

RULES CONCERNING APPLICATION FOR CONFIRMATION, EXAMINATION, CONFIRMATION, ETC. OF INCIDENTS

(December 18, 1991)

CHAPTER I General Provisions

(Purpose)

Article 1 The purpose of the Rules Concerning Application for Confirmation, Examination, Confirmation, Etc. of Incidents (hereinafter referred to as “Rules”) is to define matters that are necessary for Association Members to conduct a process of Application for Confirmation in case the Association Member takes the Compensatory Conduct as a result of the Incident caused by the Association Member or its Employees, etc., a process of Application for Examination and Confirmation by Committee, a process of Incident Reporting, and other matters that are necessary to carry out the above processes, thereby ensuring a proper operation of these systems.

(Definitions)

Article 2 In the Rules, the definition of the terms set forth in each of the following Items shall be as prescribed therein:

(1) Incident(s)

Incidents that relate to sale and purchase and other transactions, etc. of securities as set forth in Article 3, Item 8 of the Articles of Association among Incidents prescribed in Article 39, Paragraph 3 of the Financial Instruments and Exchange Act (hereinafter referred to as “FIEA”);

(2) Compensatory Conduct

Conducts as set forth in Article 39, Paragraph 1, Items 2 and 3 of the FIEA;

(3) Application for Confirmation

Submission to Director-General of the Competent Local Finance Bureau, etc. of an application form and attached documents thereof that is conducted pursuant to the provision of Article 39, Paragraph 7 of the FIEA for the purpose of receiving a confirmation prescribed in the proviso of Article 39, Paragraph 3 of the FIEA;

(4) Committee

Incident Confirmation Committee that is prescribed in Article 76-2, Paragraph 1 of the Articles of Association;

(5) Examination and Confirmation by Committee

Examination and confirmation by the Committee pursuant to Article 119, Paragraph 1, Item 9(b) of the Cabinet Office Ordinance Concerning the Financial Instruments Business, Etc. (hereinafter referred to as “FIB Cabinet Office Ordinance”);

(6) Application for Examination and Confirmation by Committee

Application to the Committee to receive examination and confirmation prescribed in Article 119, Paragraph 1, Item 9(b) of the FIB Cabinet Office Ordinance;

(7) Incident Reporting

Reporting pursuant to Article 119, Paragraph 3 of the FIB Cabinet Office Ordinance;

(8) Employees, etc.

Employees and officers as prescribed in Article 2, Item 6 and Article 17 of the “Rules Concerning Employees of Association Members”, including those who used to be an employee or an officer;

and

- (9) Director-General of the Competent Local Finance Bureau, etc.

Director-General of local finance bureau that supervises the head office, other business office, or office where the Incident occurs (or Director-General of Fukuoka Local Finance Branch Bureau if the head office, business office, or office is located within a jurisdiction of Fukuoka Local Finance Branch Bureau).

(Establishment, Etc. of Internal Administration System)

Article 3 An Association Member must endeavor to establish an internal administration system regarding internal examination of the Incident, a process of Application for Confirmation, a process of Application for Examination and Confirmation by Committee, and a process of Incident Reporting, and operate it properly in order to ensure proper management of Incidents.

2. An Association Member must keep and maintain the statutory books and other documents and records concerning the internal examination and various processes in a proper manner.

CHAPTER II Application for Confirmation

(Application for Confirmation)

Article 4 In case an Association Member takes a Compensatory Conduct for the entire or part of losses caused by the Association Member or its Employees, etc., it must receive a confirmation in advance from the Director-General of the Competent Local Finance Bureau, etc. that such losses subject to the Compensatory Conduct are caused by an Incident, except for the cases set forth in each Item of Article 119, Paragraph 1 of the FIB Cabinet Office Ordinance.

2. When an Association Member intends to have the confirmation set forth in the preceding Paragraph, it must submit to the Director-General of the Competent Local Finance Bureau, etc., the Application for Confirmation of the Incident in a prescribed format that describes the matters set forth in each Item of Article 121 of the FIB Cabinet Office Ordinance (hereinafter referred to as “Application Form for Confirmation”) pursuant to Article 120 of the FIB Cabinet Office Ordinance.

3. Documents set forth in Article 122, Paragraph 1 of the FIB Cabinet Office Ordinance must be attached to the Application Form for Confirmation prescribed in the preceding Paragraph, except for the cases where such Application Form for Confirmation relates to the application prescribed in Article 39, Paragraph 1, Item 2 of the FIEA.

4. Filing of the applications prescribed in Paragraph 2 must be conducted through the Association.

(Examination by the Association)

Article 5 In case Application Form for Confirmation is submitted by an Association Member pursuant to Paragraph 4 of the preceding Article, the Association shall examine whether or not the losses subject to compensation that are stated in the said Application Form for Confirmation are caused by the Incidents.

2. The Association may, when deemed necessary for the examination prescribed in the preceding Paragraph, request that the Association Member who has submitted Confirmation Application make an explanation about the contents thereof or submit documentary evidence, etc.

3. An Association Member must not refuse the request prescribed in the preceding Paragraph by the Association without a justifiable reason.

(Submission of Application Form for Confirmation to Director-General of the Competent Local Finance Bureau, Etc.)

