

RULES CONCERNING APPROPRIATE IMPLEMENTATION, ETC. OF SEPARATE MANAGEMENT OF CUSTOMER ASSETS

(November 21, 2001)

(Purpose)

Article 1 The purpose of the Rules Concerning Appropriate Implementation of Separate Management of Customer Assets (hereinafter referred to as “Rules”) is to define standards, procedures, and other matters when Regular Members and Specified Business Members undergo a separate management audit regarding separate management (which means the separate management set forth in Article 43-2 of the Financial Instruments and Exchange Act (hereinafter referred to as “FIEA”); the same shall apply hereinafter) and segregated management (which means the segregated management set forth in Article 43-2-2 of the FIEA; the same shall apply hereinafter) conducted by Regular Members and Specified Business Members, thereby ensuring an appropriate implementation of the separate management and segregated management of customer assets by the Regular Member or Specified Business Member.

(Separate Management Audit by Certified Accountant, Etc.)

Article 2 A Regular Member must prepare a management report on the compliance with laws concerning separate management of customer assets that describes the following matters (hereinafter referred to as the “Management Report”) and undergo a separate management audit in the assurance engagements in connection with the compliance with laws concerning the separate management (hereinafter the “Separate Management Audit”) by a certified public accountant or an audit firm (hereinafter referred to as the “Certified Accountant, etc.”) under “Assurance Engagement Practice Note 3802 - ‘Practical Guidelines on Assurance Engagements Relating to Compliance with Laws Concerning Separate Management of Customer Assets by Financial Instruments Business Operator’” issued by the Japanese Institute of Certified Public Accountants, at least once a year on a regular basis, for the purpose of checking the condition of separate management of customer assets prescribed in Article 43-2, Paragraphs 1 and 2 of the FIEA pursuant to the same Article, Paragraph 3 of the FIEA.

- (1) The fact that the management assumes responsibility to comply with laws concerning separate management;
- (2) The fact that the management assumes responsibility to establish and exercise effective internal control for compliance with laws concerning separate management;
- (3) The fact that the management assumes responsibility for trusting the customer segregated fund and separately managing customers' securities as of the audit base date (hereinafter referred to as the “Base Date”);
- (4) The fact that the management has implemented a procedure to confirm that the Regular Member separately managed customer assets pursuant to laws;
- (5) As a result of the procedure set forth in the preceding Item, whether the Regular Member separately managed customer assets as of the Base Date pursuant to laws; and
- (6) After the Base Date and during the period until the submission date of the Management Report, in the case any event occurs that may materially impact on the compliance with laws concerning separate management of customer assets, the details of such event.

2. When preparing the Management Report as prescribed in the preceding Paragraph, a Regular Member must conduct a procedure that ensures that effective internal control has been established and exercised for complying with laws concerning separate management, and that customer assets have been separately managed in compliance with laws.

3. A Regular Member must prepare a record that includes the matters found in the procedure set forth in the preceding Paragraph and the result of the procedure.

4. When the Separate Management Audit by the Certified Accountant, etc. begins, and when a Regular Member receives a report relating to the results of Separate Management Audit (hereinafter referred to as the "Separate Management Audit Report"), the Regular Member must immediately submit to the Association the "Report of Separate Management Audit by the Certified Accountant, etc." that is separately defined.

5. When a Regular Member receives the Separate Management Audit Report, it must publicize a copy of such Separate Management Audit Report and a copy of the Management Report by a proper method such as placing them in all the branch and business offices for review by the public (including a method that enables showing them on a display of a computer installed in each of such branch and business office), or listing them on its website, by the date when the next reports on the Separate Management Audit are publicized.

6. In the case where the Association determines that, by checking the Separate Management Audit Report, a Regular Member meets either of the conditions set forth in each of the following Items, the Association may immediately instruct the Regular Member to take measures that are necessary to correct the applicable matters:

- (1) The Regular Member violates laws and regulations, a disciplinary action taken by an administrative government office pursuant to laws and regulations, or the Articles of Association and other rules.
- (2) The separate management of customer assets is not implemented appropriately.

7. A Regular Member who has received the instruction for correction prescribed in the preceding Paragraph must submit a report for correction on the instructed matters to the Association.

