

# **Cabinet Office Order on Financial Instruments Business (Tentative translation)**

(Cabinet Office Order No. 52 of August 6, 2007)

Pursuant to the provisions of the Financial Instruments and Exchange Act (Act No. 25 of 1948) and the Order for Enforcement of the Financial Instruments and Exchange Act (Cabinet Order No. 321 of 1965), and for the purpose of the enforcement of that Act and that Order, the Cabinet Office Order on Financial Instruments Business is enacted as follows:

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## **Chapter I General Provisions**

(Definitions)

Article 1 (1) As used in this Cabinet Office Order, the terms "securities", "public offering of securities", "private placement of securities", "secondary distribution of securities", "issuer", "underwriter", "registration statement", "financial instruments business", "financial instruments business operator", "prospectus", "financial instruments intermediary service", "financial instruments intermediary service provider", "authorized financial instruments firms association", "financial instruments market", "financial instruments exchange", "financial instruments exchange market", "trading participant", "derivative transactions", "market transactions of derivatives", "over-the-counter transactions of derivatives", "foreign market derivatives transactions", "financial instruments", "financial indicator", "foreign financial instruments exchange", "brokerage for clearing of securities, etc.", "financial instruments obligation assumption service", "financial instruments clearing organization", "foreign financial instruments clearing organizations", "securities finance company", "professional investor", "credit rating", "credit rating business", "credit rating agency", "high-speed trading" or "high-speed trader" respectively mean the securities, public offering of securities, private placement of securities, secondary distribution of securities, issuer, underwriter, registration statement, financial instruments business, financial instruments business operator, prospectus, financial instruments intermediary service, financial instruments intermediary service provider, authorized financial instruments firms association, financial instruments market, financial instruments exchange, financial instruments exchange market, trading participant, derivative transactions, market transactions of derivatives, over-the-counter transactions of derivatives, foreign market derivatives transactions, financial instruments, financial indicator, foreign financial instruments exchange, brokerage for clearing of securities, etc., financial instruments obligation assumption service, financial instruments clearing organization, foreign financial instruments clearing organizations, securities finance company, professional investor, credit rating, credit rating business or credit rating agency, high-speed trading or high-speed trader as defined in Article 2 of the Financial Instruments and Exchange Act (hereinafter referred to as the "Act").

(2) As used in this Cabinet Office Order, each of the terms "type I financial instruments business", "type II financial instruments business", "investment advisory and agency business", "investment management business", "securities, etc. management business", "investment advisory business", "wholesale underwriting of securities", or "securities-related business" respectively means a type-I financial instruments business, type-II financial instruments business,

investment advisory and agency business, investment management business, securities, etc. management business, investment advisory business, wholesale underwriting of securities, or securities-related business as defined in Article 28 of the Act.

- (3) In this Cabinet Office Order (in cases of the terms listed in item (xvi), excluding Article 199, item (xiii), Article 201, item (xxiv), Article 202, item (xviii), Section 4-2 of the following Chapter, and Appended Forms No. 17-2 through No. 17-6), the meanings of the terms listed in the following items are as prescribed respectively in those items:
- (i) options: the options defined in Article 2, paragraph (1), item (xix) of the Act;
  - (ii) business subject to investment: the business subject to investment defined in Article 2, paragraph (2), item (v) of the Act;
  - (ii)-2 Electronically Recorded Transferable Rights: the Electronically Recorded Transferable Rights prescribed in Article 2, paragraph (3) of the Act;
  - (iii) qualified institutional investors: the qualified institutional investors defined in Article 2, paragraph (3), item (i) of the Act;
  - (iii)-2 solicitation for selling, etc. only for professional investors: the solicitation for selling, etc. only for professional investors defined in Article 2, paragraph (6) of the Act;
  - (iii)-3 commodity-related market transactions of derivatives: the commodity-related market transactions of derivatives defined in Article 2, paragraph (8), item (i) of the Act;
  - (iv) foreign financial instruments market: the foreign financial instruments market defined in Article 2, paragraph (8), item (iii), (b) of the Act;
  - (v) over-the-counter transactions of derivatives, etc.: the over-the-counter transactions of derivatives, etc. defined in Article 2, paragraph (8), item (iv) of the Act;
  - (vi) underwriting of securities: the underwriting of securities defined in Article 2, paragraph (8), item (vi) of the Act;
  - (vii) over-the-counter traded securities: the over-the-counter traded securities defined in Article 2, paragraph (8), item (x), (c) of the Act;
  - (viii) investment advisory contract: the investment advisory contract defined in Article 2, paragraph (8), item (xi) of the Act;
  - (ix) discretionary investment contract: the discretionary investment contract defined in Article 2, paragraph (8), item (xii), (b) of the Act;
  - (x) registered financial institution: the registered financial institution defined in Article 2, paragraph (11) of the Act;
  - (x)-2 commodities: the commodities defined in Article 2, paragraph (24), item (iii)-3 of the Act;
  - (x)-3 securities for professional investors: the securities for professional investors defined in Article 4, paragraph (3) of the Act;

- (x)-4 solicitation for acquisition only for professional investors: the solicitation for acquisition only for professional investors defined in Article 4, paragraph (3), item (i) of the Act;
- (xi) officer: the officer defined in Article 21, paragraph (1), item (i) of the Act;
- (xii) transactions of securities-related derivatives: the transactions of securities-related derivatives defined in Article 28, paragraph (8), item (vi) of the Act;
- (xii)-2 type-I small amount electronic public offering service provider: the type-I small amount electronic public offering service provider defined in Article 29-4-2, paragraph (9) of the Act;
- (xii)-3 type-I small amount electronic public offering service: the type-I small amount electronic public offering service defined in Article 29-4-2, paragraph (10) of the Act;
- (xii)-4 type-II small amount electronic public offering service provider: the type-II small amount electronic public offering service provider defined in Article 29-4-3, paragraph (2) of the Act;
- (xii)-5 type-II small amount electronic public offering service: the type-II small amount electronic public offering service defined in Article 29-4-3, paragraph (4) of the Act;
- (xii)-6 investment management business for qualified investors: the investment management business for qualified investors defined in Article 29-5, item (i) of the Act;
- (xii)-7 qualified investor: the qualified investor defined in Article 29-5, item (iii) of the Act;
- (xiii) parent bank, etc.: the parent bank, etc. defined in Article 31-4, paragraph (3) of the Act;
- (xiv) parent corporation, etc.: the parent corporation, etc. defined in Article 31-4, paragraph (3) of the Act;
- (xv) subsidiary bank, etc.: the subsidiary bank, etc. defined in Article 31-4, paragraph (4) of the Act;
- (xvi) subsidiary corporation, etc.: the subsidiary corporation, etc. defined in Article 31-4, paragraph (4) of the Act;
- (xvii) derivative transactions, etc.: the derivative transactions, etc. defined in Article 33, paragraph (3) of the Act;
- (xviii) transactions of securities-related derivatives, etc.: the transactions of securities-related derivatives, etc. defined in Article 33, paragraph (3) of the Act;
- (xix) market transactions of derivatives, etc.: the market transactions of derivatives, etc. defined in Article 33, paragraph (3), item (i) of the Act;
- (xx) foreign market derivatives transactions, etc.: the foreign market derivatives transactions, etc. defined in Article 33, paragraph (3) item (iii) of

- the Act;
- (xxi) registered financial institution business: the registered financial institution business defined in Article 33-3, paragraph (1), item (vi), (a) of the Act;
  - (xxii) financial instruments business operator, etc.: the financial instruments business operator, etc. defined in Article 34 of the Act;
  - (xxiii) act that constitutes a financial instruments transaction: the acts that constitute financial instruments transactions defined in Article 34 of the Act;
  - (xxiv) financial instruments transaction contract: the financial instruments transaction contract defined in Article 34 of the Act;
  - (xxv) investment property: the investment property defined in Article 35, paragraph (1), item (xv) of the Act;
  - (xxv)-2 specified over-the-counter derivatives transactions: the specified over-the-counter derivatives transactions defined in Article 40-7, paragraph (1) of the Act.
  - (xxvi) purchase and sale or other transaction of securities.: the purchase and sale or other transaction of securities. defined in Article 41-2, item (iv) of the Act;
  - (xxvii) right holders: the right holders defined in Article 42, paragraph (1) of the Act;
  - (xxviii) capital adequacy ratio: the capital adequacy ratio defined in Article 46-6, paragraph (1) of the Act;
  - (xxix) financial instruments business, etc.: the financial instruments business, etc. defined in Article 50, paragraph (1), item (i) of the Act;
  - (xxix)-2 special financial instruments business operators: the special financial instruments business operators defined in Article 57-2, paragraph (2) of the Act;
  - (xxix)-3 subject special financial instruments business operator: the subject special financial instruments business operator defined in Article 57-12, paragraph (3) of the Act;
  - (xxix)-4 designated parent company: the designated parent company defined in Article 57-12, paragraph (3) of the Act;
  - (xxix)-5 highest designated parent company: the highest designated parent company defined in Article 57-12, paragraph (3) of the Act;
  - (xxx) foreign securities service provider: the foreign securities service provider defined in Article 58 of the Act;
  - (xxxi) authorized transaction-at-exchange operator: the authorized transaction-at-exchange operator defined in Article 60-4, paragraph (1) of the Act;
  - (xxxi)-2 electronic over-the-counter derivatives transactions, etc. business: the electronic over-the-counter derivatives transactions, etc. business defined in Article 60-14, paragraph (1) of the Act;

- (xxxix)-3 Business operator authorized to conduct electronic over-the-counter derivatives transactions, etc.: the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. defined in Article 60-14, paragraph (2) of the Act;
- (xxxix) qualified institutional investors, etc.: the qualified institutional investors, etc. defined in Article 63, paragraph (1), item (i) of the Act;
- (xxxix)-2 specially-permitted business for qualified institutional investors, etc.: the specially-permitted business for qualified institutional investors, etc. defined in Article 63, paragraph (2) of the Act;
- (xxxix)-3 notifier of specially-permitted business: the notifier of specially-permitted business defined in Article 63, paragraph (5) of the Act;
- (xxxix)-2 specially permitted services for foreign investors, etc.: the specially permitted services for foreign investors, etc. defined in Article 63-8, paragraph (1) of the Act;
- (xxxix)-3 notifier of specially permitted services for foreign investors, etc.: the notifier of specially permitted services for foreign investors, etc. defined in Article 63-9, paragraph (4) of the Act;
- (xxxix) sales representative: the sales representative defined in Article 64, paragraph (1) of the Act;
- (xxxix) entrusting financial instruments business operators, etc.: the entrusting financial instruments business operators, etc. defined in Article 66-2, paragraph (1), (iv) of the Act;
- (xxxix) intermediation for financial instruments: the intermediation for financial instruments defined in Article 66-11 of the Act (in the case of a financial service intermediary (meaning the financial service intermediary defined in Article 11, paragraph (6) of the Act on the Provision of Financial Services (Act No. 101 of 2000) and limited to a person who engages in securities, etc. intermediary business operations (meaning the securities, etc. intermediary business operations defined in paragraph (4) of that Article; the same applies hereinafter); the same applies hereinafter), the acts set forth in the items of Article 11, paragraph (4) of the Act on the Provision of Financial Services);
- (xxxix)-2 over-the-counter securities market: the over-the-counter securities market defined in Article 67, paragraph (2) of the Act;
- (xxxix) tradable securities: the tradable securities defined in Article 67-18, item (iv) of the Act;
- (xl) certified financial instruments business association: the certified financial instruments business association defined in Article 78, paragraph (2) of the Act;
- (xli) certified investor protection organization: the certified investor protection organization defined in Article 79-10, paragraph (1) of the Act;

