession assets is less than 20% or in other similar cases, the risk of insider trading is considered to be low and such cases are treated as exclusion of application. The amendment has also excluded the delivery of treasury shares as a consideration for corporate reorganization stated in (ii) from the application of regulations on insider trading. The similar amendments as (i) and (ii) have also been introduced in relation to Article 167 of the FIEA.

* Criteria for determining "minor" influence and for determining a "material" fact in relation to holding companies, etc.

Under the conventional insider trading regulations (FIEA, Article 166), whether or not the information in question has a "minor" influence on investors' decisions and whether or not the information in question contains a "material" fact were determined using data on the unconsolidated

basis even in relation to holding companies, etc. This rule has been changed, and currently, if the listed company, etc. is a holding company, etc. (a company whose sales to its affiliated companies (excluding product sales) account for 80% or more of its total sales), data on the consolidated basis is used for determining the matters that are measurable based on the size of a listed company, etc. (Securities Transaction Ordinance, Article 49 through Article 53),

[2013 FIEA Amendment]

* Regulations on acts of providing information or recommending transactions

In recent years, insider trading has taken place more frequently through acts committed by persons who received information from corporate insiders, rather than by corporate insiders themselves. This trend highlighted the problem of information leakage by corporate insiders. Furthermore, in the insider trading cases relating to public stock offerings, it was found that an employee of the sales division of the underwriting securities company had leaked out the information on the public stock offering. Thus, the necessity to regulate the act of leaking information on a material fact was recognized. To solve this problem, a new regulation was introduced to prohibit a corporate insider, who has come to know a material fact relating to a listed company, etc. in the course of performing his/her duty, from providing information on the material fact to another person or recommending another person to conduct the sales and purchase, etc. of the specified securities, etc. of the listed company, etc., for the purpose of having the person gain profits or preventing the person from incurring loss by having him/her conduct the sales and purchase, etc. before the publication of the material fact (FIEA, Article 167-2(1)). The same regulation applies to a person concerned with a tender offeror, etc. (FIEA, Article 167-2(2)). In both cases, if the person who received the information or was recommended to conduct the sale and purchase, etc. actually engaged in the sale and purchase, etc. in violation of the regulations, the corporate insider shall be subject to criminal penalty and an administrative monetary penalty order for the act of providing information or recommending the transaction (FIEA, Article 175-2, Article 197-2 and Article 207).

* Introduction of the insider trading regulations in relation to investment securities, etc. issued by investment corporations (J-REITs).

As a result of the FIEA amendment, transactions of investment securities, etc. issued by investment corporations (J-REITs) were included in the scope of transactions subject to the insider trading regulations (FIEA, Article 166 and Article 167).

* Review of the exemption of transactions conducted between persons who know material facts

The conventional insider trade regulations (FIEA, Article 166) had literally exempted only negotiated transactions between corporate insiders and persons who received information directly from them (information recipients) (generally called “transaction between persons with knowledge”). This rule was changed to also exempt transactions between corporate insiders or information recipients, and persons who further received information from information recipients (FIEA, Article 166(6)(vii)).

* Introduction of the exemption of persons who received information on facts concerning the launch of a tender offer, etc.

Under the conventional regulations, a person who received information of a fact concerning the launch of a tender offer, etc. from the person who decided this matter, etc. was not allowed to purchase the share certificates, etc. of the company subject to the tender offer, etc., and in this respect, the

regulations had been criticized as impeding fair competition in corporate buyouts. In order to eliminate this problem, an amendment was made to exempt such person who received information of a fact concerning the launch of a tender offer, etc. if the person states the said fact in a tender offer notification when making a tender offer, or six months have passed since the day on which the person received the said information (FIEA, Article 167(5)).

[2015 Securities Transaction Ordinance Amendment]

* Creation of comprehensive exemption of insider trading regulations pertaining to "contract before the material facts become known" and "plan before the material facts become known"

With respect to the exemptions of "contract before the material facts become known" and "plan before the material facts become known," for the transactions that did not previously fall under the types to be exempt, if such transactions do not have any regulatory issues under insider trading, the further comprehensive exemption provisions were established in order to facilitate such transactions under the following requirements: (i) existence of a contract or plan concluded or determined before the unpublicized material facts became known; (ii) in order to eliminate arbitrariness, the details of sale and purchase, etc. (closing date and the total amount or the number of sale and purchase, etc. at such closing date) are specified beforehand or automatically determined by a fixed formula, etc.; (iii) the sale and purchase, etc. will be executed in accordance with the contract or plan. In accordance with this amendment, type 1 financial instruments business operators (excluding type 1 small amount electronic offering handling business operator) who conduct securities related business and are subject to Article 59(1)(xiv)(b)(1) and Article 63(1)(xiv)(b)(1) of the Securities Transaction Ordinance, are required to review the management system concerning insider trading, by prescribing in the internal rules, the procedures concerning preservation of copies in case of receiving the submission of "contract before the material facts become known" or "plan before the material facts become known" and date of submission, etc. pursuant to Article 15(7) of the Investment Solicitation Rules.

* Clarification of exemption on insider trading regulation pertaining to "counter purchase"

With respect to the exemption pertaining to "counter purchase," amendment was made to clarify the interpretation that it will be exempted when the request of "counter purchase" determined by the board of directors of the acquired company fulfills the requirements that: (i) the existence of tender offer, etc. is based on reasonable grounds; and (ii) such counter purchase was made for the purpose of countering the said tender offer, etc.

<"Listed Company, Etc.," "Specified Securities, Etc.," "Sale and Purchase, Etc.," "Corporate Insider," "Material Fact," and "Publicized" as set forth in Article 166 of the FIEA >

1. Listed Company, Etc. and Specified Securities, Etc.

(1) Listed company, etc.

A "listed company, etc." means the issuer of bond certificates, preferred equity investment certificates under the Preferred Equity Investment Act, share certificates, share option certificates, investment securities, investment equity subscription right certificates or investment corporation bonds issued by

investment corporations, or foreign investment securities (excluding those specified by Cabinet Order), which are listed securities or tradable (or handled) securities, or of any other securities specified by Cabinet Order.

(2) Specified securities, etc.

"Specified securities, etc." consist of "specified securities" and "related securities."

(i) Specified securities

Securities which are bond certificates of listed companies, etc., preferred equity investment certificates under the Preferred Equity Investment Act, share certificates, share option certificates, investment securities, investment equity subscription right certificates or investment corporation bonds issued by investment corporations, or foreign investment securities (excluding those specified by Cabinet Order), or any other securities specified by Cabinet Order

(ii) Related securities

Certificates or instruments (covered warrants) which indicate options pertaining to specified securities, or any other securities specified by Cabinet Order

2. Sale and Purchase, Etc.

Sale and purchase of specified securities, etc. of a listed company, etc., other types of transfer for value or acceptance of such transfer for value, succession upon a merger or company split, or derivatives transactions.

3. Corporate Insiders and Parent Company.

(1) Corporate Insiders and Prescribed Methods

The following are corporate insiders that are subject to the insider trading regulations of Article 166 of the FIEA:

(i) Corporate insiders

a. Officers, etc. (directors, agents, employees and other workers) of the listed company, etc. (including its parent company and subsidiary companies, and where the listed company, etc. is a listed investment corporation, etc., including an asset management company of the said listed company, etc. or a corporation in a specified relationship therewith; hereinafter the same shall apply in (i); "listed investment corporation, etc." means a listed company, etc. which is an investment corporation as defined in Article 2(12) of the Investment Trust Act)

These persons shall come under the scope of this regulation if they have come to know the relevant information in the course of their duties.

b. Shareholders, etc. who have the right to inspect the books of account of a listed company, etc. (shareholders, etc. with 3% or more of the voting rights of all shareholders, or 3% or more of the total number

of shares issued (excluding treasury shares); Article 433(1) and (3) of the Companies Act)

These persons shall come under the scope of this regulation if they have come to know the relevant information in the course of exercise of their right to inspect the books of account.

c. An investor, etc. of a listed company, etc.

Such investors shall come under the scope of this regulation if they have come to know the relevant information in the course of exercise of their right, etc. defined in Article 128-3(1) of the Investment Trust Act.

d. A person who has statutory authority to investigate a listed company, etc.

These persons shall come under the scope of this regulation if they have come to know the relevant information in the course of exercise of the authority.

e. A party who has concluded a contract (for example, banks, securities companies, accountants, etc.) or who is under negotiations for the said contract with the listed company, etc.

These persons shall come under the scope of this regulation if they have come to know the relevant information in the course of conclusion of, negotiation for, or performing of the contract.

f. The officers, etc. of a party listed in (b), (c) and (e) above if such party is a juridical person

An officer, etc. shall come under the scope of this regulation if they have come to know the relevant information in the course of their duties.

g. The same treatment shall also apply to former corporate insiders for whom less than one year has expired since they became no longer covered under (a) through (f) above.

(Note) A corporate insider of the subsidiary of a listed company under the above shall be subject to the regulations only with respect to certain material facts (as stated in (5) through (8) of 4. below) concerning the business, etc. of the subsidiary, provided that those who at the same time constitute "corporate insider of the parent" (excluding "a corporate insider of the subsidiary of a listed company," out of "a corporate insider") shall also be subject to the regulations with respect to other material facts ((1) through (2) of 4. below). Caution is also necessary concerning the possibility that these individuals might also fall under recipients of information as discussed below.

(ii) Recipients of Information

These are persons who have received information of a material fact from parties set forth in (i) a. through g. above, or other officer, etc. of a juridical person who comes to know such a material fact in relation to the duty of a person who also belongs to the juridical person and has received information on the material fact in the course of his/her duty. As mentioned earlier, if the recipient of the information of a material fact conducts the sale and purchase, etc. of the specified securities, etc. of a listed company, etc. based on the received information before the publication of the material fact, the person who provided the said information to that recipient for the purpose of having the recipient gain profits by having him/ her conduct the sales and purchase, etc. before the publication of the material fact is subject to criminal penalty and an administrative monetary penalty order (FIEA, Article 175-2, Article 197-2, Article 207).

(2) Parent Company, Subsidiary Company and Corporation in Specified Relationship

Under the regulations a "parent company" as used here indicates a company which is stated as a parent company in the securities registration statement, most recent annual securities report, or semiannual securities report of "another company" (a listed company, etc.) which has been made available for public inspection, or the most recently published specified securities information or issuer information (the format of providing or public announcement of information under the FIEA in connection with securities for professional investors (*i.e.*, securities that are issues for professional investors)) (FIEA, Article 166(5); and FIEAEO, Article 29-3).

Under the regulations a "subsidiary" as used here means a company that is indicated as a member of a corporate group of "another company" (a listed company, etc.), in the most recent securities registration statement, annual securities report or semiannual securities report of that other company (a listed company, etc.) which has been made available for public inspection, or the most recently published specified securities information or issuer information (the format of providing or public announcement of information under the FIEA in connection with securities for professional investors (*i.e.*, securities that are issued for professional investors)) (for example a consolidated subsidiary, FIEA, Article 5(1)(ii) and Article 166(5)).

Under the regulations, a "corporation in specified relationship" means (i) a company specified by Cabinet Order as a company that has a control of the asset management company of the listed investment corporation, etc., or (ii) an interested person, etc. of the asset management company of the listed investment corporation, etc. which is specified by Cabinet Order as a juridical person that conducts or has conducted transactions that have a material impact

on the value of specified assets to be invested by the asset management company under entrustment from the listed investment corporation, etc. (*e.g.,* the parent company of the asset management company; FIEA, Article 166(5)).

4. Material Facts

Article 166 of the FIEA and the Cabinet Order defines the following matters as "material facts": (i) among the matters concerning a listed company, etc. (excluding a listed investment corporation, etc.), (1) decision by the listed company, etc., (2) newly arising circumstances of the listed company, etc., (3) financial information of the listed company, etc., (4) basket clause regarding the listed company, etc., (5) decision by the subsidiary of a listed company, etc., (6) newly arising circumstances of the subsidiary of a listed company, etc., (7) financial information of the subsidiary of a listed company, etc. and (8) basket clause regarding the subsidiary of a listed company, etc.; and (ii) among the matters concerning a listed investment corporation, etc., (9) decision by the listed investment corporation, etc., (10) newly arising circumstances of the listed investment corporation, etc., (11) financial information of the listed investment corporation, etc., (12) decision by the asset management company of the listed investment corporation, etc., (13) newly arising circumstances of the asset management company of the listed investment corporation, etc., and (14) basket clause regarding the listed investment corporation, etc.

Among these, with respect to (1), (2), (5), (6), (9), (10), (12) and (13), the Cabinet Office Ordinance prescribes de minimis standards (excluded from a "material fact" if such standards are met), and with respect to (3), (7) and (11), the Cabinet Office Ordinance prescribes material standards (included in a "material fact" only if such standards are met).

If the person is an officer or employee, etc. of a subsidiary, a material fact pertaining to business or other matters of the subsidiary which is covered under (5) through (8) shall be a material fact.

Care is required in connection with trading, etc. of subsidiary tracking shares, as this is somewhat unique.

Care is necessary since an organ that determines (1), (5), (9) and (12) below (referred to in Article 166(2)(i), (v), (ix) and (xii) of the FIEA as an "organ which is responsible for making decisions on the execution of the operations") is not limited to an organ with decision making authority as prescribed by the Companies Act (such as the board of directors) but need only be an organ that can make a decision which will in substance be viewed as a decision of the company. In addition, the statutory provision provides that "a decision to carry out" the matters provided for in (1), (5), (9) and (12), so it must be noted that "such decision" is made at an early stage such as upon commencing the consideration to conduct such matter and not the official decision of the said matter (*e.g.,* merger), and falls under a "material fact."

It must also be noted that the material facts under (1), (2), (5), (6), (9), (10), (12) and (13) fall under a "material fact" if they fall under the prescribed matters unless they meet the de minimis standards, regardless of the impact of such fact on the investment decisions of investors, and the material facts under (3), (7) and (11) fall under a "material fact" if they meet the material criteria, regardless of the impact of such fact on the investment decisions of investors. Meanwhile, whether the basket clauses under (4), (8) and (14) apply is determined by substantial standards such as whether they have a significant effect on the investment decisions of investors.

(1) Decision by the listed company, etc. (excluding a listed investment corporation, etc.) (FIEA, Article 166(2)(i); FIEAEO, Article 28; and Securities Transaction Ordinance, Article 49)

*** denotes Items for which de minimis standards exist (the same applies to (2), (5), (6), (9), (10), (12) and (13) below).**

***(i) solicitation for subscription of shares or share options or disposition of treasury shares of the company under Article 199(1) or Article 238(1) of the Companies Act**

(ii) Reduction of amount of stated capital

(iii) Reduction of amount of capital reserve or retained earnings reserve

(vi) Acquisition of treasury shares pursuant to Article 156(1) of the Companies Act

***(v) Allotment of shares without contribution or allotment of share options without contribution**

***(vi) Share split, etc.**

***(vii) Distribution of surplus**

***(viii) Share exchange**

(ix) Share transfer

***(x) Share delivery**

***(xi) Mergers**

***(xii) Company split**

***(xiii) Transfer or acceptance of all or part of business**

(xiv) Dissolution (excluding dissolution as a result of a merger)

***(xv) Commercialization of a new product or a new technology**

***(xvi) Business alliance and its dissolution**

***(xvii) Transfer or acquisition of shares or equity interest accompanying changes of a subsidiary**

***(xviii) Transfer or acquisition of fixed assets**

***(xix) Suspension or abolition of all or part of a business**

(xx) Applications to de-list shares, etc.

(xxi) Applications to rescind the registration of share certificates, etc.

(xxii) Applications to rescind the designation of share certificates, etc. as

tradable securities

(xxiii) Filing of a petition for commencement of bankruptcy proceedings, etc.

***(xxiv) Commencement of a new business**

(xxv) Request for defensive purchase

(xxvi) Giving of notification under Article 74(5) of Deposit Insurance Act

(2) Newly arising circumstances of the listed company, etc. (excluding a listed investment corporation, etc.) (FIEA, Article 166(2)(ii); FIEAEO, Article 28-2; and Securities Transaction Ordinance, Article 50)

***(i) Damage arising from disaster or in the course of performing operations**

(ii) Change in major shareholders (shareholders holding more than 10% of the voting rights of all shareholders)

***(iii) Facts that may be a ground for delisting or rescission of registration of specified securities or options pertaining thereto**

***(iv) Filing of an action regarding a property related claim, etc., or rendering of a judgment thereon**

***(v) Filing of a petition for provisional issuance of an injunction against business, or rendering of a decision thereon**

***(vi) Rescission of license, suspension of business, or any other equivalent action which is made by an administrative agency pursuant to laws and regulations**

(vii) Changes in the parent company

(viii) Filing by creditors, etc. of a petition for commencement of bankruptcy proceedings, etc.

(ix) Dishonoring

(x) Filing of a petition for commencement of bankruptcy proceedings relating to a parent company

***(xi) Occurrence of an event which makes it likely that debts will not be paid, such as dishonoring by a debtor or a principal debtor for whom a guarantee has been made**

***(xii) Termination of transactions with major transaction partners**

***(xiii) Discharge of debts by creditors, or assumption or repayments of debts by a third party**

***(xiv) Discovery of resources**

***(xv) Facts that may be a ground for rescission of designation as specified securities or options pertaining thereto as tradable (handled) securities**

(xvi) The decisions of the special controlling shareholder to make a request for the sale of shares, etc. relating to the said listed company or the decisions of the said special controlling shareholder not to make a request for the sale of shares, etc. relating to such decision

(3) Financial information of the listed company, etc. (excluding a listed investment corporation, etc.) (FIEA, Article 166(2)(iii); Securities Transaction Ordinance,

Article 51)

(i) Existence of difference in excess of a certain amount between previously announced forecast, etc., and new forecast or the results in the settlement of account, in connection with a. sales, b. current profit, c. net income, or d. dividends, etc. of a listed company, etc.

(ii) Existence of difference in excess of a certain amount between previously announced forecast, etc., and new forecast or the results in the settlement of account, in connection with a. sales, b. current profit, or c. net income of the corporate group of the listed company, etc.

(4) Basket clause regarding the listed company, etc. (excluding a listed investment corporation, etc.) (other material fact concerning operation, business or property of the listed company, etc. that may have a significant influence on investors' investment decisions) (FIEA, Article 166(2)(iv))

Note that (4) above was drafted very broadly in order to close any loophole in the insider trading regulations (basket clause). For this reason, which material fact corresponds to this in actuality must be determined on a case-by-case basis, and consideration must be made whether or not it has a significant effect on the investment decision of investors. Caution must be exercised here, as recently there have been cases to which the basket clause is applicable such as the case where corporate scandals such as accounting fraud were determined to fall under the basket clause.

(5) Decision by a subsidiary of the listed company, etc. (excluding a listed investment corporation, etc.) (FIEA, Article 166(2)(v); FIEAEO, Article 29; and Securities Transaction Ordinance, Article 52 and Article 54):

*(i) Share exchange
*(ii) Share transfer
*(iii) Share delivery
*(iv) Mergers
*(v) Company split
*(vi) Transfer or acceptance of all of part of business
*(vii) Dissolution
*(viii) Commercialization of a new product or new technology
*(ix) Business alliance or its dissolution
*(x) Transfer or acquisition of shares or equity interest accompanying changes in a sub-subsidiary company
*(xi) Transfer or acquisition of fixed assets
*(xii) Suspension or abolition of all or part of business
(xiii) Filing of a petition for commencement of bankruptcy proceedings, etc.
*(xiv) Commencement of a new business
(xv) Giving of notification under Article 74(5) of the Deposit Insurance Act
*(xvi) Dividend of surplus of a tracking subsidiary

(6) Newly arising circumstances of a subsidiary of the listed company, etc. (excluding a listed investment corporation, etc.) (FIEA, Article 166(2)(vi); FIEAEO, Article 29-2; and Securities Transaction Ordinance, Article 53):

- ***(i) Damage arising from disaster or in the course of performing operations**
- ***(ii) Filing of an action regarding a property related claim, etc. or rendering of a judgment thereon**
- ***(iii) Filing of a petition for provisional issuance of an injunction against business, or rendering of a decision thereon**
- ***(iv) Rescission of license, suspension of business or any other equivalent action which is made by an administrative agency pursuant to laws and regulations**
- **(v) Filing by creditors, etc. of a petition for commencement of bankruptcy proceedings, etc.**
- **(vi) Dishonoring**
- **(vii) Filing of a petition for commencement of bankruptcy proceedings, etc. relating to a sub-subsidiary company**
- ***(viii) Occurrence of an event which makes it likely that debts will not be paid, such as dishonoring by a debtor, or a principal debtor for whom a guarantee has been made**
- ***(ix) Termination of transactions with major clients**
- ***(x) Discharge of debts by creditors, assumption or repayments of debts by a third party**
- ***(xi) Discovery of resources**

(7) Financial information of a subsidiary of the listed company, etc. (excluding a listed investment corporation, etc.) (FIEA, Article 166(2)(vii); and Securities Transaction Ordinance, Article 55)

Existence of difference in excess of a certain amount between the previously announced forecast, etc. and new forecast or the results of settlement of account, in connection with a. sales, b. current profit, or c. net income of the subsidiary of the listed company, etc. (limited to instances in which the subsidiary is covered under the definition of a "listed company, etc.," or a tracking subsidiary under certain circumstances).

(8) Basket clause regarding a subsidiary, etc. of the listed company, etc. (excluding a listed investment corporation, etc.) (other material fact concerning operation, business or property of the subsidiary company that may have a significant influence on investors' investment decisions) (FIEA, Article 166(2)(viii)) (for details, see (4) above).

(9) Decision by the listed investment corporation, etc. (FIEA, Article 166(2)(ix); FIEAEO, Article 29-2-2; and Securities Transaction Ordinance, Article 55-2)

- **(i) Conclusion or cancellation of an entrustment contract for asset investments**

***(ii) Solicitation of persons to subscribe for the investment equity an investment corporation issues**

(iii) Acquisition of its own investment units (Investment Trust Act, Article 80-2(1) (including applicable cases where replacements are made pursuant to the provisions of Article 80-5(2) of the said Act)

***(iv) Allotment of investment equity subscription right certificates without contribution (Investment Trust Act, Article 88-13)**

***(v) Split of investment equity**

***(vi) Distribution of money**

***(vii) Merger**

(viii) Dissolution (excluding dissolution by a merger)

(ix) Reduction of the minimum net assets

(x) Applications to de-list investment securities

(xi) Applications to rescind the registration of investment securities

(xii) Applications to rescind the designation of investment securities as tradable (or handled) securities

(xiii) Filing of a petition for commencement of bankruptcy proceedings, etc.

(xiv) Request for defensive purchase.

(10) Newly arising circumstances of the listed investment corporation, etc. (FIEA, Article 166(2)(x); FIEAEO, Article 29-2-3; and Securities Transaction Ordinance, Article 55-3)

***(i) Damage arising from disaster or in the course of performing operations**

***(ii) Facts that may be a ground for delisting or rescission of registration of specified securities or options pertaining thereto**

***(iii) Filing of an action regarding a property related claim, etc., or rendering a judgment thereon**

***(iv) Filing of a petition for provisional issuance of an injunction against asset management, or rendering of a decision thereon**

***(v) Rescission of the registration of an investment corporation or any other equivalent action which is made by an administrative agency pursuant to laws and regulations**

(vi) Filing by creditors, etc. of a petition for commencement of bankruptcy proceedings, etc.

(vii) Dishonoring

***(viii) Occurrence of an event which makes it likely that debts will not be paid, such as dishonoring by a debtor or a principal debtor for whom a guarantee has been made**

***(ix) Termination of transactions with major transaction partners**

***(x) Discharge of debts by creditors, or assumption or repayments of debts by a third party**

***(xi) Discovery of resources**

(xii) Facts that may be a ground for rescission of designation as specified securities or options pertaining thereto

(11) Financial information of the listed investment corporation, etc. (FIEA, Article 166(2) (xi); Securities Transaction Ordinance, Article 55-4)

Existence of difference in excess of a certain amount between previously announced forecast, etc., and new forecast or the results in the settlement of account, in connection with a. operating revenue, b. current profit, c. net income, or d. distribution of money, of a listed investment corporation, etc.

(12) Decision by an asset management company of the listed investment corporation, etc. (FIEA, Article 166(2)(xii); FIEAEO, Article 29-2-4; and Securities Transaction Ordinance, Article 55-5):

*(i) Asset investment conducted under entrustment from the listed investment corporation, etc. involving acquisition, transfer, or lending or borrowing of specified assets by the investment corporation, etc.

(ii) Cancellation of the entrustment contract for asset investment concluded with the listed investment corporation, etc.

*(iii) Share exchange

(iv) Share transfer

*(v) Share delivery

*(vi) Mergers

(vii) Dissolution (excluding dissolution by a merger)

*(viii) Company split

*(ix) Business transfer

*(x) Suspension or closing of business pertaining to the asset investment entrusted from the listed investment corporation, etc.

*(xi) Asset investment conducted under entrustment from the listed investment corporation, etc. which is to be suspended or closed in whole or in part

(xii) Filing of a petition for commencement of bankruptcy proceedings, etc.

*(xiii) Asset investment entrusted by the listed investment corporation, etc., which is to be newly commenced

(13) Newly arising circumstances of an asset management company of the listed investment corporation, etc. (FIEA, Article 166(2)(xiii); FIEAEO, Article 29-2-5; and Securities Transaction Ordinance, Article 55-6):

*(i) Rescission of the registration of the financial instruments business, disposition of the suspension of business pertaining to asset investment conducted under entrustment from the listed investment corporation, etc., or disposition under laws and regulations that is equivalent thereto made by an administrative agency

(ii) Change of corporations in specified relationship

(iii) Change of its major shareholders

***(iv) Filing of an action regarding a property related claim, etc. pertaining to the asset investment entrusted from the listed investment corporation, etc., or rendering of a judgment thereon**

***(v) Filing of a petition for provisional issuance of an injunction against the business pertaining to the asset investment entrusted from the listed investment corporation, etc., or rendering of a decision thereon**

(vi) Filing by creditors, etc. of a petition for commencement of bankruptcy proceedings, etc.