Article 6 In case the Association has found, as a result of the examination set forth in Paragraph 1 of the preceding Article, that the losses subject to compensation that are stated in the Application Form for Confirmation are caused by the Incidents, it shall submit the Application Form for Confirmation to the Director-General of the Competent Local Finance Bureau, etc.

(Notification of Result of Confirmation to Association Members)

Article 7 In case the Association has received a notification about the result of confirmation by the Director-General of the Competent Local Finance Bureau, etc. with respect to the Compensatory Conduct mentioned in Application Form for Confirmation submitted by an Association Member, it shall notify the Association Member concerned to that effect immediately.

CHAPTER III Application for Examination and Confirmation by Committee

(Application for Examination and Confirmation by Committee)

Article 8 When an Association Member intends to compensate the entire or part of losses caused by an Incident caused by the Association Member or its Employees, etc. (only in a case where the Association Member and the customer who incurs such losses caused by the Incident have reached an agreement about the amount to be paid to the customer and the amount to be paid by such Association Member to the customer does not exceed 10 million yen; the same shall apply hereinafter in this Chapter), it must receive the examination and confirmation by the Committee in advance that the payment to the customer is to compensate for the losses caused by the Incident, except at the time when making an Application for Confirmation or for the cases that fall under Article 119, Paragraph 1, Items 1 through 8, Item 10, or Item 11.

2. An Association Member who intends to receive the examination and confirmation prescribed in the preceding Paragraph must submit to the Committee an application form for Incident examination that is in a prescribed format and describes matters set forth in each Item of Article 121 of the FIB Cabinet Office Ordinance (hereinafter referred to as the “Application Form for Examination and Confirmation”).

3. An Association Member must attach a document that proves that the customer confirms the content of the Application Form for Examination and Confirmation and that the Association Member and the customer have reached an agreement about the amount to be paid to the customer, and other reference materials to the Application Form for Examination and Confirmation prescribed in the preceding Paragraph.

(Examination and Confirmation by Committee)

Article 9 When the Committee receives from the Association Member the Application Form for Examination and Confirmation as prescribed in Paragraph 2 of the preceding Article, it shall examine and confirm that the payment to the customer prescribed in such Application Form for Examination and Confirmation is to compensate for losses caused by the Incident.

2. The Committee may, when deemed necessary for the examination and confirmation prescribed in the preceding Paragraph, ask the Association Member which submitted the Application Form for Examination and Confirmation to explain the content or to submit the documentary evidence, etc.

3. When the Association Member receives the request prescribed in the preceding Paragraph, it may not refuse it without a justifiable reason.

(Answer to Association Member)

Article 10 When the Committee examines and confirms that the payment to the customer prescribed in such Application Form for Examination and Confirmation submitted by the Association Member is to compensate for losses caused by the Incident, it shall immediately send an answer to the Association Member.

(Examination and Confirmation Fee)

Article 11 When an Association Member submits the Application Form for Examination and Confirmation pursuant to the provision of Article 8, Paragraph 2, it must pay the examination and confirmation fee of 11,429 yen and the amount equivalent to applicable consumption tax per the Application for examination and confirmation to the Association by the 20th day (or the preceding business day if the 20th is a holiday of the Association) of the month following the month when such Application Form for Examination and Confirmation is submitted

2. Payment of such examination and confirmation fee prescribed in the preceding Paragraph shall be made to an account designated by the Association. In this case, the bank transfer fee shall be borne by the Association Member.

CHAPTER IV Incident Reporting

(Reporting Duty)

Article 12 When an Association Member takes a Compensatory Conduct against an Incident for which confirmation by the Director-General of the Competent Local Finance Bureau, etc. is not required pursuant to the provisions of Article 119, Paragraph 1, Items 9 to 11 of the FIB Cabinet Office Ordinance, it must report it to the Director-General of the Competent Local Finance Bureau, etc. using a prescribed format that describes the matters set forth in each Item of Article 121 of the FIB Cabinet Office Ordinance, by the end of the month following the month when such Compensatory Conduct was taken.

2. Reporting prescribed in the preceding Paragraph must be made through the Association by submitting a report prescribed in the preceding Paragraph to the Association by the 20th day (or the preceding business day if the 20th is a holiday of the Association) of the month following the month when such Compensatory Action was taken.

3. In the case of the preceding Paragraph, the Association may, when deemed necessary, request the Association Member to explain the content or to submit reference materials, etc.

CHAPTER V Miscellaneous Provisions

(*Mutatis Mutandis* Application to a Financial Instruments Intermediary Service Provider)

Article 13 The Rules shall apply *mutatis mutandis* to the process regarding an Incident caused by a Financial Instruments Intermediary Service Provider and its officers and employees (officers and employees as prescribed in Article 2, Items 4 and 5 of the “Rules Concerning Financial Instruments Intermediary Service Providers”, including those who used to be an officer or an employee) that is conducted by an Association Member who is an Entrusting Financial Instruments Business Operators, etc. (Entrusting Financial Instruments Business Operators, etc. as prescribed in Article 66-2, Paragraph 1, Item 4 of the FIEA) of such Financial Instruments Intermediary Service Provider.

SUPPLEMENTARY PROVISIONS [Omitted]

(Note) These Rules are based on the version in effect as of January 1, 2019.

This translation is solely for the convenience of those interested therein, and accordingly all questions that may arise with regard to the meaning of the words or expressions herein shall be dealt with in accordance with the original Japanese text.