- (xlii) investor protection fund: the investor protection fund defined in Article 79-21 of the Act;
  - (xliii) collaborative financial instruments obligation assumption services: the collaborative financial instruments obligation assumption services defined in Article 156-20-16, paragraph (1) of the Act;
  - (xliv) collaborating clearing organization, etc.: the collaborating clearing organization, etc. defined in Article 156-20-16, paragraph (1) of the Act;
  - (xlv) margin transaction: the margin transaction defined in Article 156-24, paragraph (1) of the Act;
  - (xlvi) designated dispute resolution organization: the designated dispute resolution organization defined in Article 156-38, paragraph (1) of the Act;
  - (xlvii) dispute resolution procedures: the dispute resolution procedures defined in Article 156-38, paragraph (10) of the Act;
  - (xlviii) category for dispute resolution services: the category for dispute resolution services defined in Article 156-38, paragraph (12) of the Act;
  - (xlix) basic contracts for implementation of dispute resolution procedures: the basic contract for implementation of dispute resolution procedures defined in Article 156-38, paragraph (13) of the Act;
  - (l) business operator involved in financial instruments transactions: the business operator involved in financial instruments transactions defined in Article 156-38, paragraph (13) of the Act.
- (4) As used this Cabinet Office Order, the meanings of the terms listed in the following items are as prescribed respectively in those items:
- (i) head office, etc.: the head office or any other principal business office or principal office (in the case of a foreign corporation or an individual domiciled in a foreign state, meaning the principal business office or principal office in Japan);
  - (ii) amount of non-fixed equity capital: the total of the amount of basic items (meaning the total of the amount of each item listed in Article 176, paragraph (1), items (i) through (vi); the same applies hereinafter) and the amount of supplementary items (meaning the amount of the items listed in item (vii) of that paragraph; the same applies hereinafter), less the amount of deductible assets (meaning the total amount of each of the items listed in the items of Article 177, paragraph (1); the same applies hereinafter);
  - (iii) competent Director-General of a Local Finance Bureau, etc.: the Director-General of a Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau, who has granted a registration which is currently in effect to any financial instruments business operator, registered financial institution, financial instruments intermediary service provider or high-speed trader, or permission which is currently in effect to any authorized transaction-at-exchange operator;



- (iv) Commissioner of the Financial Services Agency or other competent official: the special financial instruments business operators and the Commissioner of the Financial Services Agency, in case of a person designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2), Article 43, paragraph (2) or Article 43-2-3, paragraph (2) of the Order for Enforcement of the Financial Instruments and Exchange Act (hereinafter referred to as the "Order"); or the competent Director-General of a Local Finance Bureau, etc., in the case of any person other than the aforementioned person.
- (v) partnership contract: a partnership contract defined in Article 667, paragraph (1) of the Civil Code (Act No. 89 of 1896);
- (vi) silent partnership contract: a silent partnership contract defined in Article 535 of the Commercial Code (Act No. 48 of 1899);
- (vii) limited partnership agreement for investment: a limited partnership agreement for investment defined in Article 3, paragraph (1) of the Limited Partnership Act for Investment (Act No. 90 of 1998);
- (viii) limited liability partnership agreement: a limited liability partnership agreement defined in Article 3, paragraph (1) of the Limited Liability Partnership Act (Act No. 40 of 2005);
- (ix) proprietary trading system operation: a business operation relevant to the acts specified in Article 2, paragraph (8), item (x) of the Act;
- (x) cooperative financial institution: a cooperative financial institution defined in Article 2, paragraph (1) of the Act on Preferred Equity Investment by Cooperative financial institutions (Act No. 44 of 1993);
- (xi) when-issued transaction: a when-issued transaction defined in Article 1, paragraph (2) of the Cabinet Office Order on Transactions under Article 161-2 of the Financial Instruments and Exchange Act and Deposits Related Thereto (Order of the Ministry of Finance No. 75 of 1953);
- (xii) undisclosed information: undisclosed material information on the operation, business or properties of a company which is an issuer, which is found to have an impact on customers' investment decisions (meaning the investment decisions defined in Article 2, paragraph (8), item (xi), (b) of the Act; the same applies hereinafter except in Article 16-5-2, item (iii), Article 233-2, paragraph (1), item (iv), and Article 246-10, paragraph (3), item (iii)), or information on ordering trends in the customers' purchase and sale or other transaction of securities. and any other special information which may come to knowledge of any the officers (if an officer is a corporation, including executive members thereof) or employees of the party itself or its parent corporation, etc. or subsidiary corporation, etc. in the course of duties (excluding information related to a foreign corporation (including a foreign organization without juridical personality for which a representative person

or administrator has been designated) out of these pieces of information);

(xiii) undisclosed loan information, etc.: undisclosed information on the customer's business or any other special information which may come to knowledge of any of the officers (in the case of a foreign corporation, including its representative person in Japan; the same applies hereinafter except in Section 5 of the following Chapter, Article 238-2, paragraph (1), item (i), (a), Article 239, paragraph (2), item (iii), (b) (limited to the part related to 1.), Article 241, paragraph (2), item (i), (b), Article 246-14, paragraph (1), item (iii), (a), Article 246-20, paragraph (2), item (iii), (b) (limited to the part related to 1.) and Article 246-22, paragraph (2), item (iii), (b)) or employees engaged in a loan business (meaning a service related to loans for business; hereinafter the same applies in this item, Article 123, paragraph (1), item (xix) and Article 150, item (v)) or a financial institution agency service operation (meaning a service for agency or intermediation for the conclusion of contracts for loans or discounting negotiable instrument for business, from among the financial institution agency service prescribed in Article 68, item (xiii); the same applies hereinafter) in the course of duties, which is found to have an impact on the customer's investment decisions in respect of the securities (excluding the securities specified in Article 33, paragraph (2), item (i) of the Act and also excluding the securities specified in Article 2, paragraph (1), item (xvii) of the Act which have the natures prescribed in items (i) and (ii) of that paragraph; hereinafter the same applies in this item) solicited by officers or employees engaged in a financial instruments business or financial instruments intermediation operation (meaning a service operation to conduct intermediation for financial instruments; the same applies hereinafter); or information on ordering trends in the customers' purchase and sale or other transaction of securities. or any other special information which may come to knowledge of any of the officers or employees engaged in a financial instruments business or financial instruments intermediation operation in the course of duties, which is found to have a material impact on the loan business or the financial institution agency service operation pertaining to the issuer of the securities (excluding information related to a foreign corporation (including a foreign organization without juridical personality for which a representative person or administrator has been designated) out of these pieces of information);

(xiv) corporate information: undisclosed important information on the operation, business or properties of listed companies, etc. set forth in Article 163, paragraph (1) of the Act, which is found to have an impact on customers' investment decisions; and undisclosed information on a decision about the launch or suspension (excluding those corresponding to standards prescribed in the proviso to Article 167, paragraph (2) of the Act) of a tender offer as

- prescribed in Article 27-2, paragraph (1) of the Act (but only if the provisions of the main clause of that paragraph apply), the buying-up equivalent thereto in regard to the share certificates, etc. (meaning the share certificates, etc. prescribed in that paragraph), and a tender offer as prescribed in Article 27-22-2, paragraph (1) of the Act (but only if the provisions of the main clause of that paragraph apply);
- (xv) commodity-related business: a financial instruments business for conducting any of the acts specified in Article 28, paragraph (1), item (i)-2 of the Act in the course of trade;
  - (xvi) electronic trading platform management service: services provided by a financial instruments business operator, etc. for specified over-the-counter derivatives transactions or intermediary, brokerage (excluding brokerage for clearing of securities, etc.) or agency services therefor in the course of trade, using an electronic data processing system to be used for the business of over-the-counter derivatives transactions, etc.
  - (xvii) Electronically Recorded Transferable Rights to Be Indicated on Securities, etc.: rights prescribed in Article 29-2, paragraph (1), item (viii) of the Act; and
  - (xviii) Cryptoassets: Cryptoassets prescribed in Article 2, paragraph (5) of the Payment Services Act (Act No. 59 of 2009).

(Submission of Documents in English)

- Article 2 (1) Documents to be submitted to the Commissioner of the Financial Services Agency, Director-General of a Local Finance Bureau or Director-General of the Fukuoka Local Finance Branch Bureau (hereinafter referred to as the "Commissioner of the Financial Services Agency or other official") pursuant to the provisions of the Act (limited to Chapter III through Chapter III-4; the same applies in paragraph (3) and the following Article), the Order (limited to Chapters IV through IV-4; the same applies in the same paragraph and the same Article) or this Cabinet Office Order (excluding documents that can be prepared in English pursuant to other provisions of this Cabinet Office Order (including preparation in English in accordance with the forms specified by this Cabinet Office Order; hereinafter the same applies in this paragraph); the same applies in paragraph (3)) that are specified by the Commissioner of the Financial Services Agency in consideration of the content and other circumstances may be prepared in English.
- (2) In the case referred to in the preceding paragraph, if it is found to be necessary and appropriate for the public interest or the protection of investors, the Commissioner of the Financial Services Agency or other official may request that the person that is subject to the application of provisions of that paragraph attach a Japanese translation of the outline of all or part of the

documents to which these provisions apply.

- (3) If, due to any special circumstance, there is any documents to be submitted to the Commissioner of the Financial Services Agency or other official (excluding those to which the provisions of paragraph (1) apply) pursuant to the provisions of the Act, the Order or this Cabinet Office Order that cannot be prepared in Japanese, a Japanese translation thereof must be attached thereto; provided, however, that if the documents to be submitted are the articles of incorporation, or the minutes of a shareholders meeting or a board of officers, etc. (meaning the board of officers, etc. as prescribed in Article 221, item (i)) prepared in English, attaching a Japanese translation of the outline thereof is considered sufficient.

(Conversion of Foreign Currencies or Cryptoassets )

Article 3 If the documents to be submitted to the Commissioner of the Financial Services Agency or other official under the Act, the Order or this Cabinet Office Order contains any document indicating the amount or volume in a foreign currency or a cryptoasset, a supplementary note on the amount or volume after conversion into the Japanese currency and the criteria used for such conversion must be stated therein.

## **Chapter II Financial Instruments Business Operators, etc.**

### **Section 1 General Provisions**

#### **Subsection 1 General Rules**

(Wholesale Underwriting of Securities Constituting a Managing Underwriter)

Article 4 The wholesale underwriting of securities to be specified by Cabinet Office Order as referred to in Article 15 of the Order is the wholesale underwriting for which discussions with the issuer or owner of the securities are to be held upon the execution of the wholesale underwriting contract (meaning the wholesale underwriting contract defined in that Article; hereinafter the same applies in this Article and Article 147, item (iii)), in order to fix the contents thereof, other than the following wholesale underwriting:

(i) the wholesale underwriting of securities for which the discussion is to be held jointly with another party (limited to a party whose amount of stated capital, total amount of funds or total amount of contribution is not less than three billion yen), if, out of either of the total issue value of the securities under the wholesale underwriting contract or of the total value of the secondary distribution of securities or the solicitation for selling, etc. only for professional investors (if such wholesale underwriting contract is the contract listed in Article 15, item (iii) of the Order, including the total amount to be paid upon the exercise of the share options prescribed in that

item), the amount of the portion pertaining to the underwriting of securities by financial instruments business operators, etc. and foreign securities service providers (hereinafter referred to as the "total amount of underwriting" in this Article) exceeds ten billion yen, provided that the amount of the portion pertaining to the underwriting of securities by the such party out of the total amount of underwriting is ten billion yen or less; and

- (ii) if the total amount of underwriting is ten billion yen or less, and about which the discussion is held.