(vii) Dishonoring

(viii) Filing of a petition for commencement of bankruptcy proceedings, etc. relating to a corporation in specified relationship

(ix) The decisions of the special controlling shareholders to make a request for the sale of shares, etc. relating to the asset management company of the said listed company or the decisions of said special controlling shareholder not to make a request for the sale of shares, etc. relating to such decision (limited to those publicized)

(14) Basket clause regarding the listed investment corporation, etc. (other material fact concerning operation, business or property of the listed company, etc. that may have a significant influence on investors' investment decisions) (FIEA, Article 166(2)(xiv)) (for details, see (4) above).

5. Publicized

In the following cases, material facts are recognized to be "publicized" (FIEA, Article 166(4); and FIEAEO, Article 30):

(1) Cases where the representative, etc. of a listed company, etc., a subsidiary of a listed company or an asset management company of a listed company, etc., or a person who has been delegated thereby to make a disclosure, discloses material fact to two or more media related organizations such as newspaper companies that sell daily newspapers in Japan or broadcasting businesses, etc., and when, moreover, 12 hours has passed since the disclosure. However, the representative, etc. of a subsidiary of the listed company, or a person who has been delegated thereby to make a disclosure, shall be considered to be in the position to publicize only material facts in connection with the subsidiary. Similarly, among the material facts listed in 4 above: those set forth in (9) and (11) are to be publicized by the representative, etc. of the listed investment corporation, etc. or a person who has been delegated thereby to make a disclosure; those set forth in (12) are to be publicized by the representative, etc. of the asset management company of the listed investment corporation, etc. or a person who has been delegated thereby to make a disclosure; and those set forth in (10), (13) and (14) are to be publicized by any of the persons mentioned herein.

(2) Cases where a listed company, etc. or its asset management company has given

notice of a material fact to a financial instruments exchange in accordance with the regulations of the financial instruments exchange (or in the case of tradable securities the authorized financial instruments firms association), and the said notice has been made available for public inspection in the Japanese language at the financial instruments exchange. Under certain circumstances, the provision for public inspection is to be made on the home page of the financial instruments exchange, over the Internet (FIEAEO, Article 30; and the Securities Transaction Ordinance, Article 56). Thus, the step of public disclosure will be completed by posting on the Company Announcements Disclosure Service of a financial instruments exchange, using TD net; and

(3) Cases where material facts of the listed company, etc. or its subsidiary or asset management company are stated in the following documents, provided that documents of a subsidiary of the listed company, a listed investment corporation, etc. or an asset management company of a listed investment corporation are considered to have been publicized only when they were publicized by the respective entity, as mentioned in (1) above:

(i) Securities registration statement, attachments to the registration statement or an amended securities registration statement;

(ii) Shelf registration statement (including supplementary documents), attachments, or an amended shelf registration statement;

(iii) Annual securities report, attachments, or an amended annual securities report;

(iv) Letter of confirmation or amended letter of confirmation in connection with the contents of statements in the annual securities report;

(v) Internal control report, attached documentation thereto, or amended report thereof;

(vi) Semiannual securities report, or amended report thereof;

(vii) Letter of confirmation or amended letter of confirmation in connection with the content of statements in the semiannual securities report;

(viii) Extraordinary report or amended report thereof; and

(xi) Status report of parent company or amended report thereof.

(4) Cases in which notice has been made to a financial instruments exchange pursuant to the regulations of that exchange, concerning a listed company on a market for professional investors, and the fact of which the notice is made is provided for public inspection in the English language at that financial instruments exchange, in the manner prescribed by Cabinet Office Ordinance (Securities Transaction Ordinance, Article 56).

6. Exclusion from Application of Article 166 of the FIEA

Transactions such as the following, which are considered not to impair the trust of investors with regard to the soundness and fairness of the financial instruments markets, are excluded from the application of the insider trading regulations of

Article 166 of the FIEA (FIEA, Article 166(6); FIEAEO, Article 31 through Article 32-2; and Securities Transaction Ordinance, Article 57 through Article 59):

- **(i) Acquisitions of share certificates through the exercise of entitlement to allotment of shares (entitlement as set forth in Article 202(1)(i) of the Companies Act);**
- **(ii) Acquisitions of share certificates or investment securities through exercise of a share option or investment equity subscription right certificates;**
- **(iii) Sale and purchase, etc. of securities, etc. through exercise of an option that is already held;**
- **(iv) Sale and purchase, etc. under legal obligation, such as share purchase demand under the provisions of the Companies Act and demand for the purchase of investment equity under the provisions of the Investment Trust Act;**
- **(v) Purchases, etc. at the request of a resolution of the board of directors, etc. in order to resist a tender offer or the like (*i.e.,* a defensive purchase);**
- **(vi) Acquisition of its own shares certificates, etc. and other securities as set forth in the Cabinet Order pursuant to resolution of a general meeting of shareholders, or a resolution of a meeting of the board of directors or a resolution of the meeting of board of officers (excluding cases in which there are material facts that are not publicized other than the acquisition of treasury shares);**
- **(vii) Sale and purchase, etc. where undertaken as stabilizing transactions;**
- **(viii) Sale and purchase, etc. of straight bonds, investment corporation bonds, etc. (provided that this shall exclude cases in which important unpublicized facts would have a significant impact on the redeeming, etc. of the bonds, such as unpublicized material facts regarding a petition for dissolution, commencement of bankruptcy proceedings or the like);**
- **(ix) Negotiated transactions between a person who has come to know a material fact and another person who knows the material fact (under certain conditions where both parties are aware of nonpublic material information);**
- **(x) Acquiring or having another acquire specified securities, etc. through succession upon a merger, etc., with the proportion of the specified securities, etc. in the assets acquired through succession being less than 20%;**
- **(xi) Acquiring or having another acquire specified securities, etc. upon a merger, etc. the details of which have been decided by a resolution of a board of directors meeting before coming to know the material fact;**
- **(xii) Having a company incorporated through an incorporation-type company split (excluding a company split effected jointly) acquire specified**

securities, etc. through succession;

(xiii) Delivering or receiving the treasury shares, etc. as consideration for a merger, etc.;

(xiv) Sale and purchase, etc. pursuant to a sale and purchase agreement concluded before the material facts become known.

7. Points of Caution Accompanying the Acquisition by a Company of Its Own Shares (For details, see this Chapter VIII. "8. Acquisition by a Company of Its Own Shares and the Financial Instruments and Exchange Act".)

<Relevant Laws and Regulations> FIEA, Article 167; and Securities Transaction Ordinance, Article 48

<Relevant Sections of this Manual> Chapter VII. 8 Prohibition Against Order Acceptance for Insider Trading

Chapter VII. 18 Prohibition Against Transactions Utilizing Corporate Information

6 Preventing Insider Trading

In order to prevent insider trading, the following measures have been adopted:

6 1 Registration of Insiders

An Association Member must ask any customer that makes a sale and purchase, etc. of the specified securities, etc. of a listed company, etc. that are prescribed in the provisions of Article 166 of the FIEA for the first time to submit a form declaring that the customer is categorized into any of the persons listed below (hereinafter referred to as an "officer, etc. of a listed company, etc."), and if the customer is classified as an officer, etc. of a listed company, etc. based on the declaration, an insider registration card must be prepared (Investment Solicitation Rules, Article 15(1)):

(i) An officer of a listed company, etc. (a director, accounting advisor, company auditor or executive officer);

(ii) A corporate officer or supervisory officer of a listed investment corporation, etc. (meaning a listed company, etc. which is an investment corporation defined in Article 2(12) of the Investment Trust Act; the same shall apply hereinafter);

(iii) An officer of an asset management company (meaning an asset management company defined in Article 2(21) of the Investment Trust Act) of a listed investment corporation, etc.;

(iv) An officer of a parent or main subsidiary of a listed company, etc.;

(v) An officer of a major corporation in a specified relationship (meaning a major one of the

corporations in a specified relationship (meaning corporations in specified relationships defined in FIEA, Article 166(5)); the same shall apply hereinafter) with an asset management company of a listed investment corporation, etc.;

(vi) A person who no longer matches the description of any of the persons set forth in (i) through (v) but one year has not yet passed since his/her resignation;

(vii) The spouse of any of the persons set forth in (i) through (iii) or a person who lives with such person;

(viii) An employee or other worker of a listed company, etc. or of an asset management company of a listed investment corporation, etc. who is an executive officer (excluding a corporate officer of a listed investment corporation, etc.) or in a position equivalent to such an officer;

(ix) An employee or other worker of a listed company, etc. or of an asset management company of a listed investment corporation, etc. who belongs to a section where such a person is highly likely to find out a material fact related to the business of the listed company, etc. as prescribed in the provisions of Article 166 of the FIEA (hereinafter referred to as "Material Facts") (excluding a person set forth in (viii));

(x) An employee or other worker of a parent company or a major subsidiary of, or a major corporation in specified relationship with, a listed company, etc., who is an executive officer or in a position equivalent to such an officer;

(xi) An employee or other worker of a parent company or a major subsidiary of, or a major corporation in a specified relationship with, a listed company, etc., who belongs to a section where the person is highly likely to know Material Facts (excluding a person as set forth in (x));

(xii) A parent company or major subsidiary of, or a major corporation in a specified relationship with, a listed company, etc.; or

(xiii) A major shareholder of a listed company, etc. (meaning a major shareholder as set forth in the most recent securities report or semiannual securities report).

An Association Member must have the customer promise to give prompt notice of the contents of any change that has occurred in whether a person constitutes an officer, etc. of a listed company, etc. as set forth in the above (Investment Solicitation Rules, Article 15(3)), and the Association Member must promptly amend the insiders registration card if a change has been notified (Investment Solicitation Rules, Article 15(4)).

With regard to the Japan-Insider Registration & Identification Support System (J-IRISS) which has been created for the purpose of preventing insider trading, Association Members must perform the following duties.

(i) At least once a year Association Member must reconcile with the J-IRISS the names, dates of birth and addresses of customers stated on their customer cards (Investment Solicitation Rules, Article 15-2(1)).

(ii) Based on the results of the reconciliation in (i) above, an Association Member must confirm whether the customer is an officer, etc. of a listed company, etc., and prepare insiders registration cards without delay (Investment Solicitation Rules, Article 15-2(2)).

If an Association Member receives information from J-IRISS as a result of the reconciliation, the

Association Member must not use such information for any purpose other than the preparation of insiders registrations cards (Investment Solicitation Rules, Article 15-2(3)).

(Note) Article 15 and Article 15-2 of the Investment Solicitation Rules shall not apply to the Special Commodity Futures Member until the day separately specified by the JSDA (Commodity Derivatives Rules, Article 4).

6 2 Submission of the Officers/Major Shareholders Report on Sale and Purchase to the Prime Minister (Commissioner of the Financial Services Agency)

If an officer or major shareholder of a listed company, for his/her own account, makes purchase, etc. or sale, etc. of specified securities, etc. issued by the said listed company, etc., the officer or major shareholder must, before the 15th of the month immediately following the month in which the relevant sale or purchase, etc. was made, submit to the Prime Minister (Commissioner of the Financial Services Agency) an Officers/Major Shareholders Report on Sale and Purchase (FIEA, Article 163(1)).

If an officer or major shareholder of a listed company, etc. entrusts the purchase or sale of specified securities, etc. of the listed company, etc. to a financial instruments business operator, etc., or an authorized transaction-at-exchange operator, or makes the transaction with a financial instruments business operator, etc., or an authorized transaction-at-exchange operator being the counterparty to the same, the transaction report must be filed through such financial instruments business operator, etc., or the business operator permitted to handle exchange transactions (FIEA, Article 163(2)).

(Note) See "9. Prohibited Matters for Directors, Etc. of Listed Companies" of this Chapter, for the definitions of "listed company, etc.," "major shareholder, etc.," "specified securities, etc.," and "purchase, etc., or sale, etc." An authorized transaction-at-exchange operator would be a foreign securities brokers that has obtained permission to engage in the exchange transaction business (FIEA, Article 60(1) and Article 60-4(1)).

Furthermore, the purchases, etc. and sales, etc. that are excluded from being subject to a demand for restitution of gains from short-swing transactions as described in "9.1 Restitution of Gains from Short-Swing Transactions" of this Chapter (excluding a.), are also excluded from the duty to report described above (FIEA, Article 163(1), *proviso*; and Securities Transaction Ordinance, Article 30).

<Reference: Report on Sale and Purchase of Specified Partnerships, Etc.>

If a partner of a specified partnership, etc. engages in a purchase, etc. or a sale, etc. of specified securities of a listed company, etc. (a listed company, etc. in which the specified partnership, etc. owns 10% or more of the shares of stock) in connection with the assets of the specified partnership, etc., the partner who executed the

purchase, etc. or the sale, etc. (including a partner specified by Cabinet Office Ordinance as equivalent thereto) must submit a report on the sale and purchase, etc. of the specified partnership, etc. to the Prime Minister (Commissioner of the Financial Services Agency) on or before the 15th of the month following the month in which the relevant sale or purchase, etc. has been made (FIEA, Article 165-2(1)).

If a partner of the specified partnership, etc. entrusts the purchase or sale of specified securities, etc. of a listed company, etc. (a listed company, etc. in which the specified partnership, etc. owns 10% or more of the shares of stock) in connection with the assets of the specified partnership, etc. to a financial instruments business operator, etc. or an authorized transaction- at-exchange operator, or makes the transaction with a financial instruments business operator, etc., or a business operator permitted to handle exchange transactions being the counterparty to the same, the trading report must be filed through the financial instruments business operator, etc. or the authorized transaction-at-exchange operator (FIEA, Article 165-2(2)).

(Note) See <Reference: Prohibited Matters, Etc. for Partners in Specified Partnerships, Etc.> in "9. Prohibited Matters for Directors, Etc. of Listed Companies" of this Chapter regarding "specified partnerships, etc." and "partner of a specified partnership, etc."

Furthermore, the purchases, etc. and sales, etc. that are excluded from being subject to a demand for restitution of gains from short-swing transactions as described in (1) of the <Reference: Prohibited Matters, Etc. for Partners in Specified Partnerships, Etc.> in "9. Prohibited Matters for Directors, Etc. of Listed Companies" of this Chapter (excluding a.), are also excluded from the duty to report described above FIEA, Article 165-2(1), *proviso;* and Securities Transaction Ordinance, Article 40).

<Relevant Laws and Regulations> FIEAEO, Article 27 through Article 27-6, and Article 27-8; Securities Transaction Ordinance, Article 28, Article 29 and Article 41; Investment Solicitation Rules, Article 25; and Insider Trading Regulations (Model Internal Regulations)

<Relevant Sections of this Manual>

Chapter III. 1	Investigation of a Customer and Preparation of Customer Cards, Etc.
Chapter VII. 8	Prohibition Against Order Acceptance for Insider Trading

7 Other Major Regulations on Unfair Transactions

7 1 Prohibition of Public Notice, Etc. of False Quotations (FIEA, Article 168)

The public notice, etc. of false quotations is prohibited as follows (FIEA, Article 168):

(i) No person shall publicly notify false quotation on market prices of securities, etc. (securities, options, financial instruments or financial indicators in connection with derivatives transactions), or prepare or distribute documents that contain false quotations on market prices of securities, etc. for the purpose of publicly notifying or distributing the documents;

(ii) No person shall, in response to a request from an issuer, a person engaged in secondary distribution of securities, a person engaged in making an exclusive offer to sell, etc. to professional investors, an underwriter or a financial instruments business operator, etc., prepare or distribute documents that contain a fake statement on any important matters pertaining to securities issued by, apportioned to or dealt by such persons, for the purpose of publicly notifying or distributing the documents; or

(iii) No issuer, person engaged in secondary distribution of securities, person engaged in making an exclusive offer to sell, etc. to professional investors, underwriter, or a financial instruments business operator, etc. shall make a request referred to in (ii) above.

"Public notice" may be satisfied by the making of representations where many or unspecified people could become aware of such representations; it is not required that the information be acknowledged. "Distribute" means distributing to many or unspecified people and it is necessary for this information to actually be delivered to those people.

7 2 Prohibition of Indication of Advantageous Purchase, Etc. (FIEA, Article 170)

Upon making solicitation of an application to acquire newly issued securities or solicitation of an application to sell or purchase already-issued securities to many and unspecified persons (hereinafter referred to as "solicitation of securities to many and unspecified persons, etc."), no person shall make an indication to many and unspecified persons to the effect that the person or other person will purchase the securities acquired by members of the said many and unspecified persons at a predetermined price or a higher price or will make an arrangement for selling such securities at a predetermined price or higher, or shall make an indication that is likely to be understood as having a meaning to that effect (FIEA, Article 170).

Trading in securities by its nature carries risks and presents the possibility of recording a loss. By ignoring this fact and soliciting investors by making the kinds of indications discussed above, one runs the risk of many people requesting repurchases and of investors experiencing losses when redemption is not possible, and consequently acts of this nature are prohibited.

Nevertheless, Article 170 of the FIEA does not apply to Japanese government bonds, local government bonds, bonds issued by a corporation under a special law, specified corporate bonds, corporate bonds, investment securities issued by a corporation established under a special law, as well as other securities prescribed by the Cabinet Office Ordinance (*i.e.,* commercial paper and the like). Thus, the securities subject to this prohibition would be share certificates, share option certificates and beneficiary certificates of investment trusts.

It should be noted, however, that while making an indication of advantageous purchase in connection with securities such as Japanese government bonds, etc. would not violate this provision, if a financial instruments business operator makes this type of indication, it is possible that the financial instruments business operator will be in violation of Article 39 of the FIEA, which prohibits compensation of losses, including other securities.

<Relevant Laws and Regulations> Securities Transaction Ordinance, Article 64

7 3 Prohibition of Indication of a Fixed Amount of Dividend, Etc. (FIEA, Article 171)

Upon making solicitation of securities to many and unspecified persons, etc. (for details, see "7.2 Prohibition of Indication of Advantageous Purchase, Etc." of this Chapter), any person who makes such solicitation, or officers, advisors, consultants, others at a position equivalent to these persons, agents, employees or other workers of such a person must not make an indication to many and unspecified persons to the effect that a fixed amount or higher amount of money will be provided for the securities so solicited after a certain period (hereinafter referred to as "indication of a fixed amount of dividend, etc.") (FIEA, Article 171).

Any indications of a certain level of dividends, no matter under what name (*e.g.,* dividend payments from profit, distribution of revenue, etc.) are prohibited. This prohibition also applies to any indications which could be misunderstood as guaranteeing a certain level of dividends. However, indications which clearly offer an explanation to the effect that a stated figure is based on forecasts are permitted.

The "prohibition of indication of a fixed amount of dividend, etc." (FIEA, Article 171) does not apply to Japanese government bonds, local government bonds, bonds issued by a corporation under a special law, specified corporate bonds issued, corporate bonds, investment securities issued by a corporation established under a special law, as well as other securities prescribed by Cabinet Office Ordinance (*i.e.,* commercial paper and the like). Thus, the securities covered by this prohibition would be share certificates, share option certificates, and beneficiary certificates of investment trusts.

<Relevant Laws and Regulations> Securities Transaction Ordinance, Article 65

Regular Member

8 Acquisition by a Company of Its Own Shares and the Financial Instruments and Exchange Act

8 1 Companies Are in Principle Free to Acquire Their Own Shares (*Jiko Kabushiki*)

The October 2001 amendments abolished the prohibition against treasury stock (*kinkokabu*), and consequently companies are now in principle free to acquire their own shares. A company is not required to sell or redeem its treasury shares, and may continue to hold them at its discretion.

At the present time under the Companies Act, the following two broad categories of methods exist for a listed company to acquire its own shares, either by a transaction on the market, or by a tender offer (FIEA, Article 27-2(6) and Article 27-22-2, etc.):

(i) At a general meeting of shareholders (which may be an extraordinary general meeting) a resolution is made that determines the authorized numbers of treasury shares to be acquired, and the shares are then acquired under this resolution (the resolution shall have a maximum duration of one year (Companies Act, Article 156, etc.) [acquisition of own shares based on authorization by a general meeting of shareholders]; or

(ii) Upon authorization by the articles of incorporation and the shares are then acquired when necessary, by resolution of the board of directors (the resolution shall have a maximum duration of one year (Companies Act, Article 156, Article 165(2), and Article 459(1)(i), etc.) [acquisition of own shares pursuant to authorization by the articles of incorporation].

8 2 Acquisition by a Company of Its Own Shares and Insider Trading Regulations

The following insider trading regulations under the FIEA shall apply to acquisition by a listed company, etc. of its own shares.

A determination of an acquisition by a company of its own shares as prescribed in Article 156(1) of the Companies Act, etc. is regarded as a material fact under the insider trading regulations of Article 166 of the FIEA. There are no de minimis standards. (For details, see "5. Insider Trading Regulations" of this Chapter.)

For example, the following would probably apply in the event of (i) acquisition of own shares based on authorization by a general meeting of shareholders, and (ii) acquisition of own shares pursuant to authorization by the articles of incorporation:

a. If the board of directors, etc. decides to submit a proposal for to the general meeting of shareholders for acquisition by the company of its own shares as set forth in (i) above, or if a decision is made to make a detailed consideration of this proposal, a corporate insider, etc. who

is aware that this decision has been made cannot acquire, etc. shares in the company after becoming aware of this fact, until this information is publicized;

b. If public disclosure has already been made of a proposal to be submitted to a general meeting of shareholders as set forth in (i) above in connection with a resolution to be made at a general meeting of shareholders, for the company to acquire its own shares, and if the general meeting refuses the resolution, or approves the resolution after amendment, the company as well as corporate insiders, etc. who are aware of the said resolution cannot acquire, etc. the said shares until the content of the resolution has been publicized;

c. If the shares are to be acquired by resolution of the board of directors pursuant to authorization by the articles of incorporation as prescribed in (ii) above, persons such as corporate insiders who are aware of the fact of the resolution are prohibited in acquiring, etc. shares in the company until such fact is publicized;

d. When a company will acquire its own shares as prescribed in (i) above, the company may acquire the shares after the resolution of the general meeting of shareholders (that has been announced), even without making a public announcement of the details of the acquisition (exemption under the FIEA, Article 166(6)(iv-ii)). It must be noted that this exemption targets the acquisition by the company of its own shares only and not the acquisition of the company's own shares by other persons (corporate insiders, etc.) (which are considered as insider trading);

e. When a company will acquire its own shares as prescribed in (ii) above, the company may acquire the shares after an (already announced) resolution by the board of directors pursuant to the authorization under the articles of incorporation, even without a public announcement of the details of the determination of acquisition (exemption under the FIEA, Article 166(6)(iv-ii)). It must be noted that the acquisition of the company's own shares by corporate insiders is not targeted as described above; and

f. A corporate insider will be subject to insider trading regulations if the person acquires shares in that company for the account of the said company while being aware of a material fact pertaining to business or other matters of the company other than a resolution to acquire its own shares.

Moreover, officers and employees, etc. (person(s) concerned with tender offeror, etc.) of the issuing company, who in their respective duties, etc. have come to know the fact concerning launch of a tender offer by the company to acquire its own shares that constitute listed share certificates, etc., are prohibited from acquiring share certificates, etc. of the company before such fact is publicized (FIEA, Article 167).

8 3 Acquisition by a Company of Its Own Shares and Market Manipulation

There is a possibility that market manipulation (FIEA, Article 159) will take place at the time a company acquires its own shares, and consequently, Article 162-2 of the FIEA has been enacted in order to prevent this sort of activity. The Article 162-2 of the FIEA sets forth certain compliance requirements at the time of a purchase of treasury shares, which are further delineated under, *inter alia*, Cabinet Office

Ordinance (Securities Transaction Ordinance, Article 16 through Article 23).

Although it is not absolutely certain that there will be no market manipulation (FIEA, Article 159) as long as a company complies with Article 162-2 of the FIEA, these requirements set forth typical transaction structures that present little danger of manipulation, with reference to the safe harbor rule in the United States, it is therefore thought that the fairness of transactions is secured by compliance with these regulations.

8 4 Disclosure of Conditions of Treasury Share Acquisition

Under the FIEA, an issuer company of listed shares must file a report on the status of its acquisition of treasury shares (Share Buyback Report) each month to the Prime Minister (Commissioner of the Financial Services Agency) by the fifteenth day of the following month, (i) commencing the month in which the resolution by the general meeting was made if the company will acquire treasury shares pursuant to authorization by a general meeting, or (ii) commencing the month in which the resolution by the board of directors was made if the company will acquire treasury shares pursuant to authorization by the articles of incorporation, continuing through the month in which the authorization period expires (FIEA, Article 24-6(1)).

Reports must be submitted by EDINET (electronic disclosure system in connection with the documents to be disclosed under the FIEA, such as securities reports) (FIEA, Article 27-30-2, and Article 27-30-3(1)).

8 5 Acquisition by a Company of Its Own Shares and Tender Offer Regulations

An issuer of listed shares may use a tender offer under the FIEA in the event of acquiring its own shares (i) pursuant to authorization by a general meeting of shareholders, or (ii) pursuant to authorization under the articles of incorporation. A tender offer in this case would constitute a "tender offer for share certificates, etc. by issuer" (FIEA, Article 27-22-2 *et. seq.*) under the FIEA (for details, see "12.1 Tender Offer Regulations" of this Chapter). Care is required, however, as there are some differences, including a requirement for public disclosure of any nonpublic material fact that occurs before the submission of tender offer notification, or any material fact that may occur during the term of the tender offer (FIEA, Article 27-22-3).

<Relevant Sections of this Manual> Chapter VIII. 5 Insider Trading Regulations

Regular Member

9 Prohibited Matters for Directors, Etc. of Listed Companies

The FIEA, for the purpose of preventing insider trading and maintaining the fairness of securities trading, provides the right of a listed company, etc. to demand of return of gains from short-swing transactions in connection with a purchase, etc., or sale, etc., by any officer or major shareholder of an issuer of bonds, preferred equity investment certificates under the Act on Preferred Equity Investment, share certificates, share option certificates or investment securities, investment equity subscription right certificates or investment corporation bonds, or foreign investment securities issued by investment corporations (excluding those prescribed by the Cabinet Order) that are listed securities, or tradable (or handled) securities, or other securities as prescribed by Cabinet Order (hereinafter referred to as a "listed company, etc.") (including directors of an asset management company of a listed investment corporation, etc.; hereinafter the same shall apply in 10), of specified securities of the said listed company (FIEA, Article 164), and restricts short-selling of specified securities of a listed company, etc. by any officer or major shareholder of such listed company, etc. (FIEA, Article 165).