(Measures for Ensuring, Etc. the Effectiveness of Separate Management)

Article 3 In the case where the Association has found that a Regular Member meets any of the Items below and the Association determines it necessary and appropriate for the public interest or protecting investors, the Association shall take measures prescribed in each of the Items and other necessary measures directed to the Regular Member to the necessary extent:

- (1) In the case where the Capital-to-Risk Ratio of the Regular Member becomes less than 120%; The Association shall require the Regular Member to submit a report describing the condition, etc. of the separate management and segregated management.
- (2) In the case where the Capital-to-Risk Ratio of the Regular Member becomes less than 100%; The Association shall require the Regular Member to supplement the necessary amount to maintain the sufficient amount for the customer segregated fund or the management of the commodity customer segregated fund and take other necessary measures that ensure the implementation of separate management of customer assets.
- (3) In the case the Regular Member may go into default in light of its business or financial condition; The Association shall implement the special inspection prescribed in Article 4, Item 2 of the Inspection Rules with respect to the separate management and segregated management.

2. When conducting the special inspection prescribed in the preceding Paragraph, Item 3, the principal inspector (an inspector designated by the Association in advance) has the authority prescribed in Article 6 of the Inspection Rules, and in the case where the principal inspector determines it necessary to urgently take measures for the purpose of appropriate implementation of separate management or segregated management of customer assets, the principal inspector may instruct the Regular Member to take such

measures.

3. In the case where the Regular Member has received the instruction pursuant to the preceding Paragraph, the Regular Member must comply with such instruction.
4. When the Association determines that it is necessary and appropriate for the public interest or protecting investors, it may exchange opinions with the Certified Accountant, etc. who conducts the Separate Management Audit prescribed in Article 2, Paragraph 1 to the necessary extent.
5. When the Association takes measures prescribed in Paragraph 1, or issues the instruction prescribed in Paragraph 2, the Association shall immediately report it to the Financial Services Agency and the Japan Investor Protection Fund (including the Specified Consignor Protection Fund set forth in Article 4, Paragraph 1 of the Supplementary Provisions of the Act for Partial Revision of the Financial Instruments and Exchange Act, etc. (Act No. 86 of 2012) in the case when the Regular Member taking measures pursuant to Paragraph 1 or issuing the instruction pursuant to Paragraph 2 is a Specified Member of the Specified Consignor Protection Fund as set forth in the same provision in the Act for Partial Revision of the Financial Instruments and Exchange Act, etc. above).

(Application *Mutatis Mutandis* to Specified Business Members)

Article 4 The provisions of Articles 2 and 3 (excluding the provisions of Article 3, Paragraph 1, Items 1 and 2) shall apply *mutatis mutandis* to Specified Business Members (limited to Specified Business Members that conduct business listed in Article 5, Item 2 (b) of the Articles of Association; the same shall apply hereinafter within this paragraph). In this case, the term “Regular Member” in these provisions shall be changed to read “Specified Business Member,” the term “Article 43-2, Paragraphs 1 and 2 of the FIEA” in Article 2 shall be changed to read “Article 43-2, Paragraph 2 of the FIEA,” and the term “the Financial Services Agency and the Japan Investor Protection Fund” in Article 3, Paragraph 5 shall be changed to read “the Financial Services Agency.”

2. The provision of Article 3 (excluding Article 3 Paragraph 4) shall apply *mutatis mutandis* to Specified Business Members (limited to Specified Business Members that conduct business listed in Article 5, Item 2 (c) of the Articles of Association; the same shall apply hereinafter within this paragraph). In this case, the term “Regular Member” used in the provision shall be replaced with the term “Specified Business Member.”

(Revision of the Rules)

Article 5 In the case where the Association intends to revise the Rules, it shall consult with the Financial Services Agency and the Japanese Institute of Certified Public Accountants.

(Others)

Article 6 The Association may prescribe matters that are necessary for the implementation of the Separate Management Audit in addition to those prescribed in the Rules.

SUPPLEMENTARY PROVISIONS [Omitted]

1 The revised Rules shall be enforced as of March 31, 2017. Provided, however, the provision in Article 2, Paragraph 5 shall apply to the publication of the result of Separate Management Audit conducted on the Base Date that is on and after April 1, 2018.

2 A Regular Member that underwent the separate management audit relating to the agreed upon

procedures pursuant to Article 2, Paragraph 1 of the old Rules before the enforcement date of the revised Rules is allowed to continue the previous procedure and method for the Separate Management Audit that is conducted on the Base Date that is on and before March 31, 2018.

(Note) This amendment comes into effect as of February 17, 2022, the date of application of the “Assurance Engagement Practice Note 3802 - ‘Practical Guidelines on Assurance Engagements Relating to Compliance with Laws Concerning Separate Management of Customer Assets by Financial Instruments Business Operator’” issued by the Japanese Institute of Certified Public Accountants.

<p>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.</p>
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