(Securities Equivalent to Share Option Certificates)

Article 4-2 (1) Securities provided for by Cabinet Office Order as prescribed in Article 28, paragraph (7), item (iii) of the Act are the following securities:

- (i) corporate bond certificates with share options;

- (ii) instruments or certificates issued by a foreign person, and which have the nature of share option certificates or corporate bond certificates with share options;

- (iii) certificates of investment equity subscription rights (meaning certificates of investment equity subscription rights defined in Article 2, paragraph (18) of the Act on Investment Trusts and Investment Corporations (Act No. 198 of 1951); the same applies hereinafter); and

- (iv) foreign investment securities (meaning foreign investment securities provided in Article 220, paragraph (1) of the Act on Investment Trusts and Investment Corporations; the same applies hereinafter) and are similar to certificates of investment equity subscription rights.

(2) The right provided for by Cabinet Office Order as prescribed in Article 28, paragraph (7), item (iii) of the Act are as set forth in the following:

- (i) rights which are claimable against a foreign national which have the nature of share options;

- (ii) investment equity subscription rights (meaning investment equity subscription rights defined in Article 2, paragraph (17) of the Act on Investment Trusts and Investment Corporations; the same applies hereinafter); and

- (iii) rights which are claimable against a foreign investment corporation (meaning a foreign investment corporation provided in Article 2, paragraph (25) of the Act on Investment Trusts and Investment Corporations) which have the nature of investment equity subscription rights.

## **Subsection 2 Financial Instruments Business Operators**

(Application for Registration)

Article 5 A person that intends to obtain the registration under Article 29 of the Act must submit to the Director-General of a Local Finance Bureau with jurisdiction over the location of such person's head office, etc. (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the person has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau) a written application for registration under Article 29-2, paragraph (1) of the Act prepared in accordance with Appended Form No. 1, attaching a copy thereof and the documents or an electronic or magnetic record (meaning an electronic or magnetic record as defined in Article 13, paragraph (5) of the Act; the same applies hereinafter) to be attached thereto pursuant to the provisions of Article 29-2, paragraph (2) or (3) of the Act.

(Employees to Be Indicated in an Application for Registration or Notification)

Article 6 (1) The person to be specified by Cabinet Office Order as referred to in Article 15-4, item (i) of the Order is a person that holds position whereby the person may exercise authority on behalf of a supervisor of the operation as prescribed in that item, such as a general manager, vice-chief, section manager or any other person, irrespective of the job title.

(2) The person to be specified by Cabinet Office Order as referred to in Article 15-4, item (ii) of the Order is a person that makes investment decisions based on analysis of the values, etc. of financial instruments (meaning the values, etc. of financial instruments defined in Article 2, paragraph (8), item (xi), (b) of the Act; the same applies hereinafter).

(The Handling Public Offerings Using Information and Communications Technology)

Article 6-2 The means to be specified by Cabinet Office Order as referred to in Article 29-2, paragraph (1), item (vi) of the Act are as follows:

(i) to make the contents of information recorded into the files stored on the computer used by a financial instruments business operator, etc. available for other parties via a telecommunications line; and

(ii) in the case of using the means specified in the preceding item, to transmit messages or other information via a telecommunications line connecting a computer used by a financial instruments business operator, etc. and a computer used by the other party or any means similar thereto (other than if communication through audio transmission is made).

(Electronically Recorded Transferable Rights to Be Indicated on Securities, etc.)

Article 6-3 What are specified by Cabinet Office Order as referred to in Article

29-2, paragraph (1), item (viii) of the Act are those falling under the cases of being indicated on financial values which can be transferred by using an electronic data processing system (limited to that which is recorded on an electronic device or any other object by electronic means; hereinafter simply referred to as "financial values").

(Matters to Be Stated in a Written Application for Registration)

Article 7 The matters to be specified by Cabinet Office Order as referred to in Article 29-2, paragraph (1), item (xii) of the Act are the matters listed in the following:

- (i) the trade name or name of the designated dispute resolution organization with which a basic contract for implementation of dispute procedures is concluded for the purpose of taking the measures to conclude such contract for implementation of dispute procedures pertaining to the business specified in Article 37-7, paragraph (1), item (i), (a), item (ii), (a), item (iii), (a) or item (iv), (a) of the Act and the name of the financial instruments firms association (meaning the authorized financial instruments firms association or certified financial instruments business association; the same applies hereinafter) of which the applicant for registration intends to become a member; and the name of the certified investor protection organization of which the applicant for registration intends to become a target business operator (meaning a target business operator as defined in Article 79-11, paragraph (1) of the Act; the same applies hereinafter);
- (ii) the name or trade name of the financial instruments exchange of which the applicant for registration intends to become a member or trading participant (hereinafter referred to as the "members, etc.");
- (iii) if the applicant for registration intends to conduct securities-related business, the following:
  - (a) to that effect (in cases where the registration applicant conducts only business pertaining to Electronically Recorded Transferable Rights or the rights prescribed in Article 1-12, item (ii) of the Cabinet Order, out of the type I financial instruments business, including to that effect);
  - (b) if the applicant for registration applicant intends to conduct type-I financial instruments business (excluding the cases where the registration applicant only conducts business pertaining to Electronically Recorded Transferable Rights or the rights prescribed in Article 1-12, item (ii) of the Cabinet Order, or type-I small amount electronic public offering service and is not to become a member of any investor protection fund), the name of the investor protection fund of which the applicant for registration intends to become a member (excluding an investor protection fund which has a provision of articles of incorporation under Article 79-49, paragraph

- (4) of the Act);
- (iii)-2 if the applicant for registration intends to conduct an electronic trading platform management service, to that effect;
- (iii)-3 if the applicant for registration intends to conduct a commodity-related business, the following matters:
- (a) to that effect; and
- (b) if the applicant for registration intends to conduct a commodity derivatives transaction-related business (meaning the commodity derivatives transaction-related business provided in Article 79-20, paragraph (1) of the Act; the same applies hereinafter), an investor protection fund to which it becomes a member (excluding an investor protection fund which has a provision of articles of incorporation under Article 79-49, paragraph (2) of the Act);
- (iv) if the applicant for registration intends to conduct a business related to commodities investment (meaning the business related to commodities investment defined in Article 37, paragraph (2) of the Order; the same applies hereinafter), the following matters:
- (a) to that effect; and
- (b) if the business related to commodities investment to be conducted by the applicant for registration only pertains to the goods specified in Article 37, paragraph (1), item (ii), (b) of the Order or the agriculture, forestry and fisheries goods (meaning the goods, etc. related to agriculture, forestry and fishery defined in Article 11, paragraph (2), item (i) of the Order for Enforcement of Act on Control for Business Pertaining to Commodity Investment (Cabinet Order No. 45 of 1992); the same applies in Article 44, item (vii), (b)), to that effect;
- (c) if the business related to commodities investment to be conducted by the applicant for registration only pertains to the goods listed in Article 37, paragraph (1), item (ii), (c) through (e) of the Order or the economy, trade and industry goods, etc. (meaning the economy, trade and industry goods, etc. defined in the proviso to Article 11, paragraph (1) of the Order for Enforcement of Act on Control for Business Pertaining to Commodity Investment; the same applies in Article 44, item (vii), (c)), to that effect;
- (d) if the applicant for registration intends to conduct a business related to investment in racehorses (meaning a business to conduct the acts listed in the items of Article 194-6, paragraph (1) of the Act, in regard to any of the rights listed in the following; the same applies hereinafter), to that effect:
1. a right under a silent partnership contract, the purpose of which is to acquire racehorses (limited to the racehorses that are or will be registered under Article 14 of the Horse Racing Act (Act No. 158 of 1948) (including as applied mutatis mutandis pursuant to Article 22 of



that Act); the same applies hereinafter), using all the monies (including the things similar to money as listed in Article 1-3, items (i) through (iii) of the Order) invested by the holders of such right, to invest such racehorses to the counterparty (limited to a specific party) under the silent partnership contract pertaining to the right specified in 2. below, and to run such racehorses in races (limited to races held by the Japan Racing Association or the National Association of Racing as prescribed in Article 1, paragraph (5) of the Horse Racing Act; the same applies in 2. below);

2. a right under a silent partnership contract, the purpose of which is to run a racehorse invested in by the proprietor (limited to a specific party) under the silent partnership contract which pertains to the right specified in 1. above that is entitled to such right;

- (v) if the applicant for registration intends to conduct any of the acts listed in the items of Article 194-6, paragraph (2) of the Act in the course of trade, to that effect;
- (vi) if the applicant for registration intends to conduct the business of transaction, etc. of beneficial interest in real property trust (meaning a business related to the purchase and sale or any other transaction of the rights specified in Article 2, paragraph (2), item (i) of the Act which relate to building lots (meaning building lots as defined in Article 2, item (i) of the Building Lots and Buildings Transaction Business Act (Act No. 176 of 1952); the same applies hereinafter) or buildings (hereinafter referred to as the "beneficial interest in real property trust"), or a business related to the purchase and sale of or any other transaction of the rights under a partnership contract, silent partnership contract or limited partnership agreement for investment whose business subject to investment is primarily intended for investment in a beneficial interest in real property trust; the same applies hereinafter), to that effect;
- (vii) if the applicant for registration intends to conduct specified investment management business related to real property (meaning an investment management business (excluding a business to conduct the act specified in Article 2, paragraph (8) item (xii) of the Act pertaining to the contract specified in (a) of that item, or to conduct the act specified in item (xiv) of that paragraph) intended for investment in a beneficial interest in real property trust, or in the rights under a partnership contract, silent partnership contract or limited partnership agreement for investment whose business subject to investment is primarily intended for investment in a beneficial interest in real property trust; the same applies hereinafter), to that effect;
- (viii) if the applicant for registration intends to conduct specific underwriting

- (meaning the act specified in Article 16, paragraph (1), item (v) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act (Order of the Ministry of Finance No. 14 of 1993)), to that effect;
- (ix) if the applicant for registration intends to conduct an Act of Management of Specified Securities, etc. (meaning the act specified in Article 16, paragraph (1), items (xiv) and (xiv)-2 of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; the same applies in Article 149, item (i), (a) and Article 181, paragraph (1), item (ii), (b)), to that effect;
  - (x) if the applicant for registration intends to conduct high-speed trading as part of its financial instruments business, and if the applicant for registration is an individual domiciled in a foreign state, the name or trade name of the agent in Japan;
  - (xi) in cases where the registration applicant intends to engage in business pertaining to the acts set forth in Article 1-12, item (ii) of the Cabinet Order, out of the business pertaining to type II financial instruments business, to that effect; and
  - (xii) the names and locations of its head office, etc.