"Major shareholders" are those that own 10% or more of the total number of voting rights of all shareholders, in their own name or other names (including fictitious persons). However, shares owned as trust assets by a person who engages in the trust business, as well as shares that a person who engages in the securities related business acquires in relation to conducting the underwriting, secondary distribution or exclusive offer to sell, etc. to professional investors, and shares held by a securities finance company in the course of its business are excluded from those calculations (FIEA, Article 163; and Securities Transaction Ordinance, Article 24).

"Specified securities, etc.," under Article 163 through Article 166 of the FIEA refers to "specified securities" and "related securities." "Specified securities" are defined as bonds of listed companies, etc., preferred equity investment certificates under the Act on Preferred Equity Investment, share certificates, share option certificates or investment securities, investment equity subscription right certificates or investment corporation bonds, or foreign investment securities issued by listed investment corporations (excluding those prescribed by Cabinet Order) or other securities as prescribed by Cabinet Order. "Related securities" are defined as securities or certificates representing options in connection with specified securities (*i.e.,* covered warrants) and other securities prescribed by Cabinet Order.

A "purchase, etc." means a purchase of specified securities or other transaction as prescribed by Cabinet Order (FIEA, Article 163, Article 164, and Article 165-2), and a "sale, etc." means a sale of specified securities, etc., or other transaction as prescribed by Cabinet Order (FIEA, Article 163 through Article 165-2) (for details, see "9.1 Restitution of Gains from Short-Swing Transactions" and "9.2 "Prohibition Against Short Selling, Etc." of this Chapter).

9 1 Restitution of Gains from Short-Swing Transactions

A listed company, etc. may request its officer or major shareholder who makes sales, etc. of specified securities, etc. of the listed company, etc. within six months after having made purchase, etc. of them for his/her own account, or makes purchase, etc. of specified Securities, etc. of the listed company, etc. within six months after having made sales, etc. of them for his/her own account, to provide the listed company, etc. with profits earned by such sales, etc. and purchase, etc. (FIEA, Article 164(1))

If the listed company, etc. does not make a demand for restitution of gains within 60 days from the date on which the shareholders of the said listed company, etc. (including contributors and investors) have requested that the listed company, etc. should make the said demand, such shareholders can of their own accord make such demand on behalf of the listed company, etc. (FIEA, Article 164(2)). The right to demand restitution of gains from short-swing transactions, however, will lapse if not exercised within two years after the date that the profits have been taken (FIEA, Article 164(3)).

These provisions are for the purpose of preventing an officer or a major shareholder of a listed company, etc. from acquiring profits through wrongful use of inside information obtained through their position or duties.

Furthermore, the following procedures are provided in order to facilitate the exercise of the right to demand the restitution of gains from short-swing transactions (FIEA, Article 164(4) through (7)):

(i) When it is acknowledged that an officer of a listed company, etc. or major shareholder has acquired gains on short-swing transactions, the Prime Minister (Commissioner of the Financial Services Agency) shall send to the said directors or major shareholders a copy of the section related to the said profit (hereinafter referred to as "profit related documents") of the report prescribed in Article 163 of the FIEA;

(ii) The said officer or major shareholder may, within 20 days from the day of receiving the copy of the profit-related documents (including that day), file an application to the Prime Minister (Commissioner of the Financial Services Agency) that the transaction recorded in the document did not take place;

(iii) If such application is made, the statements in the report set forth in Article 163 of the FIEA shall be deemed not to have been made in connection with the section concerned (Note, however, that a person making a false application is subject to criminal sanction.);

(iv) If no application is made, the Prime Minister (Commissioner of the Financial Services Agency) will send a copy of the profit-related documents to the said listed company, etc., and make them available for public inspection after 30 days have elapsed from the day the copy was sent (including that day) until the day the right to demand restitution of the gains from the short-swing transactions lapses; and

(v) These procedures shall be discontinued if and when the Prime Minister (Commissioner of the Financial Services Agency) learns that, in the interim, the profit was supplied to the listed company, etc.

For policy reasons, however, the following situations are excluded from being the subject of a demand for restitution of gains from short-swing transactions, even in the case of purchase, etc., or sale,

etc., by officers or major shareholders of listed company, etc. (FIEA, Article 164(8); and Securities Transaction Ordinance, Article 33):

a. If the major shareholder was not a major shareholder at either the time of purchase, etc., or sale, etc., of the shares (for an officer, if they were an officer at either the time of purchase, etc., or sale, etc., they are not exempted from the above);
b. Sale or purchase only of shares less than one unit;
c. Purchases based on conditions such as fixed amounts and at fixed periodic intervals, through a director shareholding/investment equity holding association, an employee shareholding association, an expanded employee shareholding association (including trust company types), business partners shareholders association or director/employee investment equity holding association of an asset management company of a listed investment corporation, etc. or corporation in a specified relationship therewith;
d. Purchases in fixed amounts and at fixed periodic intervals based on cumulative investment contracts for shares or investment securities;
e. Market derivatives transactions as set forth in Article 2(21)(i) of the FIEA covering a grouping of shares or investment securities of various different issues that are made on a financial instruments exchange;
f. Stabilizing transactions undertaken pursuant to the FIEAEO;
g. Sale and purchase of corporate bonds or investment corporation bonds (excluding bonds with share options) with buyback conditions attached (limited to the case of its own fund-raising);
h. Acquisition of share options pursuant to Article 238(1) of the Companies Act;
i. Exercise of share options;
j. Purchases of share certificates of listed companies, etc. acquired in exchange for the payment of claims obtained by the officer in consideration of the services provided by the officers;
k. Derivatives transactions as set forth in Article 2(21)(iv) or (22)(v) of the FIEA in connection with specified securities, etc.; and
l. Certain purchases or sales of shares or investment securities in a listed company, etc., that are carried out by the Banks' Shareholdings Purchase Corporation.

9 2 Prohibition Against Short Selling, Etc.

Officers or major shareholders of a listed company, etc. are in a special position to easily obtain unpublicized material information of the listed company, etc., and in order to prevent short-selling using such information (in the case of a short selling, unpublicized material information which may cause the share price to go down), the FIEA prohibits any officer or major shareholder of a company from committing any of the following (FIEA, Article 165):

(i) Specified transaction (meaning a sale or other transaction as prescribed by Cabinet Order, in specified securities, etc. of the said listed company) for which the amount of specified securities involved (meaning the amount of the specified securities sold in the case of sales of specified

securities, or the amount as prescribed by Cabinet Office Ordinance in the case of other transaction) exceeds the amount specified by Cabinet Office Ordinance as the amount for the same kind of specified securities as the specified securities of the listed company, etc. held by the officer or major shareholder; or

(ii) Sale, etc. of specified securities, etc. of the said listed company, etc. (excluding specified transactions) in which the volume of specified securities, etc. specified by Cabinet Office Ordinance as the basis to be used for calculating the amount paid or received in the sale, etc. exceeds the volume specified by Cabinet Office Ordinance as the volume for the same kind of specified securities as the specified securities of the listed company, etc. held by the officer of major shareholder.

<Reference: Prohibited Matters, Etc. for Partners in Specified Partnerships, Etc.>

The FIEA, for the purpose of preventing insider trading and maintaining fairness of transactions, also provides for a demand against a specified partnership, etc. for return of gains from short-swing transactions in connection with a purchase, etc., or sale, etc., of specified securities that a partner in the said specified partnership makes in connection with assets of the specified partnership, etc., and also restricts short-selling (FIEA, Article 165-2).

A "specified partnership, etc." means a partnership, etc. for which the ratio of voting rights in connection with shares of stock included in the assets of the said partnership, etc. to the voting rights of all shareholders in a listed company, etc. is 10% or more. A partnership, etc. here means a partnership that is formed in accordance with a partnership as set forth in Article 667(1) of the Civil Code, an "investment LPS" as set forth in Article 2(2) of the Limited Liability Partnership Act for Investment, a "limited liability partnership" as set forth in Article 2 of the Limited Liability Partnership Act, or an association that is similar to a partnership of this nature and which is prescribed by Cabinet Order.

Moreover, partners in a specified partnership include those as prescribed by Cabinet Office Ordinance as being equivalent to the same.

Under the Securities and Exchange Law, whether an individual partner falls under the major shareholder above or not was determined by totaling the holding ratio of the individual partner and the ratio of shares held by the partner alone instead of the shareholding ratio of a partnership, etc. without corporate status (funds); however, recently, partnerships, etc. (funds) have begun acquiring large quantities of shares of listed companies, etc. and are accelerating their activities, and in view of the fact that partnerships, etc. are acting integrally, under the establishment of the FIEA, they have become subject to the restitution of gains from short- swing profit based on simply the holding ratio of the partnership, etc.

The detailed contents of these regulations are discussed in (1) and (2) below:

(1) Demand for restitution of gains from short-swing transactions

A listed company, etc. may request a partner of a specified partnerships, etc. who, in relation to the assets of the specified partnerships, etc., makes sales, etc. of specified securities, etc. of the listed company, etc. (listed company, etc. in which the partnership holds 10% or more of the voting rights) within six months after having made purchase, etc. of them, or makes purchase, etc. of specified securities, etc. of the listed company, etc. within six months after having made sales, etc. of them, to provide the listed company, etc. with profits earned by such sales, etc. and purchase, etc. from the assets of the specified partnerships, etc. (FIEA, Article 165-2(3)).

Where the listed company, etc. makes a request above, and only if the debt of the specified partnerships, etc. cannot be repaid in full by the assets of the specified partnerships, etc., the listed company, etc. may request each person who was a partner of the specified partnerships, etc. at the time when the profits have accrued (excluding limited partners of Investment LPS and partners of Limited Liability Partnership and persons specified by a Cabinet Office Ordinance as similar to these persons), to provide the listed company, etc. with the profits (to the extent of the amount that remains after deducting the amount of the profits already provided to the listed company, etc. under the said Paragraph) in proportion to the liability of each partner for the debt of the specified partnerships, etc. (FIEA, Article 165-2(4)). The same shall apply when the compulsory execution against such assets of the specified partnerships was not successful (FIEA, Article 165-2(5) and (6)).

Moreover, if the listed company, etc. does not make a demand for restitution of gains within 60 days from the date on which the shareholders of the said listed company, etc. (including contributors) have requested that the listed company, etc. should make the said demand, such shareholders can of their own accord make such demand on behalf of the listed company, etc. (FIEA, Article 165-2(7)). The right to demand restitution of gains from short-swing transactions, however, will lapse if not exercised within two years after the date that the profits have occurred (FIEA, Article 165-2(8)).

Furthermore, the following procedures are provided in order to facilitate the exercise of the right to demand the restitution of gains on short-swing transactions (FIEA, Article 165-2(9) through (12)):

- **(i) When it is acknowledged that gains on short-swing transactions have been earned by the assets of a specified partnership, the Prime Minister (Commissioner of the Financial Services Agency) shall send a copy of the section related to the said profit (hereinafter referred to as "profit related documents of the partnership") of the report prescribed in Article 165-2(1) of the FIEA to the partner submitting the report.**
- **(ii) The partner submitting the said report may, within 20 days from the day of receiving the copy of the profit-related documents of the partnership (including that day), file an application to the Prime Minister (Commissioner of the**

Financial Services Agency) that the transaction recorded in the document did not take place.

(iii) If such an application is filed, the statements in the report set forth in Article 165-2(1) of the FIEA shall be deemed not to have been made in connection with the section concerned (Note, however, that a person making a false application is subject to criminal sanction.).

(iv) If no application is filed, the Prime Minister (Commissioner of the Financial Services Agency) will send a copy of the profit-related documents of the partnership to the said listed company, etc., and make them available for public inspection after 30 days have elapsed from the day the copy was sent (including that day) until the day the right to demand restitution of the gains on the short-swing transactions lapses.

(v) These procedures shall be discontinued if and when the Prime Minister (Commissioner of the Financial Services Agency) learns that, in the interim, the profit was supplied to the listed company, etc.

For policy reasons, however, the following situations are excluded from being the subject of a demand for restitution of gains from short-swing transactions, even in the case of purchase, etc., or sale, etc., in connection with assets of a specified partnership, etc. (FIEA, Article 165-2(13), Securities Transaction Ordinance, Article 45):

a. If the specified partnership, etc., was not a specified partnership, etc. at either the time of purchase, etc. or at the time of sale, etc. in connection with the assets of the specified partnership, etc.;
b. Purchase or sale only of shares less than one unit;
c. Purchases that satisfied certain conditions such as fixed amounts and at fixed periodic intervals, through a director shareholding association, an employee shareholding association, an expanded employee shareholding association, or a business partners shareholders association;
d. Purchases in fixed amounts and at fixed periodic intervals based on cumulative share investment contracts;
e. Market derivatives transactions as set forth in Article 2(21)(i) of the FIEA covering a grouping of shares of various different issues on a financial instruments exchange;
f. Stabilizing transactions undertaken pursuant to the FIEAEO;
g. Sale and purchase of corporate bonds (excluding bonds with share options) with buyback conditions attached (limited to the case of fundraising of the specified partnership, etc.);
h. Acquisition of share options pursuant to Article 238(1) of the Companies Act;
i. Exercise of share options; and
j. Derivatives transactions as set forth in Article 2(21)(iv) or (22)(v) of the FIEA in connection with specified securities, etc.

(2) Prohibition against short selling, etc.

The FIEA prohibits any partner of a specified partnership, etc. from committing any of the following in connection with the assets of the specified partnership, etc. (FIEA, Article 165-2(15)):

(i) Specified transaction (meaning a sale or other transaction as prescribed by Cabinet Order, in specified securities, etc. of the said listed company) for which the amount of specified securities involved (meaning the amount of the specified securities sold in the case of sales of specified securities, or the amount as prescribed by Cabinet Office Ordinance in the case of other transaction) exceeds the amount specified by Cabinet Office Ordinance as the amount for the same kind of specified securities as the specified securities of the listed company, etc. held by the partner; or

(ii) Sale, etc. of specified securities, etc. of the said listed company, etc. (excluding specified transactions) in which the volume of specified securities, etc. specified by Cabinet Office Ordinance as the basis to be used for calculating the amount paid or received in the sale, etc. exceeds the volume specified by a Cabinet Office Ordinance as the volume for the same kind of specified securities as the specified securities of the listed company, etc. held by the partner.

<Relevant Laws and Regulations> FIEA, Article 205 and Article 207; FIEAEO, Article 27 through Article 27-8; and Securities Transaction Ordinance, Article 25 through Article 28, Article 30, Article 35 through Article 40

10 Managing Corporate Information

10 1 Overview of the Management of Corporate Information

(1) Definition of "Corporate Information"

"Corporate information" refers to the following information (FIBCOO, Article 1(4)(xiv)):

(i) Unpublicized material information on the operation, business or property of a listed company, etc. [Note 1] which would affect customers in making their investment decisions;

(ii) Unpublicized information on a decision to launch or suspend a tender offer [Note 2] or any bulk purchase (excluding those that fall under the criteria prescribed in the *proviso* of Article 167(2) of the FIEA) of share certificates, etc. (share certificate, etc., as prescribed in Article 27-2(1) of the FIEA) equivalent thereto.

(Notes) 1. A listed company, etc. as prescribed in Article 163(1) of the FIEA. "Listed

company, etc." includes a listed investment corporation.

2. A tender offer as prescribed in Article 27-2(1) or Article 27-22-2(1) of the FIEA (limited, however, to the case where the provision of the main clause of each Article applies)

(2) Prohibited Acts in Relation to Corporate Information

Association Members or officers or employees thereof shall not conduct any of the following acts using corporate information (FIEA, Article 38(ix); and FIBCOO, Article 117):

(i) Soliciting a customer by providing corporate information

Soliciting a customer for the sale and purchase or other transactions, etc. of securities or derivatives transactions relating to securities, or for intermediary, brokerage or agency service therefor, by providing the customer with the corporate information of the issuer of the securities (FIBCOO, Article 117(1)(xiv));

(ii) Recommending a customer to conduct transactions based on the corporate information

Soliciting a customer for the sale and purchase or other transactions, etc. of securities or derivatives transactions relating to securities (hereinafter referred to as "sales and purchase, etc." in this item (ii)), or for intermediary, brokerage or agency service therefor, by recommending the customer to conduct the sale and purchase, etc. for the purpose of having the person gain profits or preventing the person from incurring loss by having him/her conduct the sales and purchase, etc. before the publication of the corporate information of the issuer of the securities (FIBCOO, Article 117(1)(xiv)-2);

(iii) Failing to take appropriate measures for a perspective demand survey

When conducting a survey of the perspective demand among investors for the publicly offered securities, providing the corporate information concerning the public offering (Note 1) to the surveyee or the third party (in the case where such third party conducts the survey under entrustment or with such corporate information provided to it, without taking any appropriate measures (Note 2) (FIBCOO, Article 117(1)(xv));

(iv) Conducting transactions on one's own account using corporate information

Conducting, based on corporate information, sale and purchase or other transactions, etc. of securities (Note 3) pertaining to the corporate information, on one's own account (Note 4) (FIBCOO, Article 117(1)(xvi));

(Notes) 1. A public offering prescribed in Article 166(2)(i)(a) or (ix)(b) of the FIEA but limited to the case that is related to the securities issued by the listed companies, etc. under Article 163(1) of the FIEA.

2. Measures to be taken according to the classification shown in either of (a) or (b) that is prescribed in Article 117(1)(xv)(a) or (b) of the FIBCOO.

3. In the case where the sale and purchase or other transactions, etc. of securities means a sale and purchase of securities, it excludes the sale and purchase of securities that are created as a result of exercising options (including rights similar to options, and related to the transaction, among foreign market derivatives

transactions, similar to that prescribed in Article 28(8)(iii)(c), 1 of the FIEA).

4. Limited to the acts conducted by financial instruments business operators dealing with securities-related business (limited to those who are conducting type 1 financial instruments business) or registered financial institutions (limited to banks), or their officers or employees, and including acts of transactions based on the discretionary trading contracts.

(3) Management of Corporate Information and Prohibited Acts

Association Members in the course of carrying out their business, are likely to acquire undisclosed material information of a listed company, etc. that may have an influence on customers in making investment decisions, and it is necessary to prevent unfair transactions using such information. For this reason, the FIEA imposes a higher level of obligations on Association Members than ordinary people with regard to the handling of corporate information. Specifically, Association Members are prohibited from using corporate information or providing it to customers in certain cases (FIBCOO, Article 117(1) (xiv) through (xvi)), and they are required to take necessary and appropriate measures for the management of corporate information (FIBCOO, Article 123(1)(v)).

(4) Obligation to Take Measures to Prevent Unfair Transactions Involving Corporate Information

Association Members must carry out their business in a manner such that they are not found to have failed to take the necessary and appropriate measures to prevent unfair transactions involving corporate information, in terms of the management of the corporate information that they handle or the management of the sale and purchase or other transactions, etc. of securities by their customers (FIBCOO, Article 123(1)(v)). "Unfair transactions involving corporate information" may include the acts specified in (2)(i) through (iv) above in addition to the insider trading by officers or employees of Association Members. Furthermore, the acts specified in Article 117(1)(xii) (Note 1) and (xiii) (Note 2) of the FIBCOO may be regarded as "unfair transactions involving corporate information" if the information involved in these acts contain corporate information.

(Notes) 1. Acts in which an officer who is an individual (if the officer is a juridical person, then including an employee carrying out the duties of the officer) or an employee of a financial instruments business operator or the like, conducts sale and purchase or other transactions, etc. in securities, utilizing his/her professional position and based on the ordering trend of customers' sale and purchase or other transactions in securities or other special information he or she comes to know in the course of business, or for the purpose of seeking exclusively speculative profits.

2. Acts such as accepting, etc. orders for sale and purchase or other transactions, etc. in securities, knowing that the customer's sale and purchase and other transactions, etc. of the said securities violate or may violate the provisions of Article 166(1) or (3), or Article 167(1) or (3) of the FIEA.

The Rules Concerning Establishment of Confidential Corporate Information Management System by Association Members (hereinafter referred to as the "Corporate Information Management Rules")(Note) provide that an Association Member must establish internal rules for the management of corporate information that prescribe matters such as the procedures at the time of acquiring the corporate information, for the purpose of preventing unfair transactions using such information (Corporate Information Management Rules, Article 4 and Article 5), and also provide for the management of communication of corporate information by taking measures such as building information barriers (Corporate Information Management Rules, Article 6).

It is provided that regular inspections, etc. must be monitored as to whether the corporate information is managed properly pursuant to the internal rules (Corporate Information Management Rules, Article 7). The points of attention and the concept regarding the implementation of the Corporate Information Management Rules (Concept behind the "Rules Concerning Establishment of Confidential Corporate Information Management System by Association Members") have been presented (Corporate Information Management Rules, Article 8).

(Note) Article 3 through Article 7 of the Corporate Information Management Rules shall not apply to the Special Commodity Futures Member until the day separately specified by the JSDA (Commodity Derivatives Rules, Article 4).

10 2 Practical Handling of Corporate Information

(1) Determining the Scope of Corporate Information

As described above, the term "corporate information" is not clearly defined, in contrast to the terms "material fact" and "fact concerning a tender offer, etc." referred to in the context of insider trading, which are stipulated in the FIEA. Furthermore, there is no statutory limitation regarding the circumstances wherein or method whereby corporation information has been acquired, nor is there any statutory limitation regarding the recipient of such information. There are no numerical standards, like de minimis standards, for clearly excluding certain information from the regulations on corporate information. Therefore, it is very difficult to determine whether a particular item of information is "corporate information," and accordingly, for the purpose of the management of corporate information, financial instruments business operators, etc. should have their sections responsible for the management of corporate information collect information as broadly as possible in order to determine whether the information acquired by their officers and employees falls within the category of corporate information, and thereby prevent the spreading of corporate information, and should also monitor the use of such information.

(2) Examples of Corporate Information Management Systems

Financial instruments business operators, etc. currently have in place a variety of systems for the

management of corporate information, according to the types of business that they engage in. The major examples of such management systems are as follows.

(i) Establishment of Corporate Information Management Rules

In connection with management of corporate information, Association Members must establish internal rules which prescribe the following matters for the purpose of preventing conduct of an unfair transaction using such information (Corporate Information Management Rules, Article 4):

(a) Matters concerning the procedures upon acquiring the corporate information;
(b) Matters concerning the information management procedures for a person, etc. who acquired the corporate information;
(c) Matters concerning the identification of the management section and its information management procedures;
(d) Matters concerning the communication procedures of corporate information;
(e) Matters concerning the extinction or deletion procedures of corporate information;
(f) Matters concerning prohibited acts;
(g) Other matters the Association Member deems necessary.

(ii) Centralized management by the corporate information management section

Association Members must establish procedures that are necessary to comprehensively manage the corporate information in a manner such that officers and employees who acquire the corporate information immediately report such acquisition to the section that comprehensively manages the corporate information (Corporate Information Management Rules, Article 5). Specifically, as the definition of "corporate information" is unclear, a desirable rule would be something like, "Where any item of information is likely to have an influence on investors' investment decisions, an officer or employee who has acquired such information must make an inquiry to the corporate information management section as to whether the information in question falls within the scope of corporate information." In practice, most Association Members have in place a centralized management system wherein the corporate information management section, upon receiving a report on the acquisition of corporate information, prohibits the officer or employee from communicating or using the information until it is publicized, while monitoring the use of the information.

(iii) Building information barriers (Chinese walls)

Association Members must manage the corporate section [(Note)] so that the corporate information is not communicated to other sections that do not need such information for their business, such as through physically isolating the corporate section from other sections (Corporate Information Management Rules, Article 6). The measures required under this provision, generally called "Chinese walls", include information barriers in the form of rules for preventing employees from communicating information with one another carelessly (*e.g.,* prohibition of the unnecessary entry into other sections), in addition to physical barriers (*e.g.,* granting of authorization to manage or access documents to a limited scope of persons, physical isolation of the sections handling corporate information).

Corporate sections are sometimes referred to as the so-called "internal section" (or "private section"). In addition to prohibiting and restricting a particular section (internal section) which is likely to acquire corporate information from communicating such information to another section

which is likely to use it (external section, or "public section"), it may also be necessary to build a "Chinese Box" and put into it a section which is highly likely to acquire or use corporate information frequently, thereby preventing this section from communicating information to all the other external sections which are likely to use corporate information.

(Note) Among sections dealing mainly with operations (financial instruments business and its incidental business or registered financial institution business; the same shall apply hereinafter), the section that is highly likely to obtain corporate information during its course of business (Corporate Information Management Rules, Article 2(iii)).

(iv) Restriction or prohibition on officers and employees from engaging in sale and purchase of securities

From the perspective of preventing insider trading by their officers and employees, Association Members must establish internal rules on the procedures for the sale and purchase, etc. of specified securities on their officers or employees' own accounts which may include systems requiring the notification after the transaction, the notification prior to the transaction, or the approval prior to the transaction, as well as systems that basically or totally prohibit officers and employees in certain sections from conducting the transaction (Rules Concerning Sale and Purchase, Etc. of Specified Securities, Etc. of Listed Companies, Etc. by Employees of Association Members, Article 4)(Note).

Furthermore, Article 5 of the "Rules Concerning Sale and Purchase, Etc. of Specified Securities, Etc. of Listed Companies, Etc. by Employees of Association Members" stipulates that Association Members must establish internal rules so that employees belonging to the corporate section, in principle, do not perform any sale and purchase, etc. related to specified securities of the listed companies that they are in charge of for their own accounts.

(Note) Article 4 of the "Rules Concerning Sale and Purchase, Etc. of Specified Securities, Etc. of Listed Companies, Etc. by Employees of Association Members" are applicable to the Special Commodity Futures Member from April 1, 2021 (Commodity Derivatives Rules, Article 4).

(v) Establishment of information management rules

Some Association Members have in place various information management rules based on the "need-to-know" principle (the access to and use of information concerning customers, etc. must be allowed only for the officers and employees who need to know it in the course of performing their duties). For example, these rules may include rules on private talking in public spaces, rules on schedule management, rules on the use of code names, rules on addition of addresses and carbon copy addresses in emails, and rules on "wall-crossing" communication of information (exception to the prohibition of communication of corporate information).

In addition to the above, in view of the past administrative actions taken and the Concept of the "Rules Concerning Establishment of Confidential Corporate Information Management System by Association Members," some Association Members have introduced rules that restrict the

communication (unless required under business operations) of (i) information which is not currently corporate information but is highly likely to become corporate information in the future (highly probable information), (ii) information that suggests the acquisition of the corporate information (suggestive information), or (iii) information in respect of capital increases, etc. of those without an issue name, *i.e.,* the so-called "non-name," and that prohibit the search for this information.

(vi) Request of the submission of a written pledge

Some Association Members require their officers and employees to comply with the restrictions on the sale and purchase of securities (mentioned in (iv)) or the information management rules (mentioned in (v)) and to submit a written pledge at the time of employment or on a periodical basis with a view to ensuring compliance.

(vii) Raising awareness among officers and employees and their training

Association Members take measures to raise awareness among their officers and employees regarding the acts prohibited by law and the JSDA rules in connection with corporate information as well as case examples. These measures include conducting training programs and tests, in addition to giving instruction on this matter at morning meetings or internal notices. As it is very difficult to determine whether an item of information falls within the category of corporate information, a desirable approach would be to instruct officers and employees to handle information while keeping in mind that a wide range of information that may have an influence on investors could be regarded as corporate information. As stated in 10.1 (2) above, the prohibition of acts, etc. to solicit customers for the sale and purchase or other transactions, etc. of securities by providing corporate information shall be thoroughly enforced.

<Relevant Laws and Regulations> FIEA, Article 38, Article 40, Article 166 and Article 167; FIBCOO, Article 117(1)(xiii) through (xvi), and Article 123(1)(v)

<Relevant Sections of this Manual> Chapter VII. 18 Prohibition Against Transactions Utilizing Corporate Information

Regular Member

11 Establishing Trade Screening System to Prevent Unfair Trading

Regular Members must put in place trade screening system to prevent unfair trading with respect to sale and purchase of listed share certificates, etc. and market derivatives transactions (hereinafter referred to as "trade screening system for the listed share certificates, etc. and market derivatives transactions"), in order to promote fairness and transparency in the financial instruments markets, and to maintain and improve the trust that investors have in Regular Members.

Specific matters that are required in connection with establishing the trade screening system for listed share certificates, etc. and market derivatives transactions have been stipulated, as a JSDA rule, in the "Rules Concerning Establishing a Trade Compliance Screening System for the Prevention of Unfair Trading." (The financial instruments exchanges also have similar regulations, such as the respective

"Regulations for Trading Supervision Systems at Trading Participants to Prevent Unfair Trading," of the Tokyo Stock Exchange and Osaka Stock Exchange.)

The JSDA's Rules mentioned above provide that a Regular Member must establish a trade screening system for listed share certificates, etc. and market derivatives transactions by at least taking the following actions (Articles 2, 3, 4 and 5):

(i) Enactment of internal rules (internal rules concerning entrustment transactions for sale and purchase of listed share certificates, etc. and market derivatives transactions by customers)

The following matters must be set forth:

a. Matters relating to the section in charge of operations of trade screening, its power and responsibility;
b. Matters relating to the accurate understanding of sale and purchase trends and the motives of customers regarding their sale or purchase;
c. Matters relating to the relevant information for implementing trade screening;
d. Matters relating to the selection of customers subject to trade examination (only for the sale and purchase of listed share certificates, etc.);
e. Matters relating to the trade examination of customers;
f. Matters relating to the measures to be taken based on the results of trade examination; and
g. Other matters that are deemed necessary.

(ii) Accurate understanding of sale and purchase trends and motives of customers regarding their sale or purchase

A Regular Member, in accordance with the above internal rules, must conduct monitoring (investigation of instruments that customers have traded, their transaction methods, forms of the transaction, intentions of the investment, and investment experiences, etc.) in a timely manner, and endeavor to accurately understand the sale and purchase trends and motives of customers regarding their sale and purchase.

(iii) Trade examination

A Regular Member must conduct trade examination in accordance with the internal rules above.

If, as a result of such trade examination concerning sale and purchase of listed share certificates, etc. and market derivatives transactions, a Regular Member identifies a matter that may lead to an unfair trade, the Regular Member must give a warning to the customer who conducted the trade. If such conduct continues thereafter without improvement, the Regular Member must cease receiving orders from the customer and implement any other appropriate measures. When, as a result of such trading examination concerning sale and purchase of listed share certificates, etc., the Regular Member recognizes that the transaction regarding the said customer is suspected for the insider trading, it must report the result of the trading examination and the content of any measures if it applied to the customer to the JSDA (limited to the case where the trading was conducted outside of the financial instruments exchange market and that conducted in the financial instruments exchange market by the Regular Member who is not trading participant, etc. of the financial instruments exchange which operates the financial instruments exchange market where the said trading was conducted) and the Securities Exchanges Surveillance Committee. (if the Regular Member is a transaction participant on the Tokyo Stock Exchange, the Regular Member shall also report to the

Tokyo Stock Exchange pursuant to the regulations of the Tokyo Stock Exchange).

(iv) Preparation and retention of internal records

Internal records must be prepared and kept for five years in connection with, *inter alia*, the results of trade examination concerning sale and purchase of listed share certificates, etc. and market derivatives transactions (except for cases clearly not falling under an unfair trade), and measures taken in relation to the customer. At the same time, information necessary to secure the effectiveness of the examination of the sale and purchase with regard to the orders made by the customer on the Internet must be obtained and kept in an appropriate manner.

In addition to putting in place trade screening system for the listed share certificates, etc., and market derivatives transactions, Regular Members must, under the Association Rules, thoroughly disseminate to and inform their officers and employees of the internal rules, and must endeavor to achieve the effectiveness thereof, through means such as having the divisions responsible for the operations of trade screening implement revisions in a manner that is consistent with the actual conditions of the market and transactions (*id.,* Article 6).

A Regular Member must, in addition to the internal management of entrusted orders, manage trading sale and purchase of listed share certificates, etc. and market derivatives transactions for its own account, in an appropriate manner in consideration of, *inter alia*, the contents and size of its own business activities (*id.,* Article 7).

<Relevant Laws and Regulations> TSE Trading Participant Regulations

Regular Member

12 Others

12 1 Tender Offer Regulations

The regulations concerning tender offers under the FIEA have been divided into "tender offer for share certificates, etc. by persons other than issuer" and "tender offer for share certificates, etc. by issuer."

"Tender offer for share certificates, etc. by persons other than issuer," means an offer to purchase, etc. or a solicitation of offers for sale, etc. of share certificates, etc. made through a public announcement by a person other than the issuer, to many and unspecified persons, and to make purchases, etc. of "share certificates, etc." outside of a financial instruments exchange market.

The share certificates, etc. mentioned here are (i) share certificates, (ii) share option certificates, (iii) bonds with share options, (iv) securities or instruments issued by a foreign person which are similar to (i) through (iii) above, (v) investment securities, etc. and investment equity subscription right certificates, etc., (vi) securities trust beneficiary certificates (limited to those in which the entrusted

securities are securities as set forth in (i) through (v)), and (vii) depository receipts (DRs) in connection with securities set forth in (i) through (v) above. It does not, however, include "non-voting stock" for which voting rights cannot be exercised for all of the matters that may be resolved at a general meeting of shareholders, and for which there is no stipulation in the articles of incorporation that in exchange for acquisition of the shares of stock, shares of stock with voting rights will be delivered (FIEA, Article 27-2(1); FIEAEO, Article 6; and Cabinet Office Ordinance on Disclosure Required for Tender Offer for Share Certificates, Etc. by a Person Other Than Issuer, Article 2).

Share certificates, etc. that are regulated by the FIEA in connection with "tender offers for share certificates, etc. by person other than issuer" refers to share certificates, etc. of an issuer that must submit a securities report in connection with the said share certificates, etc., or share certificates of an issuer of specified listed securities. Thus, the share certificates, etc. that are regulated would be share certificates, etc. of an issuer which for example are any of the following:

(i) Share certificates, etc. that are listed (including share certificates, etc. that are listed solely on what is referred to as a transaction market for professionals);
(ii) Share certificates, etc. for which a securities registration statement has been submitted in connection with a public offering or secondary distribution for the same; and
(iii) Share certificates, etc. for which the issuer is a company that is covered by the external standards (such as having 1,000 or more shareholders as of the last day of the relevant business year or any business year that has commenced within four years prior to the date of commencement of the relevant business year).

On the other hand, "tender offer for share certificates, etc. by issuer," is tender offer related to the acquisition of treasury shares. (For details, see "8. Acquisition by a Company of Its Own Shares and the Financial Instruments and Exchange Act" of this Chapter.)

The regulations for tender offers are complicated, and it is best to ask specialist departments to illuminate those points which are not clear. For normal business activities, however, those points on which special attention needs to be focused are as follows:

(1) Cases in Which a Tender Offer Is Required (Where it is by a Person Other Than Issuer)

A purchase, etc. of regulated share certificates, etc. that is covered by any of the following must be made by a tender offer (FIEA, Article 27-2(1)). A "purchase, etc." here shall mean purchase or other type of acceptance of transfer for value of share certificates, etc. and including acts specified by a Cabinet Order as being similar to such acceptance:

(i) A purchase, etc., if after the said purchase, etc. off a financial instruments exchange market, a holding ratio of the share certificates, etc. will exceed 5% (excluding cases in which the purchase, etc. will be made from extremely small number of persons).

The "cases in which the purchase, etc. will be made from extremely small number of persons" shall mean cases in which the total number of persons from whom the purchase, etc. of the share certificates, etc. is to be made, and the number of persons from whom a purchase, etc. is made off of a financial instruments exchange market of the share certificates, etc. that are issued by the issuer of the share certificates (excluding cases of a tender offer) within the 60 days prior to the purchase, etc. in question will be not more than 10 (FIEAEO, Article 6-2(3)).

(ii) A purchase, etc., if after the said purchase, etc. from extremely small number of persons off a financial instruments exchange market, the holding ratio of the share certificates, etc. will exceed one-third.

(iii) A purchase, etc. by specified sale and purchase, etc., if after the said purchase, etc. by specified sale and purchase, etc., the holding ratio of share certificates, etc. will exceed one-third.

"Specified sale and purchase, etc." refers to sale and purchase, etc. of securities on a financial instruments exchange market that is prescribed by the Prime Minister as being sale and purchase, etc. of securities other than by a method of auction. Examples of this would be ToSTNeT trading in Tokyo.

(iv) In the event that transactions will occur within a three month period including acquisitions of share certificates, etc. in which specified sale and purchase, etc., or purchases, etc., made off a financial instruments exchange market will compose more than 5%, and in which more than 10% as a total of the acquisitions of share certificates, etc. will be conducted by purchase on or off a financial instruments exchange market or by acquisition of new issues, and for which the holding ratio of share certificates, etc. will exceed one-third, the purchases, etc. that are included in such an acquisition (rapid purchases, etc. with combined transactions).

(v) In the event that while a tender offer is being carried out, a major stockholder having more than one-third of share certificates, etc. makes a purchase, etc. in excess of 5% (determined by a separate formula under Cabinet Order or Cabinet Office Ordinance), the said purchases, etc.

(vi) Such cases as are prescribed by Cabinet Order as being equivalent to (i) through (v).

Nevertheless, even in the above cases there are situations that are exempt from this requirement including (a) exercise of share options, or (b) purchases, etc. from extremely small number of persons in the event that the share certificates, etc. shareholding rate exceeds 50% (excluding situations in which after the purchases, etc., the share certificates, etc. shareholding rate will be two-thirds or greater), in which case the acquisition, etc. need not be made by means of a tender offer (FIEA, Article 27-2(1), *proviso*; and FIEAEO, Article 6-2(1)). Yet, even in the case of exercise of share options as mentioned in (a) above, if the share options have been acquired through the allotment of share options without contribution as prescribed in Article 277 of the Companies Act, and the period from the issuance of share options until the last day of the period for exercise thereof does not exceed two months, and an agreement to exercise all of the share options has been entered into with the underwriting securities company, the relevant purchase to be made by the exercise of share options shall be subject to a tender offer, upon such exercise of share options (Cabinet Office Ordinance on Disclosure Required for Tender Offer of Share Certificates, Etc. by Person other than Issuer, Article 2-2-2 and Article 8(3)(i)).

(2) Prohibition Against Separate Purchase (*betto kaitsuke*) During the Tender Offer Period (by Persons Other than Issuer)

During the period of a tender offer (from the day of the public notice for commencing tender offer through the last day of the period for purchase, etc.), a tender offeror, etc. is, in principle, prohibited from purchasing, etc., share certificates, etc., that are share certificates, etc. of the issuer of the share certificates, etc. involved in the tender offer, *i.e.,* a "separate purchase," even if the purchase is on a financial instruments exchange market (FIEA, Article 27-5).

Tender offeror, etc. include the following (FIEA, Article 27-3(3); and FIEAEO, Article 10):

(i) Tender offeror;

(ii) Person in special relationship with the tender offeror (including a spouse or relative in the first degree of consanguinity, or companies with a special capital affiliation (such as those in which the offeror owns 20% or more of the total voting rights of shareholders, etc.), or officers, etc. of the offeror if the offeror is a juridical person);

(iii) Financial instruments business operators, etc., or banks that undertake the administrative works of making the payment or custody of share certificates, etc. for the tender offeror; and

(iv) Agent for the tender offer.

Financial instruments business operators, however, are permitted to make purchases in circumstances such as purchase pursuant to the entrustment from a person other than the tender offeror or person in special relationship therewith, etc., or to make purchases to facilitate smooth distribution of securities pursuant to the regulations of the financial instruments exchange or a financial instruments firms association, even if the financial instruments business operator has performed the administrative work set forth in (iii) or (iv) above (FIEAEO, Article 12).

Consequently, if an Association Member receives an order to make a purchase, etc. of shares, etc. issued by the target company, after a tender offer has commenced, the financial instruments business operator must verify etc., whether the customer falls under the tender offeror, etc.

If a tender offeror, etc., purchases, etc., shares, etc., in violation of the prohibition against separate purchases, the tender offeror, etc. must pay compensation equivalent to the difference between the purchase price in the relevant purchase and the price paid to investors who made sales, etc. of shares certificates, etc., in response to the tender offer, to the said investors (FIEA, Article 27-17).

<Relevant Laws and Regulations> FIEA, Article 27-2(6) and (7); and FIEAEO, Article 7 through Article 9 and Article 11

<Relevant Sections of this Manual> Chapter VII. 47 Restrictions on Tender Offers

12 2 Disclosure of Status of Large Volume Holding of Share Certificates, Etc. (the 5% Rule)

(1) Disclosure of Status of Large Volume Holdings

Because information regarding the holder of shares or the holding ratio of each holder relating to the existence of corporate control is material information affecting the investment decision of investors, the "Disclosure Regulation Concerning Large Volume Holdings of Share Certificates, Etc." was set up as a policy of disclosure for these kinds of block holders.

This regulation is generally called the 5% Rule for the purposes of the FIEA, essentially because it requires the submission of a report in electronic form to the Prime Minister (Commissioner of the Financial Services Agency) if a person holds more than 5% of share certificates, etc. of the total number of shares, etc. issued and outstanding (FIEA, Article 27-23), and is also referred to as the Large Volume Holding Report System or the Large Volume Holding Reporting System.

(2) Outline of the 5% Rule

(i) Securities that are subject to the rule ("Share certificates, etc." in the 5% rule):

The 5% rule covers share certificates, bonds with share options, certain covered warrants and other securities prescribed by Cabinet Order that are issued by a company which is the issuer of securities related to share certificates that are listed (hereinafter in this Paragraph companies of this nature are referred to as "listed companies"). For the purposes of the 5% rule, these instruments are referred to collectively as "share certificates, etc." (FIEA, Article 27-23(1) and (2)).

"Securities related to share certificates" refers to share certificates, bonds with share options and other securities as prescribed by Cabinet Order (FIEA, Article 27-23(1)).

The following securities would, for example, be "share certificates, etc.":

a. Share certificates in listed companies (excluding share certificates that satisfy the requirements as prescribed by Cabinet Office Ordinance among those shares for which voting rights cannot be exercised in connection with all of the matters that may be resolved at a general meeting of shareholders (hereinafter referred to as "shares without voting rights"));
b. Share option certificates or bonds with share options of a listed company (excluding those share option consisting of a right to acquire only shares without voting rights);
c. Investment securities and investment equity subscription right certificates, etc. that are listed (*i.e.,* certificates of corporate type investment trusts);
d. Covered warrants representing options in connection with sale and purchase of a. through c. above (limited to instances in which the holder who exercise the option acquires the status of purchaser);
e. Securities trust beneficiary certificates for which the entrusted securities are a. through c. above;
f. Depository receipts representing the rights in connection with a. through c. above; or
g. Corporate bonds that grant the holder of the bonds the right to demand redemption by means of a. through c. above (limited to instances in which these are issued by a person other than the issuer of a. through c. above by which these instruments would be redeemed, and excluding bonds with share options).

(ii) Reporting Requirements

A person whose holding ratio of share certificates, etc., exceeds 5% (large volume holder) according to the method of calculation in (iv) below, shall submit a report of possession of large volume in the prescribed form to the Prime Minister (Commissioner of the Financial Services Agency).

(iii) Persons with the Responsibility to Report

The person with the obligation to file the report is the substantive holder of the share certificates, etc., as prescribed below (FIEA, Article 27-23(3); and FIEAEO, Article 14-6):

a. Holders (regardless of the name of a holder);
b. Holders of the right to demand delivery of share certificates, etc. pursuant to a sale and purchase or other agreement, or other person designated by Cabinet Order as being equivalent to the same.

These persons would for example include the following:

(a) A person who has made a contract to purchase share certificates, etc., but has not yet received delivery of the same;
(b) A person who is making a purchase through a margin transaction; and
(c) A person who is involved in a commitment on one side of a sale and purchase or who has acquired an option in connection with the said share certificates, etc. (limited to instances in which the said person acquires the status of purchaser through exercise of the right in question) (FIEAEO, Article 14-6).

c. A person who has the authority to exercise voting rights or other rights, or the authority to give instruction concerning the exercise of voting rights or other rights pursuant to a monetary trust indenture or other agreement or provision under law, and who has the intention of controlling the business activities of the said company;
d. A person with investment authority based on a discretionary investment management contract or other contracts, or provision under law (for example, an investment advisory company which has investment authority under a discretionary investment management contract, or a trustor, etc. of a specified monetary trust who has the right to give investment instructions pursuant to the trust indenture);

(iv) Calculation of the Holding Ratio of Share Certificates, Etc. (FIEA, Article 27-23(4); FIEAEO, Article 14-6-2; and Article 4 of the Cabinet Office Ordinance on Disclosure of Status of Large Volume Holdings of Share Certificates, Etc.)

[Basic Formula]

$$\frac{\text{Total number of share certificates, etc., held}}{\text{Total number of share certificates, etc. issued and outstanding}}$$

a. Potential shares such as share option certificates and bonds with share options shall be translated into the relevant number of shares pursuant to the method prescribed by the Cabinet Office Ordinance, and included in the calculation of holdings.
b. The number of shares held jointly by joint holders shall be added to the total number of share certificates, etc. held, provided that the number of share certificates, etc. that have been duplicated as entries among the holder and joint holders shall be subtracted.
c. Joint holders are the following persons (FIEA, Article 27-23(5) and (6)):
(a) Substantive joint shareholders.

If an agreement has been reached that acquisition or assignment of share certificates, etc., or exercise of voting rights, etc., is to be performed jointly (cases in which there is an agreement of joint holding), the counterparty to the agreement shall be considered to be a joint holder of the holder in question; or

(b) Deemed joint shareholders:

If multiple holders of share certificates, etc. are in a special relationship, such as a personal relationship or capital relationship, these parties shall be mutually deemed as

joint holders, even if there is no agreement of joint holding. This, for example would include a husband and wife, or a parent and subsidiary, etc. having a capital relationship in excess of 50% of the total voting rights of shareholders, etc., as well as a partnership which constitutes a subsidiary under Article 8(3) of the Regulation on Terminology, Forms, and Preparation Methods of Financial Statements, and its parent company (FIEAEO, Article 14-7; and Article 5-3 of the Cabinet Office Ordinance on Disclosure of Status of Large Volume Holding of Share Certificates, Etc.).

d. Margin transactions will in principle in the case of a buy order be added at the time of the order to the total number of shares, and in the case of a sell order will be subtracted at the time of the contract from the total number of shares.
e. Under this formula the total number of shares issued and outstanding, etc. shall in principle equal the number of the potential shares, etc. such as bonds with share options held by the holders or joint holders added to the total number of shares issued and outstanding (depository receipts converted to share certificates are not included).

(v) Method of Submission if there is a Joint Holder

The representative can submit a report on all the joint holders together, provided that the joint holders other than the representative must prepare power of attorney and deliver them to the representative.

(vi) Submission of Change Report

Large volume holders, after the day they become large volume holders, must submit a change report according to a prescribed form if any of the following changes occur (FIEA, Article 27-25):

a. Where the percentage of holding ratio of share certificates, etc. increases or decreases by 1% or more.

Nevertheless, the report does not need to be submitted if the total number of share certificates, etc. held does not change, even if the holding ratio of share certificates, etc. increases or decreases because of a change in the total number of shares issued and outstanding as a result of an event such as exercise of share option by a third party, or if the total number of share certificates, etc. held increases or decreases solely because of an adjustment to the issue price for shares underlying share options;

b. Where a change has occurred in material matters that should be recorded in the report of possession of large volume.

This would for example involve cases in which there are, inter alia, changes in the personal or company name or personal or company address of the person submitting or the joint holder, or a change in the holding purpose, transfers of the joint holders, changes in the breakdown of share certificates holdings etc., or changes in important contracts such as collateral contracts relating to the shares certificates etc. Care is necessary here, matters other than those set forth in FIEAEO, Article 14-7-2(1) are stipulated by laws and regulations as constituting a "material matter."

(vii) Place of Submission of the Report

In addition to submitting the report to the Prime Minister (Commissioner of the Financial Services Agency), a copy of the report must be sent to the issuing company (issuer) and the financial

instruments exchange (FIEA, Article 27-27).

(viii) Deadline for Submitting the Report

The report must be submitted within five days from the day that a holder became a large volume holder, or from the day that the changes occurred necessitating the submission of a report (provided that the number of Sundays and holidays prescribed by Cabinet Order shall not be included in calculation of the period) (FIEA, Article 27-23(1) and Article 27-25(1)).

(ix) Public Inspection of the Report

The report submitted or a copy of the mailed report shall be available for public inspection for a period of five years (FIEA, Article 27-28).

(x) Reporting Under Special Exception (hereinafter referred to as "special exception report")

Reporting using a simplified form (special exception report) is permitted for financial instruments business operators (limited to type 1 financial instruments business operators and persons who engage in the investment management business) and banks, etc., except in exceptional circumstances such as holding for the purpose of carrying an "act of a material proposal, etc. (meaning those that are prescribed by Cabinet Order of an act of causing a material change or having a material impact on the business activities of the issuing company (issuer)) (FIEA, Article 27-26). Certain filings are necessary, however, if this simplified form of report (the special exception report) is to be used. Moreover, this simplified form of reporting (the special exception report) is also permitted for a person such as the national government or a local government.

(xi) Duty to File Electronically

Reports must be submitted by EDINET (electronic disclosure system in connection with the documents to be disclosed under the FIEA, such as securities reports) (FIEA, Article 27-30-2, and Article 27-30-3(1)).

<Relevant Laws and Regulations> FIEA, Article 27-24 and Article 27-29; and FIEAEO, Article 1-4, Article 14-4, Article 14-5, Article 14-8 and Article 14-9.

Chapter IX. Other Items Concerning Internal Administration

1 System for Customer Management and Sales Staff Management

Association Members must ensure that investment solicitation is conducted in an appropriate manner suited to the customer's attributes, etc., while taking into consideration the contents and conditions of transactions according to the customer's knowledge, experience, financial condition, investment objectives and ability to make judgment regarding risk management. Based on the systems established to achieve this, they must fulfill their duty of honesty and fairness to customers.

From the perspective of ensuring the fulfilment of the duty of suitability and the duty of good faith and fair dealing by financial instruments business operators, the FIBO Supervision Guidelines specifies the following matters.

(i) Financial instruments business operators need to establish a system for appropriately ascertaining the details of financial instruments they provide as a premise of conducting investment solicitation.

(ii) It is important to establish a system to manage customers that makes it possible to accurately ascertain customers' attributes and transaction status.

(iii) It is necessary to review and evaluate whether there is a rational reason to prove that the details of financial instruments are suited to respective customers' attributes.

(iv) Then, financial instruments business operators need to ensure that investment solicitation without such rational reason or inappropriate or unfaithful investment solicitation would not be conducted for their customers.

Given this perspective, Association Members should establish necessary systems, bearing in mind the viewpoints mentioned in 1.1 to 1.6 below. As methods of investment solicitation are diverse, including solicitation to customers coming to business offices and solicitation using a telephone or via the internet, it should be noted that it is necessary to consider appropriate solicitation methods depending on the characteristics of respective methods.

1 1 Proper Understanding of the Details of Financial Instruments

With regard to individual financial instruments provided by Association Members, whether Association Members sufficiently analyze and identify the risks, returns and costs thereof as well as

other information that is necessary for customers in making investment in financial instruments, and whether Association Members have developed a system to ensure that management and employees accurately understand the relevant information and appropriately provide explanations to customers in accordance with the characteristics, etc. of respective financial instruments, through the provision of training and preparation of explanatory documents for customers, while collaborating with originators of respective financial instruments.