(Contents and Methods of Business)

Article 8 The contents and method of business to be specified by Cabinet Office Order as referred to in Article 29-2, paragraph (2), item (ii) of the Act are as follows:

- (i) the basic principles of business operation;
- (ii) the method of execution of business;
- (iii) the method of allocation of business operations;
- (iv) the types of acts that constitute financial instruments transactions to be conducted in the course of trade;
- (v) the system for handling complaints (including the contents of the complaint processing measures and dispute resolution measures concerning the business specified in Article 37-7, paragraph (1), item (i), (b), item (ii), (b), item (iii), (b) or item (iv), (b) of the Act);
- (vi) if the applicant for registration intends to conduct type-I financial instruments business, the following matters (in cases of conducting only type-I small amount electronic public offering service, excluding the matters specified in (b) through (e)):
  - (a) the types of the securities to be handled, and the types of the derivative transactions to be conducted in the course of trade (in cases where the securities in question are electronically recorded transferable rights to be indicated on securities, etc. or that the derivatives transactions in question

are the derivatives transactions prescribed in Article 29-2, paragraph (1), item (viii) of the Act, including to that effect and the matters set forth in sub-item (b) or (c) of the following item, and in cases of conducting commodity-related business, including commodities for transactions or indicators pertaining to the commodities);

(b) the following matters in regard to methods of risk management concerning loss:

1. the method of calculating the value of loss risk equivalent (including the market risk equivalent defined in Article 178, paragraph (1), item (i), the counterparty risk equivalent defined in item (ii) of that paragraph and the basic risk equivalent defined in item (iii) of that paragraph; hereinafter the same applies in this item);
2. the method of establishment and application of a ceiling on the value of loss risk equivalent;
3. the name and structure of the section in charge of calculating the value of loss risk equivalent and managing of the ceiling thereof;
4. the method of preparation and preservation of materials which would serve as the basis of the calculation of the value of loss risk equivalent;
5. the frequency of inspection of the value of loss risk equivalent and the status of the application of the ceiling thereof, and the name and structure of the section in charge of such inspection;
6. any other important matters related to the risk management concerning loss;

(c) if the applicant for registration intends to conduct a business in relation to over-the-counter transactions of derivatives, etc. (excluding electronic trading platform management service), the following matters:

1. the name and job title of the person responsible for the management of the business;
2. the name and organizational structure of the section in charge of the business;
3. the conditions for starting transactions with the customers pertaining to the business;
4. the method and frequency of calculating the value of loss risk equivalent pertaining to the business (such information is itemized by the risk of loss which may accrue due to fluctuations in indicators such as quotations on the financial instruments exchange market, interest rates or value of currencies, the risk of loss which may accrue due to a default in the performance of contracts by counterparties to the transactions and on any other reason, and the risk or loss which may accrue due to reasons other than on the aforementioned reasons);
5. the method of the establishment and application of a ceiling on the value

- of loss risk equivalent pertaining to the business; and the method of the establishment and application for such ceiling classified in accordance with the types of transactions and categories of the customers;
6. the name and structure of the section in charge of calculating the value of loss risk equivalent pertaining to the business, and management of the ceiling thereof;
  7. the frequency of reporting the value of loss risk equivalent pertaining to the business and the status of the application of the ceiling thereof to directors or executive officers with authority of representation (in the case of a foreign corporation, its directors, executive officers or any other person holding a position equivalent thereto that are stationed at a business office or other office in Japan, or its representative person in Japan);
  8. the means of the preparation and preservation of material which would serve as the basis of the calculation of the value of loss risk equivalent pertaining to the business;
  9. the frequency of inspection on the execution of the business, the value of loss risk equivalent and the status of the application of the ceiling thereof, and the name and structure of the section in charge of such inspection; and
  10. any other important matter related to the risk management concerning loss pertaining to the business;
- (d) if the applicant for registration intends to conduct a business pertaining to the wholesale underwriting of securities, the following matters:
1. the name and title of the person responsible for the management of the business;
  2. the name and organizational structure of the section in charge of the business;
  3. the method of calculating the value of loss risk equivalent pertaining to the business;
  4. the method of the establishment and application of a ceiling on the value of loss risk equivalent pertaining to the business;
  5. the name and structure of the section in charge of the calculation of the value of loss risk equivalent pertaining to the business, and management of the ceiling thereof;
  6. the frequency of inspection on the execution of the business, the value of loss risk equivalent and status of the application of the ceiling thereof, and the name and structure of the section in charge of such inspection; and
  7. any other important matter related to the risk management concerning

- loss pertaining to the business;
- (e) if the applicant for registration intends to conduct a securities, etc. management business, the management means set forth in Article 43-2 through Article 43-3 of the Act;
  - (f) if the applicant for registration intends to conduct a securities-related business, the following matters concerning the measures listed in the respective items of Article 70-4, paragraph (1):
    1. the means for carrying out such measures; and
    2. the organization in charge of carrying out such measures and the positions of the personnel therefor; and
  - (g) if the applicant for registration intends to conduct an electronic trading platform management service, the following matters:
    1. the types and specific details of the specified over-the-counter derivatives transactions to be conducted in relation to the electronic trading platform management service;
    2. the name and job title of the person responsible for the management of the electronic trading platform management service;
    3. the name and organizational structure of the section in charge of the electronic trading platform management service and the section in charge of the business relating to the publication under Article 40-7, paragraph (2) of the Act (if a part of the electronic trading platform management service or a part of the business relating to the publication under that paragraph is to be entrusted to any other person, including such person);
    4. the conditions for starting transactions with customers pertaining to the electronic trading platform management service, and the methods of management of the customers;
    5. the matters relating to the fees;
    6. the means of publicizing quotes for sale or purchase, and other pricing information to customers (limited to means of using an electronic data processing system or other electronic means);
    7. the method for deciding the transaction price (for a specified over-the-counter derivatives transactions, if the amount designated by the party as a notional principal does not exceed the amount specified in the items of Article 125-8, paragraph (2) according to the categories of periods from the day when the specified over-the-counter derivatives transaction takes effect to the day when such transaction ceases to be in effect as respectively specified in these items, limited to the method enabling customers to choose either the method specified in the following i., or the method specified in the following i. or ii.), as well as the time when the transaction takes effect:

- i. the method using a price based on quotes for the sale or purchase of itself or customers publicized pursuant to 6.;
  - ii. the method using a price determined based on a negotiation among customers (limited to a negotiation conducted after requesting three or more other customers designated by the customer to present quotes for the sale or purchase, and notifying the customer of the quotes for sale or purchase presented by the other customers in response to the request, the quotes for sale or purchase publicized pursuant to 6., and the quotes if the applicant for registration presents the quotes for sale or purchase);
8. the method of the publication under Article 40-7, paragraph (2) of the Act;
  9. the outline, location, volume and maintenance method of the electronic data processing system to be used for the electronic trading platform management service, and the method of handling of cases in which there occurs any malfunction of such electronic data processing system;
  10. the method of settlement for the electronic trading platform management service (including the method of ensuring that the obligations arising from the transactions specified in Article 156-62, item (i) or (ii) of the Act are assumed by a financial instruments clearing organization (including a collaborating clearing organization, etc., if the financial instruments clearing organization conducts collaborative financial instruments obligation assumption service) or a foreign financial instruments clearing organization in an appropriate and swift manner), and the method of handling if a customer defaults on a contract;
  11. the method for the preparation and preservation of the transaction records for the electronic trading platform management service;
  12. the frequency of the inspection on the status of the execution of the electronic trading platform management service, and the name and structure of the section in charge of such inspection;
  13. the method of the prevention of unfair transactions, and any other matters relating to the securing of fair transactions; and
  14. other important matters in regard to methods of management of risks of loss relating to the electronic trading platform management service.
- (h) if the applicant for registration intends to receive or supply information in the cases referred to in Article 123, paragraph (1), item (xviii), (e) and item (xxiv), (d), and Article 153, paragraph (1), item (vii), (g) and (i), the following matters concerning affairs related to the maintenance and management of an electronic data processing system and concerning affairs related to internal management and operation prescribed in paragraph (3) of that Article:

1. the trade name or name of the registered financial institution, parent corporation, etc. or subsidiary corporation, etc. that receives or supplies the information;
  2. the method for execution of the affairs; and
  3. the organization in charge of such affairs and the positions of the personnel therefor;
- (vii) if the applicant for registration intends to conduct type-II financial instruments business, the following matters:
- (a) the type of the securities to be handled, and the type of the derivative transactions to be conducted in the course of trade (in cases where the securities in question are electronically recorded transferable rights to be indicated on securities, etc. or that the derivatives transactions in question are the derivatives transactions prescribed in Article 29-2, paragraph (1), item (viii) of the Act, including to that effect);
  - (b) if the applicant for registration intends to handle the rights specified in Article 2, paragraph (2), item (i) or (ii) of the Act, the type of the trust property pertaining to such rights;
  - (c) if the applicant for registration intends to handle the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act, the outline of the business subject to investment pertaining to the rights; and
  - (d) in cases of implementing the operations defined in Article 29-5, paragraph (2) of the Act, to that effect;
  - (e) in cases of implementing the operations defined in item (xi) of the preceding Article, the management methods under Article 43-2 and Article 43-3 of the Act;
- (viii) if the applicant for registration intends to conduct an investment advisory and agency business, the following matters:
- (a) the types of the investment advisory and agency business (meaning the types of business pertaining to the acts specified in Article 2, paragraph (8), items (xi) and (xiii) of the Act);
  - (b) the type of the securities and rights pertaining to derivative transactions regarding which the applicant for registration intends to give advice;
  - (c) if the applicant for registration intends to give advice in relation to the rights specified in Article 2, paragraph (2), item (i) or (ii) of the Act, the type of trust property pertaining to such rights;
  - (d) if the applicant for registration intends to give advice in relation to the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act, the outline of the business subject to investment pertaining to such rights;
- (ix) if the applicant for registration intends to conduct investment management business, the following matters:
- (a) the types of the investment management business (meaning the types of

- business pertaining to the act specified in Article 2, paragraph (8), item (xii) of the Act which pertains to the contract specified in (a) of that item, the act specified in that item which pertains to the contract specified in (b) of that item, the act specified in item (xiv) of that paragraph, and the act specified in item (xv) of that paragraph which pertains to any of the rights listed in (a) through (c) of that item; in cases of engaging in an investment management business for qualified investors, including to that effect);
- (b) the type of the securities and type of the rights pertaining to the derivative transactions for which the investment is to be made (in cases where the securities in question are electronically recorded transferable rights to be indicated on securities, etc. or that the derivatives transactions in question are the derivatives transactions prescribed in Article 29-2, paragraph (1), item (viii) of the Act, including to that effect);
  - (c) if any of the rights specified in Article 2, paragraph (2), item (i) or (ii) of the Act is to become the subject of investment, the type of trust property pertaining to such right;
  - (d) if any of the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act is to become the subject of investment, the outline of the business subject to investment pertaining to such right; and
  - (e) if the any asset other than the securities or the rights pertaining to the derivative transactions is to become the subject of investment, the type of such assets;
- (x) if the applicant for registration intends to conduct electronic public offering services (meaning the electronic public offering services provided in Article 29-2, paragraph (1), item (vi) of the Act, and limited to services conducted in relation to the securities specified in the items of Article 3 of the Act or the securities not listed on any financial instruments exchange (excluding the securities specified in the items of Article 15-4-2 of the Order; the same applies hereinafter)), the following matters:
- (a) the types of securities to be handled (in cases where the Securities fall under the category of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc., including to that effect);
  - (b) if the applicant for registration intends to conduct only type-I small amount electronic public offering service among the type I financial instruments business, to that effect (including the effect that the applicant for registration intends to receive money deposited by customers in relation to that business, if the applicant for registration has such intention);
  - (c) if the applicant for registration intends to conduct only type-II small amount electronic public offering service among the type II financial instruments business, to that effect;