12 Efforts for Securing of an Appropriate Identification of Customer Attributes and Actual Status of Transactions as well as for Appropriate Management of Customer Information

(i) Whether, in order to grasp customer attributes such as investment purpose and experiences in a timely and appropriate manner, the Association Member prepares a system of customer cards, for instance, adequately confirming the investment purpose, and whether the customer's investment purpose registered on the customer cards is shared by both the Association Member and the customer. Furthermore, whether the Association Member appropriately manages customer information in such manner as when the Association Member ascertains any change in the status of a customer's assets and income or his/her investment purpose based on a report, etc. by the customer, the Association Member makes changes to the registered details on the customer cards after confirming the customer's intention whether or not to make said changes and shares the modified registered details with the customer, upon conducting investment solicitation thereafter.

(ii) Whether the Association Member refers to transaction conditions, such as trading profits and losses, evaluation profits and losses, the frequency of transactions and the status of fee payment with regard to each customer account, for example, as part of its effort to identify the actual status of transactions conducted by customers.

(iii) Regarding customers who are deemed to require direct contact in order to check the contents of their transactions, whether the Association Member strives to identify the actual transaction status by appropriately, for example, having a sales division manager (this should be a person other than the employee in charge of handling said customers but may be the manager in charge of internal control or the head of a division, a branch office or a person with a similar status; the same shall apply hereinafter) conduct an interview with said customers in a timely and appropriate manner, and whether the same measures are taken to identify the actual status of transactions of derivatives, etc., which continue for a long time after the conclusion of contracts.

13 Review and Evaluation of Rational Reason upon Investment Solicitation

(i) Prior to conducting investment solicitation for financial instruments, whether the Association Member reviews and evaluates a rational reason to consider that individual financial instruments,

and the frequency and amounts of a series of transactions with a customer are suited to the attributes and investment purpose of the relevant customer that the Association Member has ascertained.

(ii) From the perspective of securing proper review and evaluation, whether the Association Member has specified concrete methods, including factors to take into consideration and procedures to follow, in advance, depending on the characteristics of respective financial instruments, while collaborating with originators thereof.

Whether the Association Member conducts careful sales management, such as adopting a system of management approval for investment solicitation of certain financial instruments depending on the attributes of respective customers in order to avoid inappropriate solicitation contrary to a customer's investment purpose, such as selling multi-currency funds or other high-risk instruments to customers who are focused on the security of their principal.

1 4 Inappropriate or Unfaithful Investment Solicitation

The FIBO Supervision Guidelines describe the following acts of soliciting investment in financial products as examples of "inappropriate or unfaithful investment solicitation to customers."

(i) An act to solicit purchases and sales of financial instruments with a high frequency contrary to the attributes and investment purpose of a customer seen from the developments of a series of transactions with the customer as a result of the Financial Instruments Business Operator's efforts to seek profits, and to cause said customer to bear excessive fees. (When making a judgment as to whether the frequency is unreasonably high, it should be noted whether the percentage of the aggregated total of paid fees against the customer's annual average investment balance and the frequency of his/her past transactions do not significantly deviate from the customer's ordinary investment behavior.)

(ii) With the aim of soliciting investment in a financial instrument contrary to the attributes and investment purpose of a customer, an act to request the customer to change his/her investment purpose in line with the relevant financial instrument without making the customer accurately understand the meaning of and the reason for that change.

(iii) Under a circumstance where investment in multiple financial instruments is likely to match a customer based on his/her attributes and investment purpose, an act to solicit the customer to invest in a financial instrument that requires higher fees without any rational reason.

1 5 Verification by the Internal Control Division

(i) Whether the internal control division verifies 1.1 to 1.4 above and reviews systems based on the verification results, thereby endeavoring to secure the effectiveness.

(ii) Whether the internal control division has established concrete methods for interviews with customers by a sales division manager, etc. mentioned in 1.2(iii) above and has made the relevant methods thoroughly shared among management and employees, and ascertains and verifies the status of the interviews and reviews those methods or otherwise endeavors to establish a system to secure the effectiveness.

1 6 Conversion to a Specified Investor upon Request of an Ordinary Investor

In a case where a customer as an "ordinary investor" requests to convert to a "specified investor" pursuant to the provision of Article 34-3(1) of the FIEA, whether the Association Member determines the acceptability of such request after having judged whether it is appropriate to treat the customer as a "specified investor" in consideration of his/her knowledge, experience, state of property and purpose of investment.

1 7 Identification of the Actual State of Customer Solicitation Conducted by Sales Staff and Efforts to Ensure Appropriate Solicitation

The FIBO Supervision Guidelines provide that from the viewpoint of ensuring that financial instruments business operators solicit customers in an appropriate manner suited to the customer attributes, it is important to identify and keep track of the actual state of customer solicitation conducted by the business operators' sales staff and ensure compliance with laws and regulations, and to this end, particular attention shall be paid to the following points and the points set forth in 1.8.

(i) Whether the manager of each sales division, for example, strives to identify and keep track of the actual state of customer solicitation by directly holding interviews with customers, and takes appropriate measures when necessary.

(ii) Whether the manager of each sales division, in the course of handling securities for professional investors, takes into consideration that SMEs are included in the scope of professional investors, and from this viewpoint, strives to identify and keep track of the actual state of such handling and takes appropriate measures, focusing on points such as whether sufficient arrangements are made to give notice or deliver documents as required under Article 40-5(1) and (2) of the FIEA.

(iii) Whether the internal control division has developed a specific method of identifying and keeping track of the actual state of customer solicitation mentioned in (i) and (ii) above and communicated it to all officers and employees, and is striving to establish a control environment that ensures the effectiveness of the method by identifying and examining the status of solicitation and is reviewing and revising the method when necessary.

18 Efforts to Foster and Maintain Sense of Compliance among All Officers and Employees

From the viewpoint of ensuring that Association Members solicit customers in an appropriate manner suited to the customer attributes, it is important to identify and keep track of the actual state of customer solicitation conducted by the business operators' sales staff. In connection with the efforts to foster and maintain a sense of compliance among all officers and employees, the FIBO Supervision Guidelines state that particular attention shall be paid to the following points.

(i) Whether the financial instruments business operator provides case study training, external training and other types of training with a view to enhancing the sense of compliance among all officers and employees.

(ii) Whether the internal control division implements measures to enhance the effectiveness of training, such as identifying and examining the contents of training programs and the implementation thereof and reviewing and revising the contents of the programs when necessary.

<Relevant Laws and Regulations> FIBO Supervision Guidelines III-2-3-1 and III-2-3-2 (applied *mutatis mutandis* to Special Members under VIII-1)

[Column: Response to the Foreign Account Tax Compliance Act (FATCA), Common Reporting Standard (CRS), Etc.]

The Foreign Account Tax Compliance Act (FATCA) is a United States federal law enacted on March 18, 2010. It is intended to require foreign financial institutions (FFIs) to report to the Internal Revenue Service (IRS) information on accounts held by their U.S. customers, in order to prevent U.S. residents from avoiding taxation using their accounts at FFIs. Where FFIs does not comply with FATCA (when falling under the category of so-called nonparticipating FFIs), upon investing in the United States by way of their own accounts or their customers' accounts, they shall be subject to disadvantage such as (i) 30% withholding tax on dividends or interest accrued in the United States and (ii) 30% withholding tax on sales proceeds or redemptions from the underlying assets. Hence, although the FATCA is U.S. domestic legislation, Japanese financial institutions (including type 1 financial instruments business operators) would have to observe it, and in this respect, it could have a significant impact on their business operations. Furthermore, since providing information of individual customers to the IRS may be in conflict with the CPTPA, there was a concern that it would be difficult for Japanese financial institutions to comply with the FACTA.

In light of such concerns, and with a view to solving legal and various other issues, the Authorities of Japan and the U.S. Department of the Treasury published the "Statement of Mutual Cooperation and Understanding between the U.S. Department of the Treasury and the Authorities of Japan to Improve International Tax Compliance and to Facilitate Implementation of FATCA" on June 11, 2013. Subsequently, they further published the "Additional Statement to Modify Certain Parts of the Statement of Mutual Cooperation and Understanding between the U.S. Department of the Treasury and the Authorities of Japan to Improve International Tax Compliance and to Facilitate Implementation of FATCA" on December 18 of the same year.

Under the agreement between the governments of Japan and the United States presented in this statement, Japanese financial institutions were released from some of the requirements imposed under the FATCA on participating FFIs, namely: (i) requirement to conclude a contract stipulating to comply with FFI requirements; (ii) requirement to provide personal information on non-consenting accounts; (iii) requirement to close accounts held by recalcitrant account holders, and (iv) requirement to pay with-holding tax regarding accounts held by recalcitrant account holders, etc.

On the other hand, in accordance with the agreement, Japanese financial institutions have to take the necessary measures to comply with the following requirements: (i) register with the IRS website; (ii) implement the procedures to identify U.S. accounts and nonparticipating FFI accounts ; (iii) report annually to the IRS the necessary information regarding U.S. account holders (the name/ appellation, address/location, U.S. taxpayer identification number (TIN), account number, account balance or value (at the end of any calendar year), total income paid to the account, and other necessary information) subject to the consent of the account holders; (iv) report to the IRS at least the total number of such customers and the total amount of their account balances if the account holders' consent is unavailable; and (v) respond to the IRS's request for additional information. In order to fulfill all these procedures, Japanese financial institutions need to develop internal control infrastructure (FATCA compliance program).

It should be noted that the IRS notifies the Financial Services Agency when it determines that there is a significance non-compliance with any of these requirements with respect to a Japanese financial institution, and if such non-compliance is not resolved within a period of 12 months after the notification, the United States may treat the Japanese financial institution in question as a nonparticipating FFI.

In addition, in order to take measures against international tax evasion and tax avoidance, on February 13, 2014, OECD published the Common Reporting Standard (CRS), an international standard to automatically exchange among tax authorities financial account information relating to non-residents. Many countries and regions, including Japan, have expressed their intent to commence such information exchange in accordance with this Common Reporting Standard. Pursuant to this Standard, tax authorities in each country will receive reports regarding financial account information held by non-residents from the financial institutions located in their own country, and based on the information exchange provisions of the tax treaty, etc., such information will be provided to the tax authority of the country of residence of such non-resident. In Japan, the act amending the "Act on Special Provisions of the Income Tax Act, the Corporation Tax Act and the Local Tax Act Incidental to Enforcement of Tax Treaties" came into force as of January 1, 2017. On and after such date, those who are newly opening an account at a financial institution, etc., need to submit a statement that describes the name of country of residence, etc. to the financial institution, etc. Since 2018, financial institutions, etc., located in Japan have been reporting financial account information of specific non-residents to the head of the competent tax office by April 30 every year, and the reported financial account information has been automatically exchanged with tax authorities in each country pursuant to the information exchange provisions of the tax treaties, etc.

Through the tax system reform in FY2024, a system was developed based on the framework for providing automatic exchange of information on transactions and transfers of cryptoassets, etc.

(Crypto-Asset Reporting Framework, CARF). Under this system, which is scheduled to take effect as of January 1, 2026, domestic cryptoasset service providers, etc. will be required to report information on transactions in cryptoassets of nonresidents to the tax authorities in order to allow the automatic exchange of such information with the tax authorities of other countries based on tax treaties, etc. Financial instruments business operators, etc. dealing with tokenized securities should take note that they are subject to this reporting framework.

2 Handling Disputes with Clients

In general, the sales staff in charge must immediately report any complaint from a customer regarding sale and purchase or other transactions of securities, etc. to the Sales Manager or the Internal Administrator, and follow his or her instructions, and depending on the content of the complaint, they must report the matter to the Internal Administration Supervisor, and work in tandem with the Internal Administration Supervisor to resolve the problem (for the responsibilities of the Sales Manager and the International Administrator, see Chapter 1). From the viewpoint of ensuring compliance with laws and regulations, the Sales Manager or the Internal Administrator shall immediately investigate the facts of the transaction and the circumstances with the relevant client, and confirm the cause of the complaint.

Even if it is found as a result of this investigation that the origin of the conflict with the client lies in an illegal or inappropriate action on the part of the Association Member or its officer or employee (*i.e.,* an incident), it is not permissible to immediately compensate the client for the client's losses as the FIEA, in principle, prohibits paying compensation to clients for their losses, except where it is not necessary to confirm the incident because, for example, it has been confirmed by the Director-General of the Local Finance Bureau or a final and binding court judgment has been obtained in advance. (For details, see "4.3 Incident Confirmation, Etc. by the Director-General of the Local Finance Bureau or the Incident Confirmation Committee" of this Chapter.)

<Relevant Laws and Regulations> FIEA, Article 39; and FIBCOO, Article 118 through Article 122

3 The Financial ADR System

3 1 Outline of the Financial ADR System

In the financial sector, a financial ADR (Alternative Dispute Resolution) system has been established

for each type of business, such as banking, insurance and securities, in order to solve disputes between financial institutions and their users. Under the financial ADR system, the Commissioner of the Financial Services Agency shall designate a person that satisfies the statutory requirements as a designated dispute resolution organization to enforce complaint processing and dispute resolution (FIEA, Article 156-39(1), etc.). With respect to complaint processing and dispute resolution regarding the specified type 1 financial instruments business, the Financial Instruments Mediation Assistance Center (hereinafter referred to as "FINMAC") has been designated as the designated dispute resolution organization.

Under the financial ADR system, financial instruments business operators, etc. are required to conclude a basic agreement with the designated dispute resolution organization relevant to their business operations (FIEA, Article 37-7(1)(i)(a)). Accordingly, a financial instruments business operator registered for the type 1 financial instruments business is to enter into a basic agreement for implementation of proceedings with the FINMAC and use the FINMAC.

In a sense, responding to customers' complaints and other matters is an important activity to supplement the accountability of financial instruments business operators, etc. to customers ex post fact and it is imperative to ensure customer confidence in the financial instruments and services that they provide. Therefore, financial instruments business operators, etc. must have in place an internal administration system for responding to complaints, etc. from customers promptly, fairly and properly.

3 2 Flow of Complaint Processing

Under the financial ADR system, complaints are handled by the FINMAC, which is a designated dispute resolution organization, in addition to the complaint response by financial instruments business operators, etc. The FINMAC receives complaints from and provides consultations to customers regarding the operations of Association Members (Operational Rules Concerning Complaint Resolution Support and Mediation (hereinafter referred to as the "Operational Rules," Article 3(3)). If a customer files a complaint, the consultation staff that is a FINMAC employee will respond, and if a customer files a complaint with the FINMAC regarding the operations of Association Members and request that the FINMAC relays the complaint to the Association Member, the FINMAC shall relay such complaint to the Association Member and makes requests for investigation, etc. The Association Member receiving such requests shall submit materials, etc. and report the results of the investigation to the FINMAC, following which the Association Member or the FINMAC shall explain the measures for resolving such complaint and give advice, etc. to the customer. The Association Member or the FINMAC shall have consultation with the customer who has received such explanation, etc. If the customer is unsatisfied with the consultation with the Association Member or the FINMAC, the case may be switched to dispute resolution proceedings at the FINMAC or litigation proceedings, etc. pursuant to the intention of the customer.

3 3 Flow of Dispute Resolution Procedures

A customer (or Association Member) may seek dispute resolution through mediation if the customer's complaint brought to the FINMAC did not reach resolution in such complaint procedure handled by the FINMAC (Operational Rules, Article 26(1)).

When a motion for mediation is accepted by a dispute resolution mediator, the FINMAC shall give notice of acceptance of the motion for mediation to both the customer and the Association Member (Operational Rules, Article 30(2)). The mediation at the FINMAC shall be chaired by one dispute resolution mediator (Operational Rules, Article 25). The Association Member must participate in the dispute resolution proceedings unless the dispute resolution mediator judges it appropriate not to conduct the mediation procedures. The Association Member has the obligation to respond to the mediation by preparing and submitting a written answer, etc. to the FINMAC (Operational Rules, Article 27 and Article 35(1)).

3 4 Mediation Date

The dispute resolution mediator may designate a date and request the parties concerned (hereinafter referred to as the "parties") or witness to be in attendance and interview them (Operational Rules, Article 36(1)). The parties who are requested to be in attendance must attend in propria persona (Paragraph (2) of the same Article).

Furthermore, the dispute resolution mediator may ask the parties to provide an explanation either in writing or orally about matters necessary for the mediation, or request submission of an accounting record or other evidence (Operational Rules, Article 37(1)). When such request is made, the Association Member may not reject such request without justifiable reason (Paragraph (2) of the same Article). If a party concerned who is requested to take attendance receives approval from the Dispute Resolution Mediators, it may make its agent attend (Paragraph (3) of the same Article).

3 5 Ending of Dispute Resolution Procedures

A dispute resolution procedure ends when (i) a settlement is reached between the parties; (ii) the dispute resolution mediator judges that a settlement cannot be reached between the parties, and calls off the mediation procedures; (iii) the motion for mediation is withdrawn.

The dispute resolution mediator may, if it considers appropriate in order to contribute to the resolution of the dispute, draft a proposal for settlement necessary for the resolution of the dispute to the extent it does not contravene the purpose of the motion for mediation in consideration of equity for both parties, present the proposal to the parties and recommend them to accept it (Operational Rules, Article

40). In addition, the dispute resolution mediator may, where there is no prospect that settlement will be reached between the parties by the recommendation for acceptance of such settlement proposal, and if the mediator considers it appropriate in light of the nature of the case, intent of the parties, the status of performance of the proceedings by the parties and other circumstances, prepare a special conciliation proposal for the resolution of the dispute concerning the operations of the Association Member to the extent it does not contravene the purpose of the motion for mediation and present the same to the parties along with the reason thereof (Operational Rules, Article 40-2(1)). Association Members who are parties to disputes shall accept the special conciliation proposal except in the cases set forth below (Paragraph (2) of the same Article):

(i) Where the customer that is the party does not accept the special conciliation proposal;

(ii) Where a suit concerning the claim that was the purpose of the mediation has not been brought at the time of presentation of the special conciliation proposal and a suit concerning such claim is brought by the lapse of one month from the date the Association Member came to know that the customer accepted the special mediation proposal and has not been withdrawn until the said date;

(iii) Where a suit concerning the claim that was the purpose of the mediation has been brought at the time of presentation of the special conciliation proposal and such suit has not been withdrawn until the lapse of one month from the date the Association Member came to know that the customer accepted the special mediation proposal;

(iv) Where the parties make an arbitration agreement provided for in Article 2(1) of the Arbitration Law or a settlement or conciliation has been reached outside the special mediation proposal with respect to the dispute that is mediated by the lapse of one month from the date the Association Member came to know that the customer accepted the special mediation proposal.

3 6 Relation with the ADR Act

In addition to its relation with the FIEA discussed thus far, FINMAC has an aspect of being an entity to carry out private dispute resolution services concerning financial instruments transactions, with certification obtained from the Minister of Justice under Article 5 of the Act on Promotion of Use of Alternative Dispute Resolution (hereinafter referred to as the “ADR Act”).

The ADR Act provides for a system under which a party that intends to process a civil conciliation pursuant to a settlement reached among the parties to a dispute in certified dispute resolution procedures where an agreement is reached to the effect that the settlement could be enforced through civil enforcement (ADR Act, Article 2(v)) files a petition requesting an enforceability order (meaning an order to the effect that civil enforcement may be processed pursuant to the specified settlement) with a court with the obligor as the respondent (ADR Act, Article 27-2). However, since this system does not apply to specified settlements related to disputes concerning contracts concluded between a consumer and a trader (ADR Act, Article 27-3), specified settlements are not handled under FINMAC’s mediation procedures (Article 40-3, Operational Rules).

4 Reporting Incidents

4 1 Notifying the JSDA

(i) Company Incident Report (acts by company)

If an Association Member becomes aware that an act has been occurred that violates the laws or regulations, etc. with which it must comply (for example an act that violates the laws, regulations or rules of the JSDA that addressed to a "financial instruments business operator, etc." or an "Association Member," "Regular Member," "Specified Business Member," or an "Special Member"), the Association Member must without delay submit an incident report in a prescribed form to the JSDA. The same applies if a violation of law or regulation, etc. with which an Association Member should comply has point out in an inspection by a financial instruments exchange (limited to those in connection with sale and purchase or other transactions of securities, etc.), or an inspection or the like under the FIEA (JSDA Articles of Association, Article 18, Article 30, Article 33; and JSDA Articles of Association Enforcement Rules, Article 6(1)(xlii) and Article 6(2)(xxvii)).

(ii) Incident Notification (first report of acts by an officer or employee)

If an Association Member discovers that an officer or employee, or person who was an officer or employee of the company (in the case of a Specified Business Member, those who are or were engaged in the specified business or a business accompanying the specified business; a Special Member, those who are or were engaged in the registered financial institution business), has committed an act in violation of certain prohibition under the Employees Rules and Sales Representative Rules, or an act in violation of a law or regulation, etc. that an officer or employee is required to observe, or any inappropriate act as prescribed under Article 8 of the Employees Rules (hereinafter referred to as an "incident"), the Association Member must immediately submit an incident notification to the JSDA in a prescribed form, stating the substance of the incident, except in the event that the improper act occurred as a result of negligence (Employees Rules, Article 9(1)).

The JSDA may request an Association Member to submit a report or materials concerning the contents of the incident notification, if the JSDA recognizes it necessary, and the Association Member must respond to this request (Employees Rules, Article 9(2) and Article 9(3)).

[Inappropriate Act (Employees Rules, Article 8)]

An Association Member must conduct guidance and supervision so that no officer or employee commits an inappropriate act that is set forth in any of the following:

a. With respect to the sale and purchase or other transactions of securities, etc. to execute a customer's order without confirming the issue, price, quantities, whether the order is limit order or market order or other details of the customer's order (for a Specified Business Member, limited to a customer's order related to the specified business, and for a Special Member, limited to a customer's order related to the registered financial institution

business; the same shall apply in d. below);

b. To solicit a customer in a manner that will mislead him/her with respect to the nature of securities, or conditions of transactions;

c. With respect to the sale and purchase or other transactions of securities, etc. to solicit a customer in a manner that will mislead him/her with respect to the rise or fall in the price of securities or the amount of the option premium, rise or fall of the contracted value or actual value for the transaction set forth in Article 2(21)(ii) of the FIEA, (including foreign market derivatives transactions that are similar to such transactions) or the transaction set forth in Article 2(22)(ii) of the FIEA, rise or fall of the financial index or the financial instruments price related to the transaction set forth in Article 2(21)(iv), Article 2(21)(iv)-2 or Article 2(22)(v) of the FIEA, or whether or not an event set forth in Article 2(22)(vi), (a) or (b) of the FIEA related to the transaction set forth in such item, has occurred; or

d. To make a mistake in the administration process by negligence with respect to the execution of a customer's order related to the sale and purchase or other transactions of securities, etc.

(iii) Submitting a Report of Development and Results of the Incidents (detailed report of acts by an officer and employee)

When an Association Member identifies the details of an incident (excluding incidents in which the inappropriate act was caused by negligence as prescribed in Article 8 of the Employees Rules), the Association Member must take appropriate disciplinary action vis-a-vis the officer and employee that is appropriate to the substance of the incident and the like, and must promptly submit to the JSDA a report of development and results of the incidents in the prescribed form, which gives a full account of the incident (Employees Rules, Article 10(1)).

The JSDA shall examine the content of the report of development and results of the incidents, and may request an explanation from an Association Member or request that the Association Member submits evidentiary documents concerning the content of the report if the JSDA recognizes that this is necessary for the examination. The Association Member must comply with this request. The JSDA may conduct examination based on the materials that it considers appropriate (materials) in addition to reports of development and results of the incidents (Employees Rules, Article 11).

If an Association Member intends to file a notification of abolishment of business of a registered sales representative (deletion of registration), and if there is an incident of the sales representative to whom the notification relates, the Association Member must file a detailed report on the incident with the Director-General of the Local Finance Bureau and the JSDA, prior to filing the notification (FIBCOO, Article 253; and Sales Representative Rules, Article 10).

4 2 Filing an Incident Notification with the Director-General of the Local Finance Bureau

An Association Member must immediately file a notification with the Commissioner of the Financial

Services Agency (Director-General of the Local Finance Bureau) if the Association Member is aware of any act(Note) in violation of law or regulation, etc. (in the case of a Special Member, those relating to the registered financial institution business), on the part of an officer or employee; and must further provide the details when it uncovers the details of any incident, etc. (FIEA, Article 50(1)(viii); and FIBCOO, Article 199(vii) and (viii), Article 200(vi) and (vii)).

In this manner, an Association Member must file an incident report with the Commissioner of the Financial Services Agency (Director-General of the Local Finance Bureau) and the JSDA if an act in violation of law, regulation, the rules of the JSDA or other rules occurs on the part of the company or an officer or employee thereof.

(Note) Acts falling under FIBCOO, Article 118(i)(a) through (d), excluding those resulting from negligence.

4 3 Incident Confirmation, Etc. by the Director-General of the Local Finance Bureau or the Incident Confirmation Committee

An Association Member is prohibited from compensating a customer for losses incurred in connection with securities, etc. with respect to a sale and purchase or other transaction of securities, etc. (FIEA, Article 39(1)). Nevertheless, there are not a few cases in which an unlawful or inappropriate act by an Association Member, or an officer or employee thereof causes a loss to a customer, and in these cases the Association Member will have an obligation to compensate for the loss.

It is also true, however, that if no restrictions were to be imposed on paying compensation, then this would present a risk of evasion of the prohibition against compensation of losses and for this reason the cases in which an Association Member may pay compensation for losses are restricted to those in which the Association Member has obtained advance confirmation, from the Director-General of the Local Finance Bureau, in connection with the losses and the cause of the incident involving the compensation, and those cases that are determined by cabinet office ordinance as not requiring confirmation from the Director-General of the Local Finance Bureau (FIEA, Article 39(3)).

An “incident” provided for in Article 39(3) of the FIEA shall mean an illegal or unjust act by an Association Member, or an officer or employee thereof, which is prescribed by Cabinet Office Ordinance as constituting a cause of a dispute between an Association Member, and a customer. Those that are prescribed by Cabinet Office Ordinance are those in which a representative, agent, employee or other person engaged in the business of an Association Member (hereinafter referred to as a “representative, etc.”) causes a loss to a customer by committing an act set forth in Table 1 below (FIEA, Article 39(3); and FIBCOO, Article 118(i)).

Table 1

Substance of Article 118(i) of the FIBCOO
a. Trading without confirmation (executing sale and purchase or other transaction of securities, etc. for the account of a customer, without confirming the content of a customer's order); b. Solicitation in a manner to cause misunderstanding (soliciting a customer in such a manner as to cause misunderstanding on the part of the customer in connection with matters such as the nature of securities, etc., the transaction terms, or whether the price of a financial instrument will rise or fall); c. Error in administration of affairs (making an error in administration of affairs in the execution of a customer order, as a result of negligence); d. System failure (making an error in executing a customer's order as a result of a failure in the electronic data processing system); or e. Other act in violation of laws or regulations.

Among actions of compensating a customer for losses incurred, the following cases do not require confirmation from the Director-General of the Local Finance Bureau (FIEA, the *proviso* to Article 39(3); FIBCOO, Article 119(1)):

(i) If a final judgment has been obtained from a court;

(ii) If a judicial settlement has been achieved (excluding immediate settlement);

(iii) If a conciliation has been achieved as prescribed in the Civil Conciliation Act, or a court ruling has been rendered as prescribed in the said law, and there is no petition of objection within two weeks after receiving notification of the said ruling;

(iv) If a settlement has been reached through mediation by a financial instruments firms association or a certified investor protection organization, or the dispute resolution proceedings by a designated dispute resolution organization;

(v) If a settlement is reached by mediation or an arbitration judgment is reached by a bar association's arbitration center, etc.;

(vi) If a settlement is reached through mediation by a consumer affairs center of a local government, or the National Consumer Affairs Center;

(vii) If a settlement is reached by certified alternative dispute resolution procedures conducted by a certified dispute resolution business operator that handles disputes in connection with sale and purchase or other transaction of securities, etc.;

(viii) If a settlement has been reached and all of the following requirements have been satisfied:

a. An attorney-at-law or a juridical scrivener represents the customer in connection with the procedures of the said settlement;

b. The amount that the Association Member will pay the customer as a result of reaching the settlement will not exceed 10 million yen (or if a juridical scrivener is the representative, 1.4 million yen); and

c. A document or electronic or magnetic record will be delivered or provided to the Association Member demonstrating that an attorney-at-law or a juridical scrivener in a. above has examined and confirmed that the payment of b. is made for the purpose of compensating all or a portion of the loss as a result of the said incident;

(ix) Cases in which the Association Member and the customer have reached a determination of the

amount that is to be paid (amount of compensation) to the customer in connection with the loss as a result of an incident, and all of the following requirements have been satisfied:

a. The amount that the Association Member will pay the customer as a result of reaching the settlement will not exceed 10 million yen (1.4 million yen in the event that the committee set forth in b. below consists solely of juridical scriveners); and

b. An internal committee that has been created within the financial instruments firms association (meaning a committee that comprises several committee members (limited to attorneys-at-law or juridical scriveners who do not have any special relationship of interest with the Association Member, or the customer in connection with the incident) who have been appointed by the financial instruments firms association) has examined and confirmed that payment of a. above is to be made for the purpose of compensation of a loss as a result of an incident;

(x) In the event that a representative, etc. of an Association Member has caused a loss to a customer as a result of an act set forth in Table 1, and the amount of compensation to the customer in connection with the losses that the customer has incurred in the trades for one day do not exceed 1 million yen (the amount of compensation to be paid is to be calculated according to the classification of each act as set forth in Table 1); and

(xi) If a representative, etc. of an Association Member has caused a loss to a customer as a result of an error in administration of affairs or a system failure as set forth in Table 1 (limited to cases in which it is clear from the statutory books of account or the record of the content of the order from the customer that an incident indeed occurred; excluding the cases set forth in (i) to (ix) above).

As discussed above, there are many methods by which compensation may be made of all or some of the losses of a customer as a result of an incident. Among these methods, the incident confirmation committee of the JSDA is a committee as set forth in (ix).b. above, and consists of attorneys-at-law, and consequently, can handle cases in which the amount of payment is up to 10 million yen. An Association Member must submit an application for incident examination and confirmation in order to obtain confirmation from the incident confirmation committee. The incident confirmation committee will then examine and confirm whether the payment to the customer that is set forth in the application for incident examination and confirmation is to be made for the purpose of compensation of a loss as a result of an incident, and respond to the Association Member (Incident Confirmation Rules, Article 8 through Article 10).

In the event of (ix) through (xi) above, the Association Member must submit a *post facto* report setting forth the matters provided for in each Item of Article 121 of the FIBCOO to the Director-General of the Local Finance Bureau, Etc. through the JSDA, by the last day of the month following the month containing the day on which the compensation was made (FIBCOO, Article 119(3); and Incident Confirmation Rules, Article 12).

Confirmation must be obtained from the Director-General of the Local Finance Bureau if the amount of payment by an Association Member to a customer will exceed 10 million yen as it does not fall under (viii) through (x) above, except in the cases of (i) through (vii) as well as (xi) above. In this event, the Association Member will submit an incident confirmation application through the JSDA. After screening

by the JSDA, the incident confirmation application will be submitted to the Director-General of the Local Finance Bureau. The Association Member will be notified through the JSDA of the results of the confirmation by the Director-General of the Local Finance Bureau (FIBCOO, Article 120 through Article 122; and the Incident Confirmation Rules, Article 4 through Article 7).

Please see Table 2 in connection with what procedures are required if an incident is to be compensated without using a method set forth in (i) through (viii) above with respect to an incident as set forth in FIBCOO, Article 118(i). In principle the amount of benefits to be provided is to be calculated after restoration to original condition both in form and in substance.

Table 2

Category of Acts		Amount of Compensation to Be Paid per Category based on Transactions (Acts) per Day		
		1 Million Yen or Less	In Excess of 1 Million Yen but Not More Than 10 Million Yen	In Excess of 10 Million Yen
a. Trading without confirmation		Submission of Incident Report	Confirmation by Incident Confirmation Committee	Confirmation by the Director-General of the Local Finance Bureau
b. Solicitation in a manner to cause misunderstanding		Submission of Incident Report	Confirmation by Incident Confirmation Committee	Confirmation by the Director-General of the Local Finance Bureau
c. Error in administration of affairs	(i) Cases that are clear from the books of account of the Association Member or the record of the content of the customer's order	Submission of Incident Report		
	(ii) Other cases	Submission of Incident Report	Confirmation by Incident Confirmation Committee	Confirmation by the Director-General of the Local Finance Bureau
d. System failure	(i) Cases that are clear from the books of account of the Association Member or the record of the content of the customer's order	Submission of Incident Report		
	(ii) Other cases	Submission of Incident Report	Confirmation by Incident Confirmation Committee	Confirmation by the Director-General of the Local Finance Bureau
e. Other act in violation of laws or regulations		Submission of Incident Report	Confirmation by Incident Confirmation Committee	Confirmation by the Director-General of the Local Finance Bureau

<Relevant Sections of this Manual> Chapter VII. 10 Prohibition Against Compensation of Loss or Addition to Profit, Etc.

5 Litigation and Civil Conciliation

A civil lawsuit or civil conciliation is the normal method when the courts are used in an attempt to resolve a dispute between a customer and an Association Member. If a resolution is reached by one of these methods, the results of the resolution are secured by the power of the government to compel compliance, which differs from other methods of resolving a dispute. An Association Member must notify the Prime Minister if it has become a party to any action or conciliation (with regard to any action or conciliation relevant to a business other than the financial instruments business or a business incidental thereto, limited to that which may have a material impact on the financial instruments business operator's business operations or the status of its property), or if that action or conciliation has been concluded (FIEA, Article 50(1)(viii); FIBCOO, Article 199(1)(ix) and Article 200 (viii)).

5 1 Civil Suits

A civil suit is the only means to resolve a conflict if neither party to a dispute will back down from its position. A suit is instigated by one of the parties filing a complaint to the court.

In the suit, each party argues its allegation and tries to prove the facts. On the basis of these arguments, the court finds facts, applies laws, and renders a judgment. If the parties are dissatisfied with a decision, they can appeal to a higher court. Normally, the district court is the court of first instance, with the high court being the court of second instance hearing an appeal, and the court of third instance is the Supreme Court. A judgment can be enforced through compulsory execution.

It is also possible to settle in court through agreement between the parties while a case is in progress. A juridical settlement has the same force under law as a final judgment (Code of Civil Procedure, Article 267).

5 2 Civil Conciliation

Civil conciliation is, put simply, a method of conciliation through the court. One of the opposing parties begins the conciliation process by filing a petition with the court. Conciliation is conducted by a conciliation committee, and if the two parties agree, the conciliation has achieved its purpose, and the content of the agreement has the same effect as a final judgment. If an agreement is not reached at conciliation, and if the party that presented the petition brings an action at court within two weeks after receiving notice that the conciliation could not be achieved, the litigation is deemed to have been brought at the time the petition for conciliation was submitted.

<Relevant Laws and Regulations> Code of Civil Procedure; and Civil Conciliation Act, Article 1 through Article 23

6 Duty of Confidentiality on the Part of Association Members and Responses to Inquiries by Public Institutions

6 1 Duty of Confidentiality on the Part of Association Members

An Association Member must ensure that its employees do not divulge or leak information about customers (including information on prospective customers and customers of underwriting and investment banks, and excluding publicly known information; the same applies hereinafter) (Employees Rules, Article 7(xv)(e)).

If an officer or employee of an Association Member leaks information which he/she has come to know during the course of his or her duties, such as information concerning the financial conditions, it may cause unforeseen losses to customers, thereby losing confidence from customers. Consequently, officers and employees of Association Members have a duty to maintain confidentiality.

Moreover, an Association Member would normally be considered to be a business that handles personal information, and except for certain exceptions such as those set forth in laws and regulations, must not provide personal data of any person to a third party without the consent of the person involved (Personal Information Protection Act, Article 27; and Personal Information Protection Guidelines, Article 14). (For details, see Chapter VII. “19 Prohibition Against Leaking Customers’ Secret and Personal Information Protection.”)

6 2 Response to Inquiries, Etc. from Public Institutions

Public institutions such as courts, public prosecutors, police, the National Tax Administration and taxation offices, etc. can make inquiries or the like of Association Members as provided by law (Code of Criminal Procedure, Article 197 and Article 218; Code of Civil Procedure, Article 223; National Taxation General Rules Act, Article 74-2, etc.). Caution is necessary in responding, however, even in the event of an inquiry of this type by a public institution since there is a risk of contravening the duty to maintain confidentiality if the Association Member provides customer information without condition.

Although the Personal Information Protection Act prohibits the providing of personal data to a third party without the prior consent of the individual concerned, provision to a third party is permitted under extraordinary circumstances such as, *inter alia*, when necessary to cooperate in the performance of

activities that an agency of the national or local government, etc. will conduct pursuant to law and regulation, in which obtaining the consent of the individual would cause an impediment to the conduct of the said activities (Personal Information Protection Act, Article 27(1); and Personal Information Protection Guidelines, Article 14).

Specific examples under law and regulation would include an interview inspection conducted by the tax authorities (National Taxation General Rules Act, Article 74-2), and inquiries in connection with a criminal investigation (Code of Criminal Procedure, Article 197). A specific example in which cooperation would be necessary in conduct of national government activities or the like would be a voluntary examination that the tax authorities conduct without using their specific rights of questioning, from the perspective of achieving the fair assessment of taxes. Although each Association Member would have to make its own decision as to the necessity of cooperation in each individual case, it is recommended that they accept documents from the tax authorities such as an "inquiry concerning securities transactions, etc." identify the personal information involved and provide the same.

<Relevant Sections of this Manual> Chapter VII. 19 Prohibition Against Leaking Customers' Secret and Personal Information Protection

7 Management of Succession Accompanying Personnel Transfers

Upon a personnel transfer (including retirement of the predecessor), the predecessor's duties must be appropriately passed on to the successor. This is extremely important for purposes such as preventing the divergence in perception between the successor and the customer and ensuring smooth performance of business, and also from the perspective of enforcing checks and balances on improper acts and identifying such acts for internal control. If an operational manual has been developed, through reading the manual, the successor will be aided in identifying improper cases and improper customs. In some cases, the predecessor's improper act in the relationship with the customer is often revealed through the process of passing on responsibilities for customers to the successor. Accordingly, it is necessary to develop an internal control system for management of the transfer of duties and pay particular attention to any leaking or irregular handling of details to be passed onto the successor.

In particular, information such as the attributes of customers, the nature of its funds, its investment policy, previous transactions, and circumstances of current deposits must be fully passed on to the successor. Furthermore, the former and new salespersons responsible for a customer must properly handle the date and method of succession, the person to whom responsibilities will be passed on, and the matters stated by the customer, and produce balance statements for the customer in a manner that these matters will not be inconsistent with the customer's perception, and must confirm these matters with the manager if necessary. When a salesperson retires, the same management procedure for as that for personnel transfer must be carried out appropriately.

8 Management of Transactions with Public Corporations and Public Interest Corporations

Because of the public nature of their activities and funds, "public funds," "government affiliated corporations", and "public interest corporations" are different from general business enterprises, and there are many regulations limiting their management of funds.

Where Association Members and their officers and employees solicit investment for these kinds of organizations, they must make efforts to ensure to conform to the capital investment regulations for the said organizations.

Public Funds:

National Pension Fund, Employee Pension Funds, etc.

Government Affiliated Corporations:

Local governments, public corporations, public enterprises, public finance corporations, and public enterprises etc. (For details, see Schedule 1 of the Corporation Tax Act.)

Public Interest Corporations:

Corporate bodies that are established with the approval of the Ministry concerned for the purpose of undertaking public interest activities such as ceremonial, religious, charity and academic activities. There are two types of public interest corporations, foundations (*zaidan hōjin*) and associations (*shadan hōjin*). In addition, special laws have been enacted concerning establishment of religious corporations, academic corporations, medical corporations and social welfare corporations as unique types of public interest corporations. (For details, see Schedule 2 of the Corporation Tax Act.)

[Reference Material 1]

Case Studies

The following case studies have been prepared for reference purposes in order to enable Internal Administration Supervisors, Sales Managers, and Internal Administrators to gain a deeper understanding of legal and regulatory issues, etc. and provide them with materials for their in-house training.

These case studies have been prepared using possible scenarios that a financial instruments business operator, etc. may directly face in the course of daily business, and have been created to be used for study in order to enable the confirmation of knowledge and obtaining of a deeper understanding, as well as to be suited for use on occasions such as internal training.

The answers stated in the “Issues and Topics for Resolution” in each case are not the sole definitive answers and have been provided solely for the purpose of assistance in materials for study. The examples discussed in these Case Studies are entirely fiction and are unrelated to any actual cases. Please be aware that when using these case studies to make a determination in connection with an actual case it is necessary to make an independent determination under the particular circumstances of each case.

[Case 1] Advertising, Etc. Regulations (1)

Company A (a financial instruments business operator, etc.) prohibits its sales staff from using personally created materials for soliciting, and requires any soliciting materials that are to be delivered to a customer to be approved in advance by the person responsible for advertising screening. The manual that sales staffs use defines "advertisements, etc." as "the providing of information of the same content to many persons."

What problems would be presented under the FIEA in the following cases?

(1) Sales employee B of Company A uses documents for which advertising screening, etc. has been completed when soliciting investment in an investment trust. Nevertheless, the customer is 75 years of age with limited experience in investment, and had trouble understanding the structure of an investment trust. For the purpose to assist the customer in understanding, the sales employee adds diagrams in the margins of the documentation and writes in explanations concerning the risks.

(2) Sales employee C of Company A visits a customer but the customer is absent at the time. For this reason, the sales employee places into the postbox documentation on financial instruments that are consistent with those about which the customer has inquired in the past (for which advertising screening, etc. has been completed), and in the same envelope places a handwritten memo (for which prior approval has not been obtained) stating as a communicating note that "I brought documents to give you. Please review this product for which the principal is guaranteed, in line with your intentions as you have previously communicated."

(3) Sales employee D of Company A gathers several customers together with whom the sales employee is on good terms, and holds a private study session at irregular intervals. Since this study session is a private study session that is conducted outside of normal business hours, the sales employee determines that it is not necessary to obtain prior approval from the person responsible for conducting advertising screening, and distributes study session abstracts concerning diversified investments.

These abstracts include simple statements concerning the names and features of specific investment trusts that Company A handles, but no explanation concerning the content of these products is presented at the study session.

(4) Sales employee E of Company A has been asked a question by a customer about a specific financial instruments product that Company A handles. The sales employee cannot answer the question sufficiently on that occasion, and since it includes matters requiring study and the customer also does not have time available, the sales employee sends an email message on a subsequent date explaining the content of the financial product (without advertising

screening, etc.) in the form of answering the question.

(5) Sales employee F of Company A delivers documentation that the sales employee has prepared (without advertising screening) after changing the title page and the addressee, on separate occasions to three customers; however, the explanation on the content of the financial instruments in such documentation included errors. Sales employee F claims that on these occasions the sales employee F did not engage in soliciting.

(6) Upon handling private placement of corporate bond certificates (non-rated) issued by SPC for asset securitization, the sales department of Company A solicits customers using solicitation materials prepared by the sales department. On such occasion, the person responsible for advertising screening reviewed the solicitation materials in advance, but no other special examination was conducted.

[Case 1: Issues and Topics for Resolution]

(1) "Advertisements, etc." are defined as "advertisements" (FIEA, Article 37) as well as "providing of information that is conducted of the same content to many persons" (FIBCOO, Article 72). The providing of information to a single customer that is made solely at that customer's request would not constitute "advertisements, etc." (p. 234, No. 53 of the "Summary of Comments and Approach of the FSA Concerning Comments" to the governmental ordinance in July, 2007 (hereinafter referred to as the "Public Comment Responses"). Therefore, the additional explanation written in the documentation by the sales employee does not constitute an "advertisement, etc."

Regardless of whether this would constitute an advertisement, etc., however, it would be advisable to have a review such as screening of advertisements, etc. by the person responsible for conducting advertising screening pursuant to internal rules in order to eliminate in advance any act of violation of the FIEA, such as giving a conclusive evaluation or a false explanation. In the present case, the customer was an elderly person and appeared to find it difficult to understand the structure of investment trusts. Therefore, in such case, care is necessary to ensure that the suitability of the investment for the customer will be judged properly and an appropriate explanation is given to the customer depending on the customer's knowl*edge,* experience and ability to understand, in accordance with the internal rules concerning solicitation for elderly customers and in light of the customer's attributes, and with prior approval by the officer.

(2) The communicating note that sales employee C delivered provided information that was suited to a customer, and was made solely to a single customer. It does not fall under the definition of "advertisements, etc."

Nevertheless, as a means to prevent errors in which inappropriate information is communicated, such as the misstatement that the principal in the product is guaranteed when that is not the case, it is

possible to consider methods such as giving instruction that in the event of delivering to a customer materials other than screened materials, either an entry of the content of the statements therein should be made in the interview and negotiation record, or statements concerning the content of a product should be avoided.

(3) If the private study session hosted by sales employee D is unrelated to the business of Company A and is held privately it is possible to take the position that it is not subject to management control.

Nevertheless, if these customers place orders with Company A through sales employee D, then even if the event is held outside of normal business hours it would be difficult to state that it was a private gathering, and consequently, in all probability the advertising screening, etc. should be conducted on the grounds that these materials constitute advertisements, etc. of Company A.

The determination of whether distribution of materials to two persons or more would constitute "the providing of information of the same content to many persons" would be made on a case-by-case basis, but from the perspective of internal administration materials should be reviewed in the screening of advertisements, etc., unless they are only planned to be delivered to a single person.

(4) An answer to a question from a specific customer that is answered within the scope of the question would not constitute an "advertisement, etc." (See Public Comment Responses, p. 234, No. 53(viii)).

Nevertheless, from the perspective of monitoring, *e.g.,* the achievement of accuracy in the content of explanations to customers as well as to prevent subsequent disputes, it would be desirable to keep evidence of the email response, by means such as attaching the email response in this case to the interview and negotiation record.

(5) Whether an act of soliciting is involved at the time of delivering advertisements, etc. is irrelevant to the determination of whether materials constitute advertisements, etc. The determination of whether the delivery of materials to two or more persons constitutes "the providing of information of the same content to many persons" should be made on a case-by-case basis, but if the possibility exists from external appearances of the materials being delivered in the future to many persons, then it is also possible to hold the view that in principle they should be reviewed in the screening of advertisements, etc.

Although providing information to a customer that is suited to that customer would not constitute an advertisement, etc. when it is addressed only to that customer, if documents of the same content are provided to more than one customer simply by changing the title and the addressee, their individuality would not be secured, and therefore such act would be regarded as "providing information of the same content to many persons." In addition, when documentation includes errors, it is necessary to note that issues may occur concerning the prohibition of misrepresentations in documents other than prospectus (FIEA, Article 13(5)), or prohibition of misrepresentations (FIBCOO, Article 117(1)(ii)), in addition to advertisements, etc. regulations.

(6) In accordance with Article 5 of the "Rules Concerning Dealing, Etc. of Private Placement, Etc. of Corporate Bonds," examination should be conducted in advance for the handling of private

placement, etc., of corporate bonds that fall under bond certificates subject to examination provisions. This examination is different from screening of advertisements, etc. and is to be conducted from the viewpoint of the arranger's existence and ability to execute the business operation, the rationality and appropriateness of the asset of the securitization scheme, as provided for in Item 1.(2) in Schedule 2 of the said Rules. In addition, the appropriateness of compliance structures, etc., will be examined by, for example, examining that the proceeds to be acquired by the issuer and the originator will not be appropriated to matters other than the relevant scheme, and that there is no conflict of interests between the issuer and the arranger, etc. If the issuer's financial information and the content of product are not sufficiently examined, and when it is deemed that explanation was factually inaccurate or may cause misunderstanding in respect of material facts, it should be noted that it may fall under "acts of making a false indication or misleading indication on important matters with respect to the conclusion of a contract for a financial instruments transaction or the solicitation thereof" (FIBCOO, Article 117(1)(ii)).

[Case 2] Advertising, Etc. Regulations (2)

(1) Is it possible for a financial instruments business operator, etc. to omit the trust fees concerning investee funds ("baby funds") of a Fund of Funds (FoF) from the materials explaining the content of a Fund of Funds that are to be distributed to many persons?
In this case, the commissions, etc. of the mother fund are assumed to be properly stated as required by law.

(2) Is it possible for a financial instruments business operator, etc. to omit the advertising screening, etc. by the person responsible for conducting advertising screening, when sending an email magazine that does not introduce the content of specific issue to a customer?

(3) Is it necessary for your company to conduct advertising screening, etc. in connection with a leaflet on an investment trust that has been prepared by another company even when it is confirmed that such company has conducted advertising screening thereof? What about in the case of a pamphlet that the Ministry of Finance has prepared concerning Japanese government bonds for individuals?

(4) Should advertising screening, etc. be conducted in connection with statements on a public website of your company that were prepared and published prior to enforcement of the FIEA? Is advertising screening, etc. also necessary with regard to past press releases in order to keep them posted on the website?

(5) Is it possible to omit advertising screening when publishing an article in collaboration with a magazine company, and when the article is written by the magazine company?

[Case 2: Issues and Topics for Resolution]

(1) Article 74(1) of the FIBCOO states that "the amount or the maximum or a summary of the method of calculation must be stated for each type of commission, etc." Consequently, in the case of a FoF, the trust fees of both the parent fund and the investee funds ("baby funds") must be stated separately (Public Comment Responses, p. 258, No. 194, *et al.*).

(2) Even in the case of providing information that is the same content to many persons through means such as an email magazine there is some justification for placing this within the category of materials that do not constitute advertisements, etc., as long as the content does not involve the financial instruments business. However, it should be noted that any information which does not explain the content of specific products but in which the financial instrument business operator describes the

content of its business could be regarded as an advertisement, etc. in some cases.

(3) If your company will use materials as an advertisement, etc., your company must conduct its own advertising screening, etc. in view of the advertising screening standards that the person responsible for screening advertisements at your company has determined, even if these materials have been prepared by another company and have undergone an advertising screening, etc. by such company (Advertising Rules, Article 5). It should be noted that if your company uses pamphlets and posters concerning Japanese government bonds for individuals prepared by the Ministry of Finance and/or leaflets concerning municipal bonds prepared by local governments as advertisements, etc., your company must conduct its own advertising screening.

(4) Even statements on a website that were prepared prior to enforcement of the FIEA and which do not fulfill the requirements of an advertisement under the FIEA would in form constitute the providing of information to many persons if posting is continued after enforcement of the FIEA, but might not necessarily require advertising screening, etc.

For example, even a reference to a financial instrument or business activity that was newly commenced at the time of a previous press release of an enterprise may possibly be categorized as not constituting an advertisement, etc., if from an external and objective perspective it is principally for the purpose of publicizing past activities of the enterprise and can be viewed as not being for the objective of soliciting at the present time. Nevertheless, it is necessary to be aware that a case-by-case determination is required.

(5) The "Guidelines Concerning Advertisements, Etc.," Part 2, I. 9.(1) state that, in respect of collaboration articles, "upon verifying whether an article, etc. falls under advertisements, etc. where the contents are related to financial instruments business, and as a result of such verification, if such article is found to be an article where the contents are related to financial instruments business, and falls under advertisements, etc. of the Association Member, descriptions of the necessary matters to be presented are required as prescribed in laws and regulations"; thus, advertising screening is considered necessary when an article falls under advertisements, etc. Even if an article does not fall under advertisements, etc. of the Association Member, if such article falls under advertisements, etc. where the contents are related to financial instruments business, it is necessary to confirm that the contents are accurate and appropriate in light of the said Guidelines, and if the contents of such article, etc. are found to be inappropriate after being published, measures such as request, etc. to correct or delete the inappropriate portion are required (the same Guidelines, Part 2, I. 9.(2)).