- (d) if the applicant for registration intends to conduct electronic-based application type electronic public offering services) (meaning the electronic-based application type electronic public offering services provided in Article 70-2, paragraph (3); the same applies in Article 149, item (i), (a) and Article 150, item (i), (c)), to that effect;
- (xi) if the applicant for registration intends to conduct high-speed trading as part of its financial instruments business, the following matters:
  - (a) the outline of each of the transaction strategies (including the matters specified in the following):
    1. the categories of transaction strategies;
    2. the name or trade name of the financial instruments exchange, etc. (meaning a person provided in Article 26, paragraph (1) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; the same applies hereinafter) pertaining to the high-speed trading;
    3. the types of securities or market derivatives transactions subject to the high-speed trading;
  - (b) the name and job title of the person responsible for the management of the business pertaining to the high-speed trading (including the person responsible for making a decision under Article 2, paragraph (41) of the Act and the creation of programs (meaning a series of instructions given to a computer which is combined so as to obtain a certain result; the same applies hereinafter) for the high-speed trading and the management of an electronic data processing systems and other facilities; the same applies hereinafter);
  - (c) the outline, location and maintenance method of maintaining the electronic data processing system and other facilities for the high-speed trading; and
  - (d) the details of the measures to ensure sufficient management of the electronic data processing systems and other facilities for the high-speed trading.
- (xii) in cases where the registration applicant intends to conduct any of the following acts with regard to the Derivative Transactions prescribed in Article 29-2, paragraph (1), item (ix) of the Act in the course of trade, the name of the Cryptoassets and Financial Indicators pertaining to the Derivative Transactions specified in sub-item (a) or (b) in accordance with the categories of the acts set forth respectively therein:
  - (a) the acts set forth in Article 2, paragraph (8), items (i) to (v) of the Act: the Derivative Transactions to be conducted in the course of trade; or
  - (b) the acts set forth in Article 2, paragraph (8), item (xii), (xiv) or (xv) of the Act: the Derivative Transactions for which the investment is to be made.

(Documents to Be Attached to Written Applications for Registration)

Article 9 The documents to be specified by Cabinet Office Order as referred to in Article 29-2, paragraph (2), item (ii) of the Act are as follows:

- (i) the documents stating the applicant for registration's system for conducting business, such as its personnel structure and the organizational structure;
- (ii) if the applicant for registration is a corporation, the following documents:
  - (a) the resumes of the officers (including those that are found to have the same or a higher authority over the corporation as directors, executive officers or any persons holding position equivalent thereto, irrespective of their job title such as advisor, consultant or others; hereinafter the same applies in this item, Article 13, items (i), (ii) and (iv), Article 47, paragraph (1), item (ii), Article 49, items (i), (ii) and (iv), Article 199, item (ii), Article 201, item (ix), Article 202, item (viii), Article 208-20, items (ii) through (vi), Article 208-22, item (ii), (c), Article 208-31, paragraph (1), item (iv), and paragraph (2), item (iv), Article 208-32, item (ii), Article 238-2, paragraph (1), item (i), Article 241, paragraph (1), item (v), Article 241, paragraph (2), item (i), Article 241-2, item (ii), Article 242, paragraph (1), item (iv), Article 242-2, paragraph (1), item (ii), Article 329, paragraph (1), item (ii), the items of Article 332, Article 341, item (ii), Article 342, paragraph (1), item (v) and Article 343, paragraph (1), item (iv)) (if an officer is a corporation, the document describing the background of the officer); and the resumes of the employees defined in Article 15-4 of the Order (hereinafter referred to as the "major employees", except in Article 47, paragraph (1), item (ii), Article 51, paragraph (1), item (iv), Article 91, paragraph (1), item (iv), Section 6 and Section 6-2);
  - (b) the extracts of the certificates of residence of the officers and the major employees (if an officer is a corporation, the certificate of registered matters of the officer), or any document in lieu thereof;
  - (c) if the former surname (meaning the former surname prescribed in Article 30-13 of the Enforcement Order of the Residential Basic Book Act (Cabinet Order No. 292 of 1967); the same applies hereinafter) and given name of the officer or major employee are stated together with the current name of the officer or major employee in a written application for registration under Article 29-2, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the officer or major employee, a document certifying the former surname and given name;
  - (d) the certificate issued by the public agency evidencing that none of the officers or major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;

- (e) the document in which each of the officers and the major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
- (iii) if the applicant for registration is an individual, the following documents:
  - (a) the resumes of the applicant for registration and the major employees;
  - (b) the extracts of the certificates of residence of the applicant for registration and the major employees, or any other documents in lieu thereof;
  - (c) if the former surname and given name of the applicant for registration or major employee are stated together with the current name of the applicant for registration or the major employee in a written application for registration under Article 29-2, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the applicant for registration or the major employee, a document certifying the former surname and given name;
  - (d) the certificate issued by a public agency evidencing that none of the applicant for registration or the major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof; and
  - (e) the document in which each of the major employees pledges that they do not fall under any of Article 29-4, paragraph (1) item (ii), sub-items (a) or (c) through (g) of the Act;
- (iv) the document stating the status of the persons in specified relationships (meaning the parent corporation, etc., subsidiary corporation, etc. and holding company (meaning the holding company defined in Article 29-4, paragraph (3) of the Act; the same applies hereinafter except in Article 198); and if the applicant for registration intends to conduct type-I financial instruments business, associated company (meaning a related company as prescribed in Article 177, paragraph (6); the same applies in (f)); the same applies in (e)), as listed in the following items:
  - (a) the trade name or name;
  - (b) the amount of stated capital, the total amount of funds or the total amount of investment;
  - (c) the location of the head office or principal office;
  - (d) the type of business;
  - (e) the capital relationship and personal relationship between the applicant for registration and the persons in specified relationship, as well as their business relationship over the past year;
  - (f) information as to whether the persons in specified relationship falls under the category of parent corporation, etc., subsidiary corporation, etc., or holding company (if the applicant for registration intends to conduct type-I

- financial instruments business, information as to whether the persons in specified relationship falls under the category of parent corporation, subsidiary corporation, etc., holding company or associated company);
- (v) in cases where the registration applicant intends to conduct type I financial instruments business, type II financial instruments business, or investment management business, and is not a member of a Financial Instruments Firms Association (limited to an association having principal association members or members that are persons conducting the business implemented by the registration applicant), the internal rules concerning the business;
  - (vi) if the applicant for registration intends to conduct a business related to commodities investment which pertains to racehorses, a document evidencing that the applicant for registration does not fall under the criteria specified in Article 13, item (iii);
  - (vii) if the applicant for registration intends to conduct a business of transaction, etc. of beneficial interest in real property trust, a document evidencing that the applicant for registration does not fall under the criteria specified in Article 13, item (iv);
  - (viii) a document stating the matters related to the applicant for registration's ability to carry out the business, if the applicant for registration intends to conduct a specified investment management business related to real property;
  - (ix) if the applicant for registration intends to conduct high-speed trading as part of its financial instruments business, the following documents:
    - (a) if the applicant for registration is an individual domiciled in a foreign state, the following documents:
      1. an extract copy of the certificate of residence of the agent in Japan (or, if the agent in Japan is a corporation, a certificate of registered information of the agent in Japan), or a document in lieu thereof;
      2. if the former surname and given name of the agent in Japan are stated together with the current name of the agent in Japan in a written application for registration under Article 29-2, paragraph (1) of the Act, and the document specified in 1. is not a document certifying the former surname and given name of the agent in Japan, a document certifying the former surname and given name;
    - (b) if the applicant for registration is an individual, a document prepared using Appended Form 1-2;
    - (c) the resume of the person responsible for the management of the business pertaining to the high-speed trading; and
    - (d) if the applicant for registration intends to conduct high-speed trading as part of the type-II financial instruments business (other than if the applicant for registration intends to conduct type-I financial instruments

business or investment management business), a document calculating the net assets (meaning the net assets provided in Article 66-53, item (vii) of the Act; the same applies in Article 201, item (xxvii), (b), Article 202, item (xix) and Chapter V).

(x) in the case referred to in item (xii) of the preceding Article, a document explaining the outline of the Cryptoassets and Financial Indicators set forth in that item.

Article 10 (1) The documents to be specified by Cabinet Office Order as referred to in Article 29-2, paragraph (2), item (iii) of the Act are as follows:

(i) the latest balance sheet (including notes in reference thereto) and the latest profit and loss statement (including notes in reference thereto);

(ii) if the applicant for registration intends to conduct type-I financial instruments business or investment management business, the following documents:

(a) a document stating the calculated net assets (meaning the net assets prescribed in Article 29-4, paragraph (1), item (v), (b) of the Act; hereinafter the same applies in this Chapter (excluding Article 201, item (xxvii), (b) and Article 202, item (ix));

(b) a document stating the major shareholders' (meaning the major shareholders defined in Article 29-4, paragraph (2) of the Act; hereinafter the same applies in this item, Article 38-2, Article 38-5, Article 199, item (xi), (c), Article 201, item (xx), Article 202, item (v), (b), and item (xvi), Article 208-31, paragraph (1), item (xi) and paragraph (2), item (viii), and Article 208-32, item (ix)) trade names or names, and the locations of their head offices or principal offices (if a major shareholder is an individual, the domicile or residence), as well as the number of the subject voting rights held by the major shareholders (meaning the subject voting rights defined in Article 29-4, paragraph (2) of the Act, and including those deemed to be held pursuant to the provisions of paragraph (5) of that Article);

(c) in cases of a foreign corporation, a document evidencing that a confirmation under Article 29-4, paragraph (1) item (v), (f) of the Act has been made with regard to a person equivalent to a major shareholder, or any document equivalent thereto;

(iii) if the applicant for registration intends to conduct type I financial instruments business, the following documents (in cases of conducting only type-I small amount electronic public offering service, excluding the documents specified in (b) and (c)):

(a) if the applicant for registration is a foreign corporation, a document evidencing that the applicant for registration is a person conducting the same type of business as the type I financial instruments business in a

- foreign state in accordance with the laws and regulations of the foreign state (including a person prescribed in Article 15-8 of the Order);
- (b) a document stating the calculated ratio prescribed in Article 29-4, paragraph (1), item (vi), (a) of the Act;
  - (c) if the applicant for registration intends to conduct any business pertaining over-the-counter derivatives transactions, etc. (excluding an electronic trading platform management service) or any business pertaining to the wholesale underwriting of securities, the following documents:
    - 1. the resume of the person in charge of the management of the business;
    - 2. the internal rules regarding the business;
    - 3. the contracts to be used in transactions with customers in connection with the business;
  - (d) if the applicant for registration intends to conduct an electronic trading platform management service, the following matters:
    - 1. the resume of the person responsible for the management of the electronic trading platform management service;
    - 2. the internal rules concerning the electronic trading platform management service;
    - 3. contracts to be used for the transactions with customers in relation to the electronic trading platform management service and their attachments; and
    - 4. an appraisal report issued by a person having no special interest relationship with the registration application in relation to the matters specified in Article 8, item (vi), (g), 9.
- (2) If the applicant for registration attaches the documents specified in item (i) of the preceding paragraph, if the balance sheet (including notes in reference thereto) has been prepared by means of an electronic or magnetic record, or if a profit and loss statement (including notes in reference thereto) has been prepared by means of an electronic or magnetic record, instead of as written documents, such applicant for registration may attach the electronic or magnetic record (limited to those specified in the following Article) in lieu of documents.