[Case 3] Principle of Suitability and Duty to Explain in Transactions with Elderly Customers

Sales employee A solicited a 75-year-old customer to purchase an investment trust mainly targeting stocks in emerging countries. One year after, the net asset value of the investment trust declined sharply. The customer consulted with her relatives, and consequently, she filed a request for mediation under the financial ADR system by alleging that the soliciting was made in violation of the principle of suitability and duty to explain and that the transaction was invalid due to a mistake.

In addition, the following facts have been found.

(1) A customer card and other necessary documents had been prepared with regard to the customer in question. She had been engaged in investment for five years and had experience in investing in investment trusts involving the level of risk equivalent to the investment trust in question according to the company's internal guidelines. In relation to the status of the customer's property, only the interview results showing the status of five years ago were available, and no updates were made.

(2) According to the interview and negotiation records, the obligation to deliver documents and the obligation to explain had been performed, and suitability as to the customer and the transaction had been verified. The records contain brief statements such as that "the customer had a clear intention to buy, and when I explained sufficiently, she replied by reiterating her willing acceptance," "when I asked the customer about her health, she answered that she had weak hearing but had no particular problem," and "the document to be delivered prior to conclusion of contract and the prospectus have already been delivered to the customer."

(3) Under the internal rules, the investment trust in question is categorized as a product requiring attention in solicitation upon selling to elderly customers. In the present case, an officer's approval had been obtained in advance as required under the internal rules for selling such products requiring attention in solicitation to a customer aged 75 years. Having said that, although the officer had interviewed the customer half a year ago, the officer did not meet her directly because she was unable to make time, and therefore the officer gave approval only on the basis of the report from the sales employee and the results of the previous interview.

(4) Although the sales employee had acquired a confirmation letter from the customer with regard to the purchase of the investment trust in question, the customer tended to follow the sales employee and until immediately prior to the sale, she had been replying by reiterating her willing acceptance whenever she was solicited.

(5) When the customer asked the sales employee to recommend something to buy, the sales

employee introduced several investment items to her. She pointed at the investment trust in question with her finger and said she wanted to buy it. However, this investment trust was a product that should not be sold to customers other than those who were "active" concerning investment. When the sales employee asked the customer if she would allow the status of her investment intention to be recorded as "active," the customer consented and signed a document to agree with such change in the entry of the records.

(6) During the mediation proceedings, the medical certificate regarding the customer's health was submitted, in which the doctor stated that the customer cannot be conclusively diagnosed as having dementia but she showed symptoms that were considered to be initial symptoms of this disease (*e.g.,* loss of memory).

What are the issues presented by this case, and how should a system be put in place to prevent reoccurrence?

[Case 3: Issues and Topics for Resolution]

In the present case, although no clear violation of laws and regulations or rules of the JSDA is found, there is possibility that the measures taken may have been insufficient from the viewpoint of customer protection and prevention of dispute with regard to the following respective points, and with this in mind, care would be needed in responding in the mediation proceedings and investigating into the case beforehand:

- The status of the customer's property was not updated.
- The interview and negotiation record lacked sufficient statements.
- As the customer tended to follow the sales employee and replied by reiterating her willing acceptance to any soliciting, there could have been concerns as to the customer's ability to understand. Nevertheless, no evidence is found that sufficient confirmation of suitability had been made.
- There is possibility that the process through which the entry of the status of customer's investment intention was changed may constitute circumvention of the profiling procedure required for compliance with the principle.
- Although the officer had interviewed the customer six months ago, this time the officer did not directly meet or talk on the phone with the customer, and gave approval only on the basis of the report from the sales employee and the results of the previous interview.

From the perspective of preventing reoccurrence and avoiding problems of this nature, the proper procedure is to keep evidence through the record of interviews and negotiations kept by the sales employee and to confirm the content immediately at the time of having this interview and negotiation

record submitted, as well as to conduct monitoring by confirming any insufficiencies or concerns in the statements and having them resubmitted, particularly in the case of a transaction that is within a category for which problems may be likely to occur such as in the case of a transaction with an aged customer, bearing in mind the compliance with the internal rules that were prepared based on the "Rules Concerning Solicitation for Investments and Management of Customers, Etc. by Association Members" and the "Interpretation of Article 5-3 of the Rules Concerning Solicitation for Investments and Management of Customers, Etc. by Association Members (Guidelines for Sale through Solicitation to Elderly Customers)" (hereinafter referred to as the "Guidelines for Elderly Customers"), and the strong likelihood of the arising of doubt with respect to the determination of suitability or the performance of the duty to explain. In addition, in the interview and negotiation record, not only the understanding and determination of the sales employee should be stated but also the words and actions actually made by the customer should be stated. Moreover, it is also important that the reasons of the determination made by the sales employee as well as any answers made to the questions asked by the customer shall be stated. In this process, in order to verify the customer's ability to understand, it may be an effective approach for the sales employee and the officer to ask specific questions to the customer regarding the characteristics of the financial product in question and the economic situation, and assess and record the customer's responses.

Sound recordings of the conversations with the customer may also be a useful item to reduce the risk of possible disputes.

Furthermore, pursuant to the FIBO Supervision Guidelines III-2-3-1 (applied *mutatis mutandis* to registered financial institutions under VIII-1), customer cards should be prepared by adequately confirming the investment purpose of the customer, and the registered details thereof should be shared by both the financial instruments business operator and the customer. The financial instruments business operator must appropriately manage customer information in a manner such that when the financial instruments business operator ascertains any change in the status of a customer's assets and income or his/her investment purpose based on a report, etc. by the customer, the financial instruments business operator makes changes to the registered details on the customer cards after confirming the customer's intention as to whether or not to make said changes, and must share the modified registered details with the customer, upon conducting investment solicitation thereafter. Moreover, as an example of an inappropriate or unfaithful act performed when soliciting investment in financial instruments, III-2-3-1(1)(iv) of the FIBO Supervision Guidelines cites the following act: "with the aim of soliciting investment in a financial instrument contrary to the attributes and investment purpose of a customer, an act to request the customer to change his/her investment purpose in line with the relevant financial instrument without making the customer accurately understand the meaning and the reason for that change." Therefore, any acts to distort the profile of the customer with the purpose to adapt it to the level of risk of a specific financial instrument should be prohibited by internal rules.

In addition, with regard to high risk transactions with elderly individuals, IV-3-1-2(3) of the FIBO Supervision Guidelines mentions the point of "whether the operator follows up with elderly customers in a careful manner even after the sale of the product, for example by trying to understand their issues from their viewpoint, advising them on their issues in every minor detail and assisting them with their investment judgment." The Guidelines for Elderly Customers also provide as follows: "Since elderly

customers' abilities to memorize and understand or health conditions change at a relatively short cycle, and more careful consideration should be paid to the changes in their cash flow and assets held or their investment policies, Association Members should identify the conditions of these customers on an ongoing basis." Thus, it is desirable to strictly conduct the follow-up for elderly customers and identify their conditions on an ongoing basis.

[Case 4] False Notification, Definitive Judgment, Etc. and Clarifying Documentation

A 79-year-old customer asserted that at the time of purchasing an investment trust the sales employee provided false information to the effect that the principal was guaranteed, and provided conclusive evaluations that the investment trust would definitely be redeemed in a year and a half. She further asserted that soliciting was conducted in violation of the principle of suitability in light of the situation that she invested 2,110,000 yen which was 75% of the financial assets that she had.

The customer had little investment experience or knowledge of investment trusts and was living on a pension. The sales employee made a determination of suitability based on the customer's card and asserted that he had delivered the prospectus and sales materials and had conducted an appropriate explanation. Certain interview and negotiation records had been kept to support this, but there was no evidence to indicate whether the customer understood that the principal in an investment trust is not guaranteed, and that the possibility of redemption after a year and a half is not certain. Violation of the internal rules concerning sales through solicitation to an aged customer cannot be found in the present case.

What are the issues presented by this case, and how should a system be put in place to prevent reoccurrence?

[Case 4: Issues and Topics for Resolution]

In this case, it is possible that an explanation was made to the customer to a certain extent, but doubts remain as to whether the elderly customer truly understood such explanation since she invested 75% of her financial assets, and since the evidence that the customer understood was not sufficient.

Moreover, with respect to the false notification and conclusive evaluations as asserted by the customer it was not possible to find supportive evidence from the interview and negotiation record, and it is possible that there were problems in the identification of the assets held by the customer as well in the determination of the level of acceptable risk by means of the customer card. The fact that clear evidence of these matters does not remain presents an issue from the perspective of management system. In order to verify the customer's ability to understand, it may be an effective approach to ask specific questions to the customer regarding the characteristics of the financial product in question and the economic situation, and assess and record the customer's responses.

If this evidence had been kept it is possible that the situation would not have developed into a dispute, presenting the possibility that proper internal administration systems were not in place from the perspective of investor protection as well.

It would also be beneficial from the perspective of preventing subsequent disputes to give instruction that when making records entry is not to be made just of the details but that in all cases statements are to be made concerning the explanations and understanding of whether the principal is guaranteed and

material risks, as well as statements of questions from the customer and the content of the answers to the same, and to make every effort to record entries of the actual manner of speaking including the making of every effort to enter the actual speech and behavior that implies understanding by the customer, with the use of quotation marks.

[Case 5] Solicitation for Switching Investment Trust, Etc.

The internal audit made in Company A (a financial instruments business operator, etc.) revealed the following facts. What problems would be presented under the FIEA and the rules of the JSDA in the following facts?

(1) Although sales employee B of Company A had received notification from the settlor company of an investment trust that it was decided that amount of distribution for the monthly distribution-type investment trust held by the customer was to be increased sharply, the sales employee B solicited the customer to switch his/her investment trust to another investment trust without explaining him/her such fact.

(2) Sales employee C of Company A had solicited two different customers for the sale and purchase of the same securities, respectively, by telling them different forecasts for market tendencies on two different close dates.

(3) Sales manager E who is the boss of sales employee C and sales employee D of Company A, encouraged them to tell different forecasts for market tendencies to their customers and to solicit for sale and purchase of the same securities, respectively.

[Case 5: Issues and Topics for Resolution]

(1) When an officer or employee of an Association Member solicits a customer (excluding professional investors) for switching to beneficiary certificates of an investment trust, etc., failure to make an explanation on important matters regarding such switching is prescribed as a prohibited act in the Employees Rules (Article 7(xxiv) of the said Rules).

Moreover, under the FIEA, "the situation where solicitation for switching to the beneficiary certificate of an investment trust is to be made but the important matters concerning such switching has not been explained to the customer (excluding professional investors)" is prescribed as improper business operations (FIEA, Article 40(ii); and FIBCOO, Article123(1)(ix)). In particular, it is provided in the FIBO Supervision Guidelines IV-3-1-2(5) (applied *mutatis mutandis* to registered financial institutions under VIII-1), that in cases where a financial instruments business operator, etc. has failed to provide explanations regarding the information necessary for customers to make a judgment as to whether there is a rationale for the switching of beneficiary certificates in investment trusts, etc., including the consistency of the switching and customers' investment purposes, in accordance with each customer's depth of understanding, and when it is found that it has failed to establish an internal control system for conducting effective verification, the situation shall be

deemed to fall under the case specified under Article 123(1)(ix) of the FIBCOO. The information necessary for customers to make a judgment as to whether there is a rationale for switching may include roughly calculated profit and loss of the investment trust, etc. to be cancelled and comparisons of merchantability and expenses between the investment trust, etc. to be cancelled and that to be newly acquired, in addition to general items to be explained in relation to sale of investment trusts, etc., but it shall be noted that explanations may vary by case depending on each customer's knowl*edge,* experience, status of assets, investment purposes, and the characteristics of relevant investment trusts, etc. In Case 5, although it depends on each customer's depth of understanding, if it is clear that the customer had purchased the monthly distribution type investment trust with the expectation to receive the payment of monthly distribution, the fact of a sharp increase in the amount of distribution for the issue held by the customer would have affected the customer's decision on the sale of such investment trust. Therefore, such fact is likely to fall within the scope of "information necessary for customers to make a judgment as to whether there is a rationale for switching." IV-3-1-2(5) of the FIBO Supervision Guidelines was revised as of November 9, 2021. It previously specified the following matters as the "certain important matters" for which explanation would be required for switching: (i) form and status (*e.g.,* name, characteristics) of investment trusts and investment corporations (hereinafter referred to as "investment trusts, etc."); (ii) status (*e.g.,* rough estimate of profit or loss) of investment trusts, etc. to be cancelled; (iii) expenses necessary for switching (*e.g.,* cancellation fees and sales commissions); (iv) matters regarding preferential treatment for redemption switching; and (v) other matters that could affect customers' investment decisions in light of the characteristics of the relevant investment trust, etc., and the needs of the customers. As this provision adopted the principle-based approach, it has been revised based on the idea that specific measures should be considered by financial service providers voluntarily.

(2) With regard to the act of a single sales employee of financial instruments business operator, etc. making inconsistent solicitations on close dates, there is no restrictive provision in the FIEA that directly prohibit such acts, even if there were no reasonable grounds for such inconsistency. Yet, financial instruments business operator, etc. and its officers and employees are obliged to execute their business in good faith and fairly to customers (FIEA, Article 36(1)), and unless there are reasonable grounds, such solicitation shall be considered to be an inappropriate act. In addition, depending on the details of the case, it may fall under an instance where "the person is found to have conducted extremely inappropriate acts concerning other duties of a sales representative" as provided for in Article 64-5(1)(ii) of the FIEA. Even if the case is found not to have violated laws and regulations, efforts should be made to avoid conducting such inappropriate acts.

(3) With regard to the acts of different sales employees of financial instruments business operator, etc. making inconsistent solicitation or solicitation with no economic rationality to different customers based on the instructions from the same boss, there is no restrictive provision in the FIEA that directly prohibits such acts as is the case with (2) above. However, in light of the fact that a financial instruments business operator and its officers and employees are obliged to execute their business in good faith and fairly to their customers, not only the abovementioned acts are inappropriate but also

the sales manager's act of instructing such solicitations shall be found inappropriate. Moreover, depending on the detail of the case, the acts of sales employees may fall under the case where "the person is found to have conducted extremely inappropriate acts concerning other duties of sales representative" as provided for in Article 64-5(1)(ii) of the FIEA.

Although it does not fall under the situation set forth in Article 123(1)(ix) of the FIBCOO, it should be noted that, recently, the monitoring of solicitation for switching from investment trust beneficiary certificates to different types of financial instruments is also being pointed out. From the perspective of customer-oriented business conduct, acts that compel customers to bear a substantially unnecessary burden, or solicitation with no economic rationality for the customer (such as solicitation to switch to financial instruments with similar risks which provides no benefit to the customers and merely causes them to bear commission fees) should be strictly refrained from.

[Case 6] Prohibition of Compensation of Losses and Addition to Profit, Etc.

(1) Because the price of investment trusts sales employee A solicited from customers went down and the customer incurred a substantial amount of losses, sales employee A made a verbal agreement to "allot on a preferential basis in the allotment of the next IPO stock" in order to prevent complaints and disputes. Subsequently, sales employee A allotted IPO shares by allotment in a manner other than a drawing to such customer, and the quantity thereof exceeded the average number of IPO shares allotted to other customers by drawing.

(2) In the case above, the customer requested explicitly that the company bear losses in some way. Sales employee A thought that the partial refunding of trading commission was permitted after the liberalization of brokerage commission, and sent money from sales employee A's personal bank account to the customer's bank account.

What are the issues in each of sales employee A's acts above?

[Case 6: Issues and Topics for Resolution]

(1) No financial instruments business operator, etc. may provide property benefit to a customer or a third party or make a third party provide it to a customer, with regard to the sale and purchase or other transaction of securities, etc., in order to compensate for the whole or part of a loss incurred by the customer from the relevant securities, etc. or make an addition to the profit accrued to the customer from such securities, etc. (FIEA, Article 39(1)(iii)).

For the purpose above, "property benefit" refers to anything of economic value, including cash, property as well as the purchase of securities for a premium or sale of securities at a discount and the provision of securities which have a high probability of increasing in value. For example, with respect to the allotment of IPO shares, if such shares are considered to have a high probability of increasing in value, and allotment was made in excess of the average number allotted to regular customers, it is likely that such act violates Article 39(1)(iii) of the FIEA. In addition to the above, Article 117(1)(iii) of the FIBCOO prescribes "in regards to a contract for a financial instruments transaction, a promise to provide a special benefit to customer or a person designated by the customer, or an act to provide a special benefit to a customer or a third party (including acts that cause a third party to promise to provide a special benefit or that cause a third party to provide the same)" as prohibited acts. Since the act of sales employee A is an act that particularly provides a benefit only to the said customer, it is likely to violate the prohibited acts set forth in the said Article.

In addition, "In the case where an Association Member distributes share certificates or beneficiary certificates of foreign stock trust to retail customers at the initial public offering under a method other than drawing, it must not excessively centralize the distribution or conduct an unfair distribution to a specific customer. The Association Member must pay attention that the distribution

to each customer by means other than drawing should not be excessive compared with the average quantity distributed by drawing to each customer, and must not repeatedly distribute to the same customer." (Distribution Rules, Article 4), and sales employee A's acts may also violate these regulations.

If there is a solicitation that causes a customer to misunderstand in the case above, it is possible to claim compensation for damages after undergoing the incident confirmation procedures.

(2) Since October 1999, securities trading commissions have been completely liberalized, and financial instruments business operators, etc. may basically discount or partially refund the commission at their discretion.

Nevertheless, there is a strong possibility that discounting or refunding of trading commissions in the event of loss on the part of a customer would constitute compensation of losses, and consequently thorough care is necessary in connection with the method of collecting commissions so that commission discounts, partial refunds or the like are not made "in order to compensate for losses or make an addition to profit." In the case above, sales employee A was requested explicitly by the customer to bear losses in some way when the customer incurred losses and paid in the amount of commission from the employee's individual account, and it is highly probable that such act would fall under Article 39(1)(iii) of the FIEA. Furthermore, in the case above, it is highly probable that such act of sales employee A violates the prohibited acts set forth in Article 117(1)(iii) of the FIBCOO.

[Case 7] Corporate Information Management (1)

Do the acts of Employees A, B, and C of a financial instruments business operator, etc. as described in (a) to (c) below, violate Article 117(1)(xiv) or (xvi) of the FIBCOO? Does the financial instruments business operator, etc. fall under the situation where "the financial instruments business operator, etc. is found to have failed to take the necessary and appropriate measures to prevent the conduct of unfair transactions involving corporate information, in terms of the management of the corporate information that it handles or the management of sale and purchase or other transactions, etc. of securities of its customers" (FIBCOO, Article 123(1)(v))?

(a) Analyst A, who belonged to Company X (a financial instruments business operator, etc.), gathered information on a listed company and obtained from the listed company's employee in charge of accounting the undisclosed information regarding the company's plan to repurchase its shares. This information contained the facts that (i) the repurchase of the shares would take place on the condition of the approval at the shareholders meeting, (ii) the shares to be repurchased by the company would be 5% or more but less than 10% of the total number of issued shares, and (iii) the timing of repurchase was to be determined depending on the market conditions. Based on this information, Analyst A released a report stating the following: "According to the company, it has an intention to repurchase shares if approved at the shareholders meeting. According to the company, the shares to be repurchased by the company will be 5% or more but less than 10% of the total number of issued shares, and the timing of repurchase is to be determined depending on the market conditions." However, Analyst A is not found to have been particularly engaged in soliciting a customer using this report.

(b) Employee B, who belonged to Company X's corporate sales department, acquired from the manager of the finance department of a listed company, to which he/she made sales calls, the information to the effect that the valuation losses of the shares held by the listed company would reach nearly 1.7 billion yen, although the exact amount was yet to be identified. If this information was correct, the listed company's bottom line for the current term would show a deficit of 1.6 billion yen, against its net profit forecast for the term (about 0.1 billion yen in surplus). Employee B communicated this information to Employee C, who belonged to Company X's dealing department, but Employee C did not conduct sale or purchase using the information. Under Company X's internal rules, a person who has acquired corporate information must promptly report it to the compliance department, which is in charge of corporate information management, and have it registered. However, Employees B and C did not make such reporting because they did not think that the information in question would fall within the category of corporate information. Manager D of the corporate sales department, to which Employee B belonged, knew that Employee B communicated the information in question to Employee C but did not give any special guidance to Employee B.

(c) Analyst E of Company X acquired corporate information from a listed company and disclosed it in his/ her analyst report. After being reviewed by the review staff, this report was posted on Company X's website which was accessible to its customers as well as its officers and employees, with the information in question being contained therein, and was also sent by email, etc. to a number of customers. Analyst E further delivered and gave an explanation of this report to Company X's sales staff, etc.

[Case 7: Issues and Topics for Resolution]

(1) Regarding the situation described in (a)

The unpublicized information regarding a listed company's plan to repurchase its shares if approved by the shareholders meeting is regarded as "unpublicized information on operation, business or properties of a listed company which would affect customers in making their investment decisions" and is likely to fall within the category of "corporate information," for the following reasons:

(i) Analyst A acquired the information in question from the person in charge of the accounting department of the listed company;
(ii) the content of the information is the material fact as set forth in Article 166(2)(i), (d) of the FIEA; and
(iii) the content of the information is concrete in terms of the time and scale of the acquisition of the treasury shares, and if this were to actually take place, it would lead to a decrease in the number of shares traded on the market, thereby boosting demand for purchase of the shares of the listed company and raising the share price.

Using this information, Analyst A released a report stating the following: "According to the company, it has an intention to repurchase shares if approved at the shareholders meeting. According to the company, the shares to be repurchased by the company will be 5% or more but less than 10% of the total number of issued shares, and the timing of repurchase is to be determined depending on the market conditions." However, Analyst A is not found to have been particularly engaged in soliciting a customer using this report.

Given such circumstances, Company X is likely to be found to have "failed to take the necessary and appropriate measures to prevent unfair transactions involving corporate information, in terms of the management of the corporate information that it handles or the management of the sale and purchase or other transactions, etc. of securities by its customers" (FIBCOO, Article 123(1)(v)). As Analyst A is not found to have been particularly engaged in soliciting a customer using this report, his/her act does not constitute the "act of soliciting a customer for the sale and purchase or other transactions, etc. of securities or derivatives transactions relating to securities, or for intermediary,

brokerage or agency service therefor, by providing the customer with the corporate information of the issuer of the securities" (FIBCOO, Article 117(1)(xiv)). However, it should be noted that Analyst A's act would violate Article 117(1)(xiv) of the FIBCOO if he/she solicited a customer using the analyst's report.

(2) Regarding the situation described in (b)

The information in question is regarded as "unpublicized information on operation, business or properties of a listed company which would affect customers in making their investment decisions" and is likely to fall within the category of "corporate information," for the following reasons:

(i) Employee B acquired the information in question from the general manager of the finance department of the listed company;
(ii) the content of the information is the material fact as set forth in Article 166(2)(iii) of the FIEA; and
(iii) the content of the information in question is concrete, and it is easy to presume that the information, when disclosed, would have an influence on the share price due to its suggestion of deterioration in the company's financial results and the possibility of any modification to its dividends.

Although Employee B communicated this information to Employee C, who belonged to the dealing department in charge of conducting Company X's dealing business, Employee C did not conduct trading using the information. Therefore, their acts do not constitute the "act of conducting, based on corporate information, sale and purchase or other transactions, etc. of securities pertaining to the corporate information, on one's own account" (FIBCOO, Article 117(1)(xvi)).

However, (i) Employee B, after acquiring the information in question, did not report it to the compliance department which is in charge of corporate information management, (ii) Employee B carelessly communicated the information to Employee C, who belonged to the dealing department in charge of conducting Company X's dealing business, (iii) Employee C also did not make a report to the compliance department regarding the receipt of the information from Employee B, and (iv) Manager D of the corporate sales department, to which Employee B belonged, knew that Employee B communicated the information to Employee C but did not give any special guidance to Employee B. Given these facts, Company X is likely to be found to have "failed to take the necessary and appropriate measures to prevent unfair transactions involving corporate information, in terms of the management of the corporate information that it handles or the management of the sale and purchase or other transactions, etc. of securities by their customers" (FIBCOO, Article 123(1)(v)), depending on the other circumstances of its corporate information management system.

(3) Regarding the situation described in (c)

When a financial instruments business operator, etc. uses any corporate information that it has acquired in the course of conducting its business, by including the information in an analyst report,

posting it on the company's website, sending it to customers by email, or delivering and giving an explanation of it to sales staff via the Analyst E, all of these acts are likely to be regarded as soliciting a customer by providing corporate information or providing corporate information to a customer before solicitation. Taking these circumstances into comprehensive consideration, the financial instruments business operator, etc. is likely to be found to have "failed to take the necessary and appropriate measures to prevent unfair transactions involving corporate information" (FIBCOO, Article 123(1)(v)).

The examples of situations described in (a) to (c) in Case 7 are prepared based on the Collected Examples of Interpretation of Securities-Related Laws, available on the FSA website: https://www.fsa.go.jp/common/law/jireishu/sec/index.html

[Case 8] Corporate Information Management (2)

In each of the following situations, is the financial instruments business operator likely to be found to have "failed to take the necessary and appropriate measures to prevent unfair transactions involving corporate information, in terms of the management of the corporate information that it handles or the management of the sale and purchase or other transactions, etc. of securities by its customers" (FIBCOO, Article 123(1)(v))?

(a) Employee A, who belonged to the corporate sales department of a financial instruments business operator visited a listed company for sales, and acquired from the general manager of the finance department of the said listed company the information that the company's board of executive officers was considering making a tender offer (TOB) for its own shares. This information was accompanied by a note that the timing of the tender offer would depend on the share price movements and the plan was neither decided by the board nor yet approved by the director in charge, and therefore it was fifty-fifty whether the plan would be realized. Employee A communicated this information to another department as a rumor circulating on the market. Employee B, who heard about the information from Employee A, further communicated it to a customer as a rumor circulating on the market, while specifying the issue name. Hearing this, the customer traded the shares of the listed company via another financial instruments business operator.

(b) Employee C, who belonged to the corporate sales department of a financial instruments business operator visited a listed company for sales, and acquired from an executive managing director of the listed company the information that the board of directors of the wholly-owned subsidiary of the said listed company was considering a merger between the subsidiary and another company in the same business by absorbing the latter and approved the policy of conducting a due diligence process for the merger. However, how much the subsidiary would increase its assets and sales through the merger was still under investigation and was yet to be clarified. Employee C communicated this information to another department, without specifying the issue name. Nevertheless, since this merger had previously been spoken about in the market, a person who accessed this information would have easily identified the issue name. Furthermore, Employee D, who belonged to that department which received the information, did not receive the information in person from Employee C but was actively and continuously engaged in acquiring various information including such corporation information, by approaching the corporate department or analysts persistently in an attempt to draw out information on public stock offerings or mergers, etc.

(c) Employee E, who belonged to the screening for underwriting section of a financial instruments business operator, acquired the information from an employee of an asset management company conducting asset investment for a listed investment corporation under

its entrustment that the asset management company had chosen an office building worth about 15 billion yen as a new asset to acquire for the investment corporation and that this acquisition plan was under consideration at its investment committee. This information did not contain any particular information regarding the financing method to acquire this asset. Employee E provided this information to an employee who belonged to the dealing section of the same company.

[Case 8: Issues and Topics for Resolution]

(1) Regarding the situation described in (a)

The information in question should be treated as "corporate information" for the following reasons:

(i) Employee A acquired the information in question from the general manager of the financial department of the listed company;
(ii) The content of the information is the material fact as set forth in Article 166(2)(i)(d) of the FIEA, and if the TOB were to be actually determined, the information would constitute unpublicized information on a decision to launch or suspend a tender offer; and
(iii) The TOB plan contained in the information seems to be feasible to a certain degree as it was under consideration at the board of executive officers, although it is somewhat abstract in terms of the time and scale, and if the repurchase of the company's own shares were to actually take place, it would lead to a decrease in the number of shares traded on the market, thereby boosting demand for purchase of the shares of the listed company and raising the share price.

Employee A's act of having communicated the information to another department as a rumor circulating on the market could be a factor to be taken into consideration when determining whether the financial instruments business operator, etc. is found to have "failed to take the necessary and appropriate measures to prevent unfair transactions involving corporate information, in terms of the management of the corporate information that they handle or the management of the sale and purchase or other transactions, etc. of securities by their customers" (FIBCOO, Article 123(1)(v)), depending on the other circumstances of its corporate information management system.

Employee B's act of communicating the information, after receiving it from Employee A, to a customer as a rumor circulating on the market, while specifying the issue name, is likely to be regarded as an act of soliciting a customer by providing "corporate information," even though the customer ultimately traded the shares of the listed company via another financial instruments business operator, etc. It should be noted that communicating this kind of information, even as a "rumor circulating on the market," would still constitute communication of corporate information.

(2) Regarding the situation described in (b)

The information in question should be treated as "corporate information" for the following reasons:

(i) Employee C acquired the information in question from the managing director of the financial department of the listed company;
(ii) The content of the information is the material fact as set forth in Article 166(2)(v)(c) of the FIEA, and approval for conducting a due diligence procedure for the merger was made based on the decision at the subsidiary's board of directors; and
(iii) The merger plan contained in the information seems to be feasible to a certain degree as it was under consideration at the board of directors, although it is somewhat abstract in terms of the time and scale, and if the merger were to actually take place, it was expected to a certain degree, depending on the standing of the merger partner, that the price of the shares of the listed company would rise or fall, resulting in boosting demand for sale or purchase of the shares of the listed company, although how much the subsidiary would increase its assets and sales through the merger was still under investigation and was yet to be clarified.

Employee C's act of having communicated the information to another department, without specifying the issue name, and Employee D having been actively engaged in acquiring various information including such corporation information relating to the present case, by approaching the corporate department or analysts persistently in an attempt to draw out information on public offerings or mergers, etc. could be a factor to be taken into consideration when determining whether the financial instruments business operator, etc. is found to have "failed to take the necessary and appropriate measures to prevent unfair transactions involving corporate information, in terms of the management of the corporate information that they handle or the management of the sale and purchase or other transactions, etc. of securities by their customers" (FIBCOO, Article 123(1)(v)), depending on the other circumstances of its corporate information management system. Information which does not fall within the category of corporate information might be regarded as corporate information if the issue name or other details can be presumed from such information. Therefore, it may be worth considering restricting communication of such information from which corporate information can be presumed, based on the past cases subject to administrative action. Furthermore, in relation to Article 2 of the "Concept of the 'Rules Concerning Establishment of Confidential Corporate Information Management System by Association Members,'" there is a description that states as follows: "An Association Member who has acquired corporate information may also consider to restrict the communication (unless required under business operations) of information that does not fall under corporate information by itself, but may become corporate information if coupled with other information (hereinafter referred to as "suggestive information, etc.") depending on the business type, internal organization, and scale, etc., of the company. For instance, the following are considered to fall under suggestive information, etc.:

a. Information that suggests the acquisition of a corporate information (suggestive information): For example, such information is not limited to those cases where the information directly

suggests the existence of a capital increase case, but information of (i) a case where an administrative department, in accordance with the prescribed procedures, communicates to analysts to restrict the release of analyst reports, or (ii) a case of communicating to the sales department, who made prior confirmation regarding block transactions, to disapprove transactions due to the existence of corporate information, may also be considered as suggestive information, etc.

b. Information of capital increase, etc., by a so-called "non-name" basis: For example, information in the case where corporate information has been acquired, and although issue name is not communicated, the existence of corporate information may be suggested by communicating a part or all of the information, such as business sector, timing of capital increase and scale of capital increase, may also be considered to be suggestive information, etc." Such information is considered to be managed as suggestive information.

(3) Regarding the situation described in (c)

The information in question is information on the asset management company (real estate investment manager), which is not a "listed company, etc." However, considering that a listed investment corporation falls within the scope of "listed company, etc.," and that the asset management company is under entrustment from the listed investment corporation to conduct asset investment, the information concerning the selection of the target asset that the listed investment corporation plans to acquire may meet the definition of one category of corporation information, *i.e.,* "material information that has not been made public concerning the operation, activities or assets of the listed company, etc., and which is recognized to have a significant impact on the investment judgments of customers," when the decision-making organ of the asset management company makes a decision on the selection. In the present case, the information in question is information indicating that the asset management company had chosen an office building worth about 15 billion yen as a new asset to acquire for the investment corporation and this acquisition plan was under consideration at its investment commission. This information should be considered as indicating the decision-making process and in this respect should be regarded as corporate information relevant to the listed investment corporation.

Furthermore, "asset investment conducted under entrustment from a listed company, etc. involving acquisition, transfer, or lending or borrowing of specified assets by the listed company, etc." (FIEA, Article 166(2)(xii)(a); FIEAEO, Article 29-2-4) is regarded as a matter decided by an asset management company of a listed investment corporation, etc. and therefore subject to insider trading regulations. However, the acquisition value of the specified asset is estimated to be less than 10% of the book value of fixed assets held by the investment corporation as of the end of the most recent business period, the fact concerning the acquisition of such asset meets the de minimis standards (Securities Transaction Ordinance, Article 55-5(1)(i)(a)). Although there are no such de minimis standards with regard to corporate information, similar measures are taken for management of corporate information, such as regarding information that meets the de minimis standards as not constituting "material information" and voluntarily excluding it from the scope of corporate

information, or applying the standards provided by the Tokyo Stock Exchange instead of the statutory de minimis standards to determine whether the relevant information constitutes “material information.”

In the present case, the information that Employee E of the screening for underwriting division of a financial instrument business operator, etc. acquired from the employee of the asset management company “did not contain any particular information regarding the financing method to acquire this asset.” However, when a listed investment corporation is to acquire a new asset, it is supposed to raise funds as necessary for the acquisition in some way, and from this aspect as well, note should be taken to the possibility that the information in question may be regarded as information implying or suggesting a capital increase of the listed investment corporation.

Employee E in the present case, after acquiring the information in question, provided it to the employee of the dealing division of the same company. Since it is information that is likely to fall within the category of corporate information, providing such information to an employee belonging to another division without operational necessity is improper conduct from the perspective of management of corporate information.

[Case 9] Personal Information Protection Act

What problems are presented by the following treatment?

(1) In the course of identity verification upon transaction, sales employee A obtains a copy of a customer's family register and stores it without blacking out the entry for locality of family register. Thereafter, on inspection at the employee's branch this is blacked out as blacking out his/ her legal domicile is listed as an item to be checked.

(2) As an action to respond to antisocial forces, sales employee B obtains information on a customer, and with respect to a certain customer obtains information concerning a prior criminal record published in a newspaper as well as information which presents the suspicion of his/her current engagement in the criminal activity as a quasi-member of an organized criminal group. Sales employee B communicates this information to the internal administrator C of the company as well as the compliance division of a subsidiary.

(3) A person who is designated as a person that constitutes an antisocial force demands disclosure of that person's own information under the Personal Information Protection Act. Can this be refused? Moreover, what are the matters with which to exercise caution in this regard?

(4) In the event of engaging in exchange of personal information with an outside contractor, the outsourcing agreement only stipulates as an authority to supervise the outside contractor a clause to the effect that it is possible to demand reports at any time concerning the situation of management of personal information that has been outsourced. Furthermore, there is no particular provision regarding subcontracting. At the time of renewing this agreement with the outside contractor is it necessary to add a clause to the effect that onsite inspections may be conducted and a clause regarding subcontracting?

[Case 9: Issues and Topics for Resolution]

(1) "Legal domicile (*honsekichi*)" itself does not constitute "special care-required personal information" under the Personal Information Protection Act, but constitutes "sensitive information" under the Guidelines Concerning the Protection of Personal Information in the Financial Field and except for cases falling under exceptions such as those cases pursuant to law or regulation, etc., their obtaining, use or providing to a third party is prohibited (Guidelines Concerning the Protection of Personal Information in the Financial Field, Article 5(1)). Nevertheless, if the "legal domicile (*honsekichi*)" is

blacked out at the time of obtaining a copy of the family register then the "sensitive information" will be deemed not to have been acquired. It is necessary, however, to black this out at the time of acquisition and not subsequently.

(2) "Criminal record" is considered to be special care-required personal information (Personal Information Protection Act, Article 2(3)) and means the fact of conviction and/or fact of conducting criminal acts. In addition, the fact that the principle is subject to criminal case procedures, such as arrest, search, etc., as a suspect or defendant falls under special care-required personal information (Personal Information Protection Act Enforcement Order, Article 2(iv)). In addition, special care-required personal information constitutes sensitive information (Guidelines Concerning the Protection of Personal Information in the Financial Field, Article 5(1)). However, such information published by a broadcasting agency, newspaper publisher, news service agency or other news media is not regarded as sensitive information. In the above situation, while it is possible to treat the information concerning a prior criminal record published in a newspaper as not falling within the scope of special care-required personal information or sensitive information, the information which presents the suspicion of his/her current engagement in the criminal activity as a quasi-member of an organized criminal group does not fall under special care-required personal information or sensitive information by itself, but can be sensitive information as information concerning criminal record or procedures concerning criminal case, depending on the details contained therein. Although it is difficult to obtain consent to the purposes of use from the relevant individual, this does appear to be a case in which the information was obtained of suspicion of activity as a quasi-member of an organized criminal group, and there are reasonable suspicions of falling under an antisocial force. Information concerning antisocial forces can be shared within the company without the consent of the person concerned, and provision of such information to the compliance department of a subsidiary company is also considered to be permissible when organizing such provision to fall under "a case that is necessary to protect a human life, body or fortune, and when it is difficult to obtain a principal's consent." The Supervision Guidelines prescribe that company should endeavor to share information concerning antisocial forces within the group.

(Reference)

FIBO Supervision Guidelines III-2-11, Prevent Damage from Antisocial Forces, (2)(ii)(a)

Whether the Anti-social Forces Response Division is actively collecting and analyzing information on antisocial forces and has developed a database to manage such information in a centralized manner and has a system to appropriately update it (*i.e.,* addition, deletion or change of information in the database). Further, whether the division is making efforts to share information within the group in the process of collecting and analyzing such information, while making appropriate use of information provided by self-regulatory organizations, etc. Whether the antisocial forces response division has a system to take advantage of information on antisocial forces for screening counterparties of transactions and evaluating the attributes of shareholders of the Financial Instruments Business Operator.

(3) An individual may request disclosure of "retained personal data" that is held by a business operator handling personal information, and in principle the business operator handling personal information must without delay disclose the retained personal data (Personal Information Protection Act, Article 33(1)(2)). Nevertheless, information concerning antisocial forces is treated as not constituting retained personal data (Personal Information Protection Act, Article 16(4); Personal Information Protection Act Enforcement Order, Article 5(ii)), so a possibility would be to respond that "there is no such retained personal data."

Please also refer to (11) of the "Interpretation Concerning the Guidelines for Corporations to Prevent Damage from Antisocial Forces."

(4) According to 6-3 of the Practical Guidelines Concerning Safe Management, Etc. of the Guidelines for Personal Information Protection in the Financial Field (FSA Notice No. 1) the following matters concerning safe management must be included in an outsourcing agreement:

(i) Authority of the outsourcing party to supervise, audit, and collect reports;
(ii) Prevention of the outside contractor's divulging, etc. and prohibition against using personal information other than for the purpose intended;
(iii) Conditions on subcontracting; and
(iv) Liability on the part of the outside contractor if a case of divulging, etc. occurs.

In addition, the following notes are stipulated:

(Notes)

- It is advisable for a business operator handling personal information in the finance area to include in the outsourcing agreement, as "conditions on subcontracting," whether or not subcontracting is acceptable, and whether or not written prior report or approval procedure, etc. to the outsourcing party is required in order to conduct subcontracting.
- It is advisable for a business operator handling personal information in the finance area to include in the outsourcing agreement, the name, title, or department name of the person who handles personal data at the outside contractor.

If the authority in connection with onsite inspections has not been stipulated in the outsourcing agreement prescribed in the question, it is possible that there is no description on the authorities in connection with auditing of (i) and requirement of the Practical Guidelines above have not been satisfied, and consequently, at the time of renewing the agreement with the outside contractor it would be advisable to stipulate an authority in connection with auditing. In addition, in the outsourcing agreement prescribed in the question, it is necessary to stipulate whether to prohibit subcontracting or the conditions in case of conducting subcontracting; and upon stipulating such condition, it is advisable to add provisions that request a prior report or approval to the financial instruments business operator, which is the outsourcing party, upon conducting subcontracting.

[Reference Material 2]

Court Precedents Concerning Securities Transactions, Etc.

While court precedents concerning securities transactions can be searched on court websites, the Nationwide Securities Issues Study Group keeps a database on court cases with an easy-to-understand commentary on each case and hosts this on the Study Group's website.

- Website of the Nationwide Securities Issues Study Group (*Zenkoku Shoken Mondai Kenkyuukai*): https://zenkokusyoken.com/

The specified non-profit organization Financial Instruments Mediation Assistance Center (FINMAC) also collects summaries of dispute resolution proceedings between Association Members and customers, and notifies members of such summaries (please search the JSDA's wide area network (WAN) for previous postings including those conducted at the Securities Mediation and Consultation Center*).

These consolidate cases of reference for Association Members, as well as the factual issues of typical cases and results of mediation and issues about which care is required into a "Compendium of Mediation Cases" for the purpose of contributing to the preventing of occurrence or reoccurrence of similar types of disputes between Association Members and customers.

In contrast to litigation, mediation is for the purpose of achieving dispute resolution through discussion between the parties, so the same conclusion will not be reached even in similar cases. It is important to be aware of the differences from a judgment at litigation.

* The Securities Mediation and Consultation Center is the name used when the JSDA receives complaints, provides consultation and mediates disputes concerning business between customers and securities companies with respect to financial instruments transaction.

Outline of the Qualification Examination System for Internal Administrators (*Naibu Kanri Sekininsha*) of Regular Members and the Qualification Examination System for Internal Administrators of Special Members of the JSDA

1. Qualification to Take the Examination

Persons who do not fall under any one of the following categories, and who satisfy the requirements specified in (i) or (ii) according to the class of examination are qualified to sit for the examination:

- Class 1-perpetrator of inappropriate acts;
- A person for whom five years have yet to elapse from the day on which such person came to be treated as a Class 2-perpetrator of inappropriate acts;
- A person currently subject to the waiting period to take the next examination due to failure (for details, see "6. Required Waiting Period for Repeat Examinations"); and
- A person who is subject to a period during which he/she is excluded from taking the examination due to misconduct (for details, see "7. Misconduct").

Qualification Examination for Internal Administrators of Regular Members	Qualification Examination for Internal Administrators of Special Members
(i) Officers of Regular Members (with regard to foreign corporations, including persons having control equivalent to or greater than that of such officers) (ii) Persons for whom a Regular Member or the Japan Securities Dealers Association (hereinafter referred to as the "JSDA") finds it necessary to have them take the examination (excluding those referred to in (i)), and who are qualified as Class 1 Sales Representatives	(i) Officers of a Special Member or of a Specified Business Member (with regard to foreign corporations, including persons having control equivalent to or greater than that of such officers) (ii) Persons for whom a Special Member or a Specified Business Member finds it necessary to have them take examination (excluding those referred to in (i)), and who are qualified as Special Member's Class 1 Sales Representatives

2. Examination Procedures

Each Association Member files an application with the JSDA on behalf of the person who wants to take the examination.

The applications for officers and employees of a financial instruments intermediary service provider are handled by an Association Member with whom the financial instruments intermediary service provider has concluded an entrustment agreement.

Procedures for applying to take the examination are handled exclusively by the relevant department at the Association Member. Individuals wishing to take the examination cannot submit an application directly to the JSDA.

3. Date and Location of the Examination

(1) Examination Date

The JSDA holds, in principle, the examinations on every business day (except Saturdays, Sundays, public holidays and during year-end and New Year holidays). However, this will be different for each examination site.

(2) Examination Sites

The examination sites (test centers) are located in major cities all over Japan. Please check the examination date at your desired location via the respective department of the Association Member in advance.

After the application, the examination site, date and time of the examination is assigned to each examinee individually. In addition, examinees cannot sit for the examination other than at the location and time scheduled in advance.

4. Checklist for the Day of Examination

(1) Due to bad weather, such as a typhoon, examination may be cancelled at some examination sites at very short notice.

Examinees should check whether the examination will be held at the relevant examination site at Prometric's website, the company that will hold the examination on the examination day.

[Prometric website]

([Top page]-[For Candidates])

URL: https://www.prometric-jp.com/examinee/

* If you have any questions, please check with the division in charge at the Association Member to which you belong. Please note that the JSDA, the company holding the examination or the examination site will not answer as to whether or not the examination will be held.

(2) Arrival at the Examination Site

Examination instructions will be announced at the examination site prior to the commencement of the examination. Therefore, all examinees should arrive at the examination site by the prescribed time of the examination (at least 15 minutes before the fixed start of the examination). (If you don't arrive at the examination site by the prescribed time of the examination, you will not be permitted to take the examination, regardless of the reason).

(3) Consent to the Rules for Taking the Examination

Examinees should carefully read and understand the "Rules for Taking the Examination" provided at the examination site before going to the reception desk.

They will be deemed to have consented to the "Rules for Taking the Examination" when they complete the reception procedure.

[Reference] Examinees can check the "Rules for Taking the Examination" in advance at the following URL:

https://www.prometric-jp.com/exam_rules/

(4) Documents Necessary for Personal Identification

The identity of the examinee will be verified at the reception desk of the examination site.

Examinees must bring one of the following identification documents (no other forms of

identification are acceptable):

(i) Driver's license (a temporary license, driver's license issued in a country outside Japan or a driver's license with no indication of the actual term "driver's license" are not acceptable);

(ii) Driving license history certificates (limited to a certificate issued on or after April 1, 2012);

(iii) Individual number card ("Individual Number Notice" and "Notification Card" issued to notify every resident of their Individual Number ("My Number") are not acceptable);

(iv) Basic resident registration card (limited to one with a photograph affixed thereto);

(v) Passport (Check your name printed in alphabetic characters);

(vi) Residence card or special permanent resident certificate;

(vii) If an examinee does not have any of the above (i) through (vi), the examinee must bring either:

a. A photo bearing employee identification card (Note) and a health insurance card (substitute documents are not acceptable); or

(Note) The photo must be able to be verified, and be split-sealed, embossed or laminated, or printed on a plastic card. The card must bear the first and last names of the examinee, the name of the Association Member and a corporate logo or the logo of the corporate group to which the member belongs.

b. Photo bearing personal identification statement designated by the JSDA (which must bear a company seal; a personal seal is not acceptable) and health insurance card (substitute documents are not acceptable).

(Notes)

1. Persons not in possession of any of the personal identification upon taking the examination will not be permitted to take the examination under any circumstances.
2. Only the original of the personal identification referred to above is valid (copies are not acceptable).
3. The forms of personal identification referred to above must be current. Those that have become invalid by reason of expiry or other reason are not acceptable.
4. A "photo bearing employee identification card" or a "personal identification statement" shall only be valid if it has been issued by an Association Member; those issued by financial instruments intermediary service providers or temporary work agencies are not acceptable.
5. A "personal identification statement" is valid for a period of six months after the date of issuance (except if there has been a change of content).

(5) Other

No reference material such as texts or notes may be used during the examination. Examinees

must leave all of their personal belongings except for the personal identification documents (including wristwatches, cellular devices, memo pads, etc.) in a locker at the examination site as no personal belongings are allowed in the examination room (test room).

Examinees may use the calculator function displayed on the PC in order to solve calculation questions. If the examinee needs to make notes, the examinee may use the note board and pen provided at the examination site.

5. Notification of Pass or Fail

Examination results in respect of whether the examinee passed or failed and such examinee's total scores will be given by way of notice from the JSDA to a division-in-charge of each Association Member, in principle two business days after the examination (the examination questions will not be disclosed). The JSDA will not respond to inquiries from individual examinees.

6. Required Waiting Period for Repeat Examinations

A person who has taken and failed the examination may not take any examination for a period of 30 days from the day following the date of the original examination.

If an examinee is later discovered to have taken the examination within the waiting period, the examinee's qualification will be nullified even if the examinee satisfies the requirements for passing.

7. Misconduct

(1) Acts Deemed as Misconduct and Specific Examples

Entering the examination room with notes or with information written on one's body, etc.

* **Even if such information is unrelated to the examination, this will be deemed an act of misconduct.**

(Specific examples)

- Entering the examination room with notes including information regarding the examination
- Entering the examination room with textbooks and workbooks or copies of such materials
- Entering the examination room with writing on one's palms, arms, or other areas

Bringing items other than those necessary for the examination (ID number case and personal identification documents) into the examination room

* **Even if items are unrelated to the examination, this will be deemed an act of misconduct.**

(Specific examples)

- Bringing in clocks of any kind (including watches)
- Bringing in portable devices (smartphones, tablets, wearable devices, etc.)
- Bringing in any writing tools such as pens, etc. (excluding items provided by the test center)
- Bringing in personal belongings such as notebooks, card cases, etc.

Writing information anywhere other than the dry erase board or taking information out of the examination room

* **Even if such information is unrelated to the examination, this will be deemed an act of misconduct.**

(Specific examples)

- Writing on one's body or clothes or leaving the examination room with written information
- Writing on the paper inside the ID number case or taking it out of the examination room
- Writing on one's personal identification documents and then taking them out of the examination room

Any other inappropriate behaviors inside the examination room such as the following:

(Specific examples)

- Talking inside the examination room
- Looking over at other seats
- Entering or exiting the examination room without the proctor's permission
- Not following the instructions of the proctor

(2) Monitoring Inside the Examination Venue

The examination room is monitored by the proctor walking throughout the room and by a security camera.

(3) Measures Taken in Cases of Misconduct

Those who commit acts of misconduct will not only fail that day's examination, but in addition to the misconduct being reported to the test taker's company or organization, there will be an investigation into the test taker, and he/she will be prohibited from taking any further examination for a period of up to one year (excluding renewal training). Additionally, the name of the company or organization to which the test taker belongs will be disclosed for a period of one year to all Association Members.

Even if a person's examination is halted after the person commits any act of misconduct or the person is treated as having failed the examination, the examination fee will be payable.

8. Contents, Methods, Etc. of the Examination

	Qualification Examination for Internal Administrators of Regular Members	Qualification Examination for Internal Administrators of Special Members
(1) Subjects Tested	(i) Basic knowledge of internal administration and legal compliance; (ii) The Financial Instruments and Exchange Act and related laws and regulations; (iii) The Articles of Association and Various Regulations of the Association; (iv) The Articles of Incorporation and Various Regulations of the Exchanges; and (v) Internal Administration Rules, etc.	(i) Basic knowledge of internal administration and legal compliance; (ii) The Financial Instruments and Exchange Act and related laws and regulations; (iii) The Articles of Association and Various Regulations of the Association; (iv) Internal Administration Rules, etc. * Limited to the part concerning the registered financial institution business
(2) Topics Covered by Questions	Questions will cover knowledge concerning the Financial Instruments and Exchange Act and other laws, regulations and rules, etc., as well as practical knowledge that is necessary for the internal administration of business units as an Internal Administrator of Association Member. (Note) If there is a change to the related laws, ordinances or various regulations, the questions will test the new laws, etc.	
(3) Testing and Answering Form	The examination contains true or false questions and multiple choice (four options) questions.	
(4) Number of Questions and Distribution of Points	50 questions in total 25 true/false questions (10 points each) 25 multiple choice questions (10 points each)	30 questions in total 15 true/false questions (10 points each) 15 multiple choice questions (10 points each)
(5) Examination Time	90 minutes	60 minutes
(6) Criteria for Passing	A perfect scored is 500 points. A score of 70% (350 points) or higher is a passing score.	A perfect scored is 300 points. A score of 70% (210 points) or higher is a passing score.

9. Instructions for Taking Examination

Pay attention to the following when taking the examination:

(1) Follow the proctor's instructions at the examination site and in your examination room. Examinees who do not follow the proctor's instructions may be treated as cheating (for details, see "Misconduct");

(2) Make sure to read the written instructions and the text of questions carefully before proceeding to answer the individual questions; and

(3) Make sure to fully understand the question, and answer according to the instructions.