(Electronic or Magnetic Records)

Article 11 (1) The electronic or magnetic record to be specified by Cabinet Office Order as referred to in Article 29-2, paragraph (3) and Article 33-3, paragraph (3) of the Act must have a structure specified in the following:

- (i) a 90mm flexible magnetic disc cartridge which complies with X6223 of the Japanese Industrial Standards under the Industrial Standardization Act (Act No. 185 of 1949) (hereinafter referred to as the "JIS"); or

- (ii) a 120mm optical disc conforming to JIS X0606 and X6282.
- (2) Entry onto an electronic or magnetic record as set forth in item (i) of the preceding paragraph must be completed by the following means:
  - (i) with regard to the track format, the method designated by the JIS X6225; and
  - (ii) with regard to volume and file configuration, the means designated by the JIS X0605.
- (3) With regard to the electronic or magnetic record set forth in paragraph (1), a document containing the following matters must be affixed:
  - (i) the trade name or name of the applicant for registration; and
  - (ii) the date of application.

(Public Inspection of the Registry of Financial Instruments Business Operators)

Article 12 A competent Director-General of a Local Finance Bureau, etc. is to keep the registry of financial instruments business operators containing information on the financial business operators to which such person has granted registrations, at the local finance bureau with jurisdiction over the location of the relevant financial instruments business operator's head office, etc. (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, at the Fukuoka Local Finance Branch Bureau; or if the financial instruments business operator has no business office or other office in Japan, at the Kanto Finance Bureau), and make it available for public inspection.

(Criteria for Examination of the Structure of Personnel)

Article 13 When conducting an examination under Article 29-4, paragraph (1), item (i), (e) of the Act (including as applied mutatis mutandis pursuant to Article 31, paragraph (5) of the Act) as to whether the applicant for registration lacks a structure of personnel sufficient to conduct a financial instruments business in an appropriate manner, it is to be examined whether the applicant for registration falls under any of the following criteria:

- (i) that the applicant for registration is found not to be able to conduct the business in a proper manner, considering status of securing officers or employees having sufficient knowledge and experience for conducting the business as well as its organizational structure;
- (ii) that the applicant for registration is found to be likely to cause a loss of confidence in a financial instruments business, on the grounds of having any officer or employee with qualities unfit for the operation of the business in light of such officer's or employee's career, relationship with the organized crime group set forth in Article 2, item (ii) of the Act on Prevention of Illegal

Acts by Organized Crime Group Members (Act No. 77 of 1991) or relationship with the organized crime group members set forth item (vi) of that Article or any other circumstances;

(iii) that, if the applicant for registration intends to conduct business related to commodities investment pertaining to racehorses, such applicant for registration does not fall under the following:

(a) that the applicant for registration has been given guidance in advance by the Japan Racing Association or the National Association of Racing;

(b) that the business related to commodities investment to be conducted by the applicant for registration only falls under either the business related to investment in racehorses pertaining to the rights specified in Article 7, item (iv), (d), 1. or the business related to investment in racehorses pertaining to the rights specified in Article 7, item (iv), (d), 2.;

(c) that, if the applicant for registration intends to conduct a business related to investment in racehorses pertaining to the rights specified in Article 7, item (iv), (d), 2., such applicant for registration has obtained a registration under Article 13, paragraph (1) of the Horse Racing Act (including as applied *mutatis mutandis* pursuant to Article 22 of that Act);

(iv) that, if the applicant for registration intends to conduct a business of transaction, etc. of beneficial interest in real property trust, such applicant for registration does not fall under the following requirements:

(a) that the applicant for registration has assigned its officers or employees having expert knowledge of and experience in transactions related to building lots or buildings to each of the following sections:

1. the section in charge of supervising the business of transaction, etc. of beneficial interest in real property trust;
2. the section in charge of the internal audit;
3. the section in charge of the affairs related to instructions for ensuring compliance with the laws and regulations, etc. (meaning the laws and regulations, disposition of administrative agencies issued under the laws and regulations, or other rules such as the articles of incorporation; the same applies in Article 44, item (i), (a), Article 49, item (iv), (a), 3., Article 199, item (vii) and item (xiii) (a), Article 200, item (vi), Article 208-31, paragraph (1), item (viii), (a), Article 220, item (vii), (b), Article 223, item (x), Article 232-8, item (x), Article 241-2, item (iv), Article 246-23, item (iv), Article 246-30, item (i), Article 328, item (v) and Article 341, item (v));

(b) that the officers or the employees that are to conduct the business of transaction, etc. of beneficial interest in real property trust have sufficient expert knowledge of and experience in transactions of building lots or buildings which enable them to provide necessary explanations so that a



customer is able to understand the matters specified in the items of Article 85, paragraph (1), in a manner and to the extent as may be required in light of the customer's knowledge, experience and conditions of property and in light of the purpose of the conclusion of a financial instruments transaction contract;

- (v) that, if the applicant for registration intends to conduct a specified investment management business related to real property, such applicant for registration does not fall under the requirements specified by the Commissioner of the Financial Services Agency.

(A Person Unable to Properly Perform Business Pertaining to Financial Instruments Business Due to a Mental or Physical Disorder)

Article 13-2 The person to be specified by Cabinet Office Order as referred to in Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act is a person who is unable to adequately carry out the cognition, decision making, and communication necessary for properly performing business pertaining to Financial Instruments Business due to a mental impairment.

(Calculation of Net Assets)

Article 14 (1) The net assets to be calculated under Article 29-4, paragraph (1), item (v), (b) of the Act (including as applied mutatis mutandis pursuant to Article 31, paragraph (5) of the Act) must be obtained by deducting the total amount to be inserted into the liabilities section of a balance sheet (excluding the total of the amounts set forth in the following items) from the total amount to be inserted into the assets section thereof:

- (i) the financial instruments transaction liability reserve;
  - (ii) if, in connection with any other business conducted by the applicant for registration, such applicant has any allowance or reserve funds which are required to be inserted into the liabilities section under the laws and regulations and which may be characterized as retained earnings, such allowance or reserve funds.
- (2) The appraisal of assets and liabilities set forth in the preceding paragraph must be made based on the value appraised in accordance with corporate accounting standards generally accepted as fair and appropriate as of the date of such calculation.
- (3) In the case referred to in the preceding paragraph and in the case of falling under any of the following items, the amount prescribed in each of the relevant items is treated as the appraisal value:
- (i) if any monetary claim, or bond certificate without a market price is likely to become uncollectible: the amount after the deduction of the estimate of the uncollectible amount;

- (ii) if, with regard to shares without a market price, the status of the assets of the company issuing such shares has deteriorated substantially: the amount after an appropriate reduction;
- (iii) if the market value of the current assets other than those specified in the preceding two items is substantially lower than the book value thereof, and if it is found that unlikely that such value will recover to the level of the book value: such market value;
- (iv) if, with regard to the fixed assets other than those specified in item (i) or (ii), any underdepreciation or unpredictable impairment has arisen: the amount after deduction of the underdepreciation, or an amount after an appropriate reduction;
- (v) if any underdepreciation with regard to deferred assets has arisen: the amount after deduction of the underdepreciation.

(A Person Unable to Properly Exercise the Right of a Shareholder Due to a Mental or Physical Disorder)

Article 14-2 The person to be specified by Cabinet Office Order as referred to in Article 29-4, paragraph (1), item (v), sub-item (d), 1. and sub-item (e), 3., a. of the Act (including the cases where these provisions are applied mutatis mutandis pursuant to Article 31, paragraph (5) of the Act) is a person who is unable to adequately carry out the cognition, decision making, and communication necessary for properly exercising the right of a shareholder due to a mental impairment.

(Facts Presumed to Have Material Influence on Decisions on a Company's Financial and Operational Policies)

Article 15 The facts specified by Cabinet Office Order as referred to in Article 29-4, paragraph (2) of the Act (including as applied mutatis mutandis pursuant to Article 31, paragraph (5) of the Act) are as follows:

- (i) that any officer or employee, or person that has formerly held such positions and would have an influence on the decision on the company's financial policies and operational or business policies has assumed the position of the company's director, executive officer or any other position equivalent thereto;
- (ii) that any important loan has been extended to the company;
- (iii) that any important technology is furnished to the company;
- (iv) that there exist any important operational or business transactions with the company;
- (v) that there exists any other fact implying a material influence on decisions on the company's financial policies and operational or business policies.

(Voting Rights Excluded from Voting Rights Held Considering the Manner of

Holding or Other Circumstances)

Article 15-2 The voting rights to be specified by Cabinet Office Order as referred to in Article 29-4, paragraph (2) of the Act (including as applied mutatis mutandis pursuant to Article 31, paragraph (5) of the Act) are as follows:

- (i) the voting rights held by a person engaged in the trust business (meaning the trust business defined in Article 2, paragraph (1) of the Trust Business Act (Act No. 154 of 2004)) as the trust property (excluding the voting rights regarding which that person has been granted the authority to exercise, or the authority to give instruction as to the exercise thereof);
- (ii) the voting rights pertaining to the shares or equity owned by a corporation, if a person having the authority of representation for such corporation or a manager having the authority to act as an agent therefor has been granted the authority to exercise the voting rights or to give instruction as to the exercise thereof or the authority required for making an investment, based on such authority of representation or authority to act as an agent;
- (iii) the voting rights pertaining to the company's shares owned by a person entrusted with such company's shares acquired (excluding the voting rights regarding which the person so entrusted has been granted the authority to exercise or the authority to give instruction as to the exercise thereof), if an officer or employee of the company has acquired the company's shares jointly with another officer or employee of the company (limited to the acquisition under a certain program wherein the shares are continuously acquired without depending on the individual's investment decisions, and in the amount to be contributed by each of the officers or employees on each occasion is less than one million yen) (in the case of acquisition of any share other than those acquired by the company pursuant to the provisions of Article 156, paragraph (1) of the Companies Act (Act No. 86 of 2005) (including as applied pursuant to the provisions of Article 165, paragraph (3) of that Act following the deemed replacement of terms), the above is limited to cases in which the acquisition was conducted based on an entrustment to a financial instruments business operator);
- (iv) the voting rights pertaining to shares or equity owned by heirs as their inherited property (limited to the shares or equity owned prior to the day when the heir (excluding the case of a joint inheritance) gave an unqualified acceptance (including if an unqualified acceptance is deemed to have been given) or a qualified acceptance, or the shares or equity which the coheirs of such inherited property have not yet divided);
- (v) the voting rights pertaining to the shares owned by a person engaged in a securities-related business in the course of business pertaining to the underwriting of securities (excluding shares owned on or after the day immediately following the payment date for the shares (or on or after the day

immediately following the delivery date for the shares, in cases of the secondary distribution of securities or solicitation for selling, etc. only for professional investors) (if the person in question implements the items listed in Article 2, paragraph (6), item (iii) of the Act, the day when five days (Sunday and the number of holidays defined in Article 14-5 of the Order do not be included in the five days) elapse from the day when the share option certificates pertaining to unexercised share options as defined in that item are acquired)); and

(vi) the voting rights held by the banks' shareholding purchase corporation.

(Total Asset Value)

- Article 16 (1) The total amount of assets calculated in accordance with the means specified by Cabinet Office Order as referred to in Article 29-4, paragraph (3) of the Act (including as applied mutatis mutandis pursuant to Article 31, paragraph (5) of the Act; hereinafter the same applies in this Article) is the total amount of assets specified in the latest balance sheet of the company (or, if the first business year of the company after its incorporation is not completed, the balance sheet as of the day of the incorporation of the company), and if an issuance of shares for subscription provided in Article 199, paragraph (1) of the Companies Act, delivery of shares as a result of the exercise of share options, issuance of corporate bonds, share exchange, share delivery, merger, company split, acquisition of business, transfer of business or any other material change in the company's assets occurs after the last day of the business year pertaining to the balance sheet (or, if the first business year of the company after its incorporation is not completed, after the day of the incorporation of the company), the amount after adding or deducting the changes in the total asset value as a result of these changes applies.
- (2) The assets to be specified by Cabinet Office Order as referred to in Article 29-4, paragraph (3) of the Act are loans from the parent company of a financial instruments business operator (meaning a parent company provided in Article 57-2, paragraph (8) of the Act, and limited to a company designated by the Commissioner of the Financial Services Agency) to its subsidiary company (meaning a subsidiary company provided in Article 29-4, paragraph (4) of the Act, and limited to a company designated by the Commissioner of the Financial Services Agency) and any other assets to be designated by the Commissioner of the Financial Services Agency.
- (3) The amount to be calculated by the method specified by Cabinet Office Order as referred to in Article 29-4, paragraph (3) of the Act is the total amount of assets provided in the preceding paragraph, as stated in the financial statements and its annexed detailed statements pertaining to the final business year of the company prepared pursuant to Article 435, paragraph (2)

of the Companies Act (or, if the first business year of the company after its incorporation is not completed, the total amount of assets provided in that paragraph as stated in the balance sheet as of the time of incorporation of the company).

(Publication of Trade Name and Other Information by Type-I Small Amount Electronic Public Offering Service Provider)

Article 16-2 (1) When a type-I small amount electronic public offering service provider makes a publication under Article 29-4-2, paragraph (8) of the Act, it must make sure that the matters provided in that paragraph are clearly and accurately indicated, in an easily visible location for the person intending to inspect the matters, on the screen of a computer used by the person.

(2) The matters specified by Cabinet Office Order as referred to in Article 29-4-2, paragraph (8) of the Act are as follows:

(i) the fact that the person is a type-I small amount electronic public offering service provider;

(ii) the name of the financial instruments firms association to which the person is a member (if the person is not a member of any financial instruments firms association with principal association members or members that are persons conducting type I financial instruments business that the type I small amount electronic public offering service provider conducts (limited to the business which falls under the category of the securities-related businesses), to that effect);

(iii) whether the person is a member of any investor protection fund (if the person is not a member, including the fact that claims held by the customers against the type-I small amount electronic public offering service provider are not eligible as claims subject to compensation provided in Article 79-56, paragraph (1) of the Act);

(3) The means to be specified by Cabinet Office Order as referred to in Article 29-4-2, paragraph (8) of the Act are the means whereby the contents of information recorded into the files stored on the computer used by a type-I small amount electronic public offering service provider are made available for public inspection via a telecommunications line.

(Total Issue Value and Method of Calculation of Amount to Be Paid by Persons Acquiring Securities)

Article 16-3 (1) The method specified by Cabinet Office Order as referred to in Article 15-10-3, item (i) of the Order means the method of adding up the total issue value of the securities subject to public offering or private placement (limited to those for which handling of public offering or handling of private placement is conducted as type-I small amount electronic public offering

service or type-II small amount electronic public offering service) (if the securities are share option certificates, this refers to the sum of the total issue value of the share option certificates and the total amount to be paid upon the exercise of the share options pertaining to the share option certificates; hereinafter the same applies in this paragraph) and the total issue value of the securities of the same type (meaning the difference as to whether the securities fall under the category of the securities specified in Article 2, paragraph (1), item (ix) of the Act or the rights specified in item (v) or (vi) of that paragraph which are deemed as securities pursuant to paragraph (2) of that Article; the same applies in the following paragraph) as the securities subject to the public offering or private placement to be implemented by the same issuer for the same subscription period (meaning the subscription period provided in Article 70-2, paragraph (2), item (iv)) subject to the public offering or private placement of the securities as the public offering or private placement implemented by the same issuer within one year before the day of the commencement of the public offering or private placement of the securities (the relevant securities of the same type are limited to those for which handling of public offering or handling of private placement has been or is conducted as type-I small amount electronic public offering service or type-II small amount electronic public offering service).

- (2) The method specified by Cabinet Office Order as referred to in Article 15-10-3, item (ii) of the Order means the method of adding up an individual payment amount (meaning the respective amounts to be paid by persons acquiring the securities; and if the securities are share option certificates, this refers to the sum of such amount and the amount to be paid upon the exercise of the share options pertaining to the share option certificates; hereinafter the same applies in this paragraph) for the securities subject to public offering or private placement and the individual payment amount for the public offering or private placement of the securities of the same type as the securities issued by a same issuer subscribed for or paid within a year before the day of the payment for the public offering or private placement for the securities.

(Publication of Trade Name and Other Information by Type-II Small Amount Electronic Public Offering Service Provider)

Article 16-4 (1) When a type-II small amount electronic public offering service provider makes a publication under Article 29-4-3, paragraph (3) of the Act, it must make sure that the matters provided in that paragraph are clearly and accurately indicated, in an easily visible location for the person intending to inspect the matters, on the screen of a computer used by the person.

- (2) The matters specified by Cabinet Office Order as referred to in Article 29-4-3, paragraph (3) of the Act are as follows:

- (i) the fact that the person is a type-II small amount electronic public offering service provider; and
  - (ii) the name of the financial instruments firms association to which the person is a member (if the person is not a member of any financial instruments firms association with principal association members or members that are persons conducting type II financial instruments business that the type II small amount electronic public offering service provider conducts (limited to the business which falls under the category of the securities-related businesses), to that effect).
- (3) The means to be specified by Cabinet Office Order as referred to in Article 29-4-3, paragraph (3) of the Act are the means whereby the contents of information recorded into the files stored on the computer used by a type-II small amount electronic public offering service provider available for public inspection via telecommunications line.

(Measures Concerning the Transfer of Securities Related to Solicitation for Acquisition by Financial Instruments Business Operators who Engage in Investment Management Business for Qualified Investors)

Article 16-5 (1) The measures specified by Cabinet Office Order as referred to in Article 15-10-6, item (i) of the Cabinet Order are technical measures to make it impossible to transfer the relevant financial values to persons other than Qualified Investors.

- (2) The matters provided for by Cabinet Office Order as defined in Article 15-10-6, item (ii) of the Cabinet Order are the following matters:
- (i) The person who intends to acquire does not transfer the Securities that were acquired in response to said Solicitation for Acquisition (meaning the Solicitation for Acquisition defined in Article 2, paragraph (3) of the Act; the same applies in the following item) to persons other than Qualified Investors; and
  - (ii) in cases where a person who intends to acquire, transfers said Securities acquired in response to said Solicitation for Acquisition, it should be notified to the other party that it is a condition for purchase between a person who implements the Solicitation for Selling, etc. of said Securities (meaning the Solicitation for Selling, etc. defined in Article 2, paragraph (4) of the Act; hereinafter the same applies in this item) and a person who intends to purchase said Securities in response to the Solicitation for Selling, etc., to conclude a contract pertaining the transfer for which it is stipulated that the person who intends to purchase does not transfer said purchased Securities to a person other than Qualified Investors.

(Persons in Close Relationship with Financial Instruments Business)

Operators)

Article 16-5-2 The persons to be specified by Cabinet Office Order as referred to in Article 15-10-7, item (iv) of the Order are the persons specified in the following:

- (i) a subsidiary company, etc. (meaning a subsidiary company, etc. provided in Article 15-16, paragraph (3) of the Order; hereinafter the same applies in this item, Article 33, paragraph (2), Article 34, Article 123, paragraph (1), item (xxx), paragraph (11), item (iii), and paragraph (12), Article 125-7, paragraph (2), item (ii), Section 6 and Section 6-2) of the financial instruments business operator, or a subsidiary company, etc. of the parent company, etc. (meaning a parent company, etc. provided in Article 15-16, paragraph (3) of the Order; the same applies in Article 123, paragraph (11), item (iii), and paragraph (12), Article 125-7, paragraph (2), item (ii), Section 6 and Section 6-2) of the financial instruments business operator;
- (ii) a person that has received an entrustment of all or part of the authority for the investment of a set of investment property to be conducted by the financial instruments business operator;
- (iii) a person that has concluded a contract with the financial instruments business operator in which the party promises to provide the financial instruments business operator with oral, written (excluding newspapers, magazines, books, or any other written work that is issued for sale to many and unspecified persons and which many and unspecified persons can buy as needed) or any other form of advice on the value, etc. of assets for transaction (hereinafter referred to as "transaction assets" in this item) ("value, etc." means the value of transaction assets, amount of consideration for options or trends in indicators relating to the transaction assets; hereinafter the same applies in this item) to be conducted by the financial instruments business operator as an investment of a set of investment property or investment decisions based on the analysis of the value, etc. (meaning decisions as to the types, quantities and prices of assets for investment, whether the type of transaction is purchase or sale, the methods and timing of the transactions or decisions on the details and timing of the transactions to be conducted), and the financial instruments business operator promises to pay remuneration for this, or a person that has concluded a contract with the person in which such person promises to provide the other party with advice on investment decisions by these methods and the other party promises to pay remuneration for this;
- (iv) an officer or employee of the person specified in Article 15-10-7, item (iii) of the Order and the preceding three items; and
- (v) a relative of the person specified in Article 15-10-7, items (i) and (ii) of the Order and the preceding three items (limited to a spouse and a relative by



blood or by affinity within the third degree).

(Persons Equivalent to Professional Investors)

Article 16-6 The persons provided for by Cabinet Office Order defined in Article 29-5, paragraph (3) of the Act are the following persons:

- (i) a person specified in Article 17-12, paragraph (1), items (iii) through (v), item (viii), item (ix), item (xii), item (xiv) or item (xv) of the Order; and
- (ii) a counterparty to the private placement or handling of private placement of equity in the business subject to investment to be acquired (meaning the right specified in Article 2, paragraph (2), item (v) or (vi) of the Act; the same applies hereinafter) which is specified in the items of Article 233-3.

(Persons Excluded as Qualified Investors)

Article 16-7 The person provided for by Cabinet Office Order defined in Article 29-5, paragraph (4), item (iii) of the Act is a special purpose company (meaning a special purpose company as defined in Article 33, paragraph (2)), for which a person other than qualified investors has acquired the right indicated on securities, which are issued by the person listed in Article 2, paragraph (1) items (v), (ix), or (xv) of the Act or securities listed in item (xvii) of that paragraph (limited to those that have the nature of securities listed in items (v), (ix), or (xv) of that paragraph) or the right listed in paragraph (2), item (iii) or item (iv) of that Article (excluding the right with which the delivery of the property cannot be received over the amount receivable of the acquisition).

(Contents and Method of Business to be Authorized)

Article 17 The matters to be specified by Cabinet Office Order as referred to in Article 30-3, paragraph (2) of the Act are as follows:

- (i) the types of transactions to be conducted under the proprietary trading system operation;
- (ii) the name and job title of the person responsible for the management of the proprietary trading system operation;
- (iii) the name and organizational structure of the section in charge of the proprietary trading system operation (if a part of the proprietary trading system operation is to be entrusted to any other person, including such person);
- (iv) the types, issues and minimum transaction units of the securities to be handled under the proprietary trading system operation;
- (v) the conditions for starting transactions with customers pertaining to the proprietary trading system operation, and the methods of management of customers;
- (vi) the method for deciding the trading price;

- (vii) the method of publication of the price information such as quotes, trading price and others;
- (viii) the outline, location, volume and maintenance method of the electronic data processing system to be used for the proprietary trading system operation, and the method of handling cases in which a malfunction of the electronic data processing system occurs;
- (ix) the method of transfer or other settlement procedures for the securities related to the proprietary trading system operation, and the method of handling if a customer defaults on a contract;
- (x) the particulars of the granting of credit with regard to entrustment for a purchase and sale of securities by a financial instruments business operator which is a customer;
- (xi) the method for the preparation and preservation of the transaction records for the proprietary trading system operation;
- (xii) the frequency of the inspection on the status of the execution of the proprietary trading system operation, and the name and structure of the section in charge of such inspection; and
- (xiii) any other important matter related to the risk management concerning loss or to assurance of fairness of the transactions, in regard to the proprietary trading system operation.

(Documents to Be Attached to Written Application for Authorization)

Article 18 The documents to be specified by Cabinet Office Order as referred to in Article 30-3, paragraph (2) of the Act are as follows:

- (i) the resume of a person responsible for the management of the proprietary trading system operation;
- (ii) the internal rules regarding the proprietary trading system operation;
- (iii) the contracts to be used for transactions with customers, in connection with the proprietary trading system operation; and
- (iv) the appraisal statement on matters specified in item (viii) of the preceding Article, which is prepared by a person having no special interest in the authorization applicant.

(Contents and Method of Business to Be Examined)

Article 19 The contents and method of business to be specified by Cabinet Office Order as referred to in Article 30-4, item (v) and Article 31, paragraph (6) of the Act are as follows:

- (i) the matters specified in Article 17, items (v), (viii), (x), and (xi); and
- (ii) any other important matters related to the assurance of the fairness of transactions to be conducted under the proprietary trading system operation.

(Notification of Change to Matters Specified in Written Application for Registration)

Article 20 (1) A financial instruments business operator which intends to file the notification under Article 31, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the particulars and date of and reason for the change, attaching a document stating the particulars after such change prepared in accordance with Appended Form No. 1, a copy thereof and the documents specified in the following items in accordance with the categories of the cases respectively set forth therein; provided, however, that the documents specified in each of the following items may be filed without delay after submission of the notification, if any unavoidable ground exists:

- (i) if there has been any change to the matters specified in Article 29-2, paragraph (1), item (i) of the Act: the following documents:
  - (a) a certificate of registered information (in cases of an individual, an extract of residence certificate) stating the matters relating to the change or a document in lieu thereof; and
  - (b) if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 1, and the document specified in (a) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
- (ii) if there has been any change to the matters specified in Article 29-2, paragraph (1), item (ii) of the Act or the matters specified in Article 7, item (xii): the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (iii) if there has been any change to the matters specified in Article 29-2, paragraph (1), item (iii) or (iv) of the Act: the following documents:
  - (a) a document stating the systems for business execution, such as the structure of personnel and the organization pertaining to the business;
  - (b) if there has been any change to officers, the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
  - (c) the following documents in relation to a person that has newly assumed the position of officer or major employee:
    1. the resumes (if the officer is a corporation, the document containing the background of the officer);
    2. the extracts of the certificates of residence (if the officer is a corporation, the certificate of the registered matters of the officer), or any other document in lieu thereof;
    3. if the former surname and given name are stated together with the

- current name in a document setting forth the matters after the change prepared using Appended Form 1, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
4. the certificate issued by public agency evidencing that none of the officers or employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  5. the documents in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
  6. in cases where the Financial Instruments Business Operator is a juridical person, a document to pledge that it does not fall under Article 29-4, paragraph (1), item (ii) of the Act (limited to the part pertaining to sub-item (a)); and
  7. in cases where the Financial Instruments Business Operator is an individual, a document to pledge that it does not fall under Article 29-4, paragraph (1), item (iii) of the Act (limited to the part pertaining to item (ii), sub-item (a) of that paragraph);
- (iv) if there has been any change to the matters specified in Article 29-2, paragraph (1), item (x) of the Act (but only if the business office or other office has been abolished): a document containing the details of the treatment of a customer's account incidental to such change;
- (v) in the case of any change in the matters specified in Article 7, item (iii)-2 (but only if the applicant is to conduct an electronic trading platform management service), the following documents:
- (a) the resume of the person responsible for the management of the electronic trading platform management service;
  - (b) the internal rules concerning the electronic trading platform management service;
  - (c) contracts to be used for the transactions with customers in relation to the electronic trading platform management service and their attachments; and
  - (d) an appraisal report issued by a person having no special interest relationship with the notifying person in relation to the matters specified in Article 8, item (vi), (g);
- (vi) if there has been any change to the matters specified in Article 7, item (iv), (d) (but only if the financial instruments business operator has come to be engaged in the business related to investment in racehorses): a document evidencing that it does not fall under the criteria specified in Article 13, item (iii);
- (vii) if there has been any change to the matters specified in Article 7, item (vi)

- (but only if the financial instruments business operator has come to be engaged in the business of transaction, etc. of beneficial interest in real property trust): a document evidencing that it does not fall under the criteria specified in Article 13, item (iv);
- (viii) if there has been any change to the matters specified in Article 7, item (vii) (but only if the financial instruments business operator has come to be engaged in the specified investment management business related to real property): a document containing the matters related to the ability to execute the business in cases of conducting the specified investment management business related to real property;
- (ix) in the case of any change in the matters specified in Article 7, item (x), the following documents relating to the person that newly assumed the position of the agent in Japan:
- (a) an extract copy of the certificate of residence (or, if the agent in Japan is a corporation, a certificate of registered information of the agent in Japan), or a document in lieu thereof; and
- (b) if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 1, and the document specified in (a) is not a document certifying the former surname and given name, a document certifying the former surname and given name.
- (2) If the Commissioner of the Financial Services Agency or other competent official has received from any financial instruments business operator a notification on the relocation of the head office, etc. filed beyond the jurisdictional district of the competent finance bureau commissioner, etc., the commissioner or official is to send or instruct to send the written notification, the portion of the registry of financial instruments business operators pertaining to the financial instruments business operator and any other documents to the Director-General of a Local Finance Bureau with jurisdiction over the relocated address of the head office, etc. notified thereunder (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the financial instruments business operator has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau).
- (3) The Director-General of a Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau who has received the documents sent pursuant to the provisions of the preceding paragraph is to register the matters related to the financial instruments business operator in the registry of financial instruments business operators.

(Specified Business Outline, etc.)

Article 20-2 The business outline or business method specified by Cabinet Office Order as referred to in Article 31, paragraph (3) of the Act is what newly becomes the Cryptoasset or Financial Indicator referred to in Article 8, item (xii).

(Notification on Change of Contents or Method of Business)

Article 21 A financial instruments business operator which intends to file the notification under Article 31, paragraph (3) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the particulars and the scheduled or actual date of and reason for the change, attaching a document stating the matters specified in the items of Article 8 (limited to those matters whose details have been changed), the documents specified in Article 9, item (ix), sub-item (c) and item (x) (limited to those with changes in contents) and the documents provided in Article 20, paragraph (1), item (v) (limited to those with changes in contents).

(Applying for Registration of Changes)

- Article 22 (1) A financial instruments business operator which intends to obtain the registration of a change under Article 31, paragraph (4) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written application for a registration of change prepared in accordance with Appended Form No. 1, attaching a copy thereof.
- (2) A document stating the particulars of and reason for the change as well as the following documents (limited to the documents pertaining to the business to be newly conducted (including electronic public offering services and high-speed trading)) must be attached to a written application for a registration of change set forth in the preceding paragraph:
- (i) a document in which the financial instruments business operator pledges that it does not fall under any of the items of Article 29-4, paragraph (1) of the Act (excluding items (i) through (iii), item (iv), (d), item (v), (c) and item (vii) (limited to the part pertaining to Article 66-53, item (vi), (c) of the Act);
  - (ii) a document stating the matters specified in the items of Article 8; and
  - (iii) a document as specified in the items of Article 9 and the items of Article 10, paragraph (1).
- (3) The provisions of Article 10, paragraph (2) apply mutatis mutandis if any of the documents specified in item (iii) of the preceding paragraph (limited to those specified in item (i), paragraph (1) of that Article) is to be attached.

(Application for Authorization of Change)

Article 23 (1) A financial instruments business operator which intends to obtain the authorization under Article 31, paragraph (6) of the Act must submit to the

Commissioner of the Financial Services Agency or other competent official a written application for authorization stating the following particulars:

- (i) the trade name;
- (ii) the registration date and registration number; and
- (iii) the particulars and reasons for change.

(2) The document stating the matters specified in the items of Article 17 (limited to the those matters whose details have been changed) and the documents specified in the items of Article 18 (limited to those matters whose details have been changed) must be attached to a written application for authorization set forth in the preceding paragraph.

(Criteria for Authorization of Change)

Article 24 When the Commissioner of the Financial Services Agency or other competent official intends to grant the authorization under Article 31, paragraph (6) of the Act, the commissioner or official must examine whether the applicant complies with the criteria specified in Article 30-4, item (i) or (v) of the Act.

(Notification of Deposit for Operations)

Article 25 (1) A person that has completed making a deposit pursuant to the provisions of Article 31-2, paragraph (1), (4) or (8) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official, a written notification of deposit prepared in accordance with Appended Form No. 2, attaching the original of the certificate of deposit relevant to such deposit.

(2) If a financial instruments business operator (limited to an individual engaged in type-II financial instruments business or a person engaged only in investment advisory and agency business; the same applies in Article 27 and Article 28) intends to replace the items already deposited, such financial instruments business operator must, after having completed the new deposit of the replacement items, submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating to that effect, attaching the original of the certificate of deposit relevant to the replacement deposit.

(3) When the Commissioner of the Financial Services Agency or other competent official receives the original copy of the deposit certificate set forth in the preceding two paragraphs, the commissioner or official must deliver a custody certificate to the depositor.

(Counterparties to Contracts in Lieu of Deposits for Operation)

Article 26 The financial institutions to be specified by Cabinet Office Order as

referred to in Article 15-13 of the Order are a cooperative financial institution and the Shoko Chukin Bank Limited.

(Notification of Conclusion of Contracts in Lieu of Deposits for Operation)

- Article 27 (1) When any financial instruments business operator concludes a contract under Article 31-2, paragraph (3) of the Act, it must submit to the Commissioner of the Financial Services Agency or other competent official a written notification of the conclusion of a guarantee contract prepared in accordance with Appended Form No. 3 with a copy of the contract attached thereto, and must present the original of the contract.
- (2) When a financial instruments business operator intends to effect any change or cancellation of a contract in lieu of deposit for operation, it must file an application for approval thereon with the Commissioner of the Financial Services Agency or other competent official by submitting a written application for approval of change of guarantee contract prepared in accordance with Appended Form No. 4 or a written application for approval of cancellation of guarantee contract prepared in accordance with Appended Form No. 5.
- (3) When an application for approval under the preceding paragraph is filed, the Commissioner of the Financial Services Agency or other competent official is to examine whether the change or cancellation of the contract in lieu of deposit for operation by the financial instruments business operator which has filed the application for approval does not threaten to hinder the protection of the investors.
- (4) When a financial instruments business operator effects any change or cancellation of the contract in lieu of a deposit for operation based on approval granted by the Commissioner of the Financial Services Agency or other competent official, it must submit to the Commissioner of the Financial Services Agency or other competent official a written notification of a change of guarantee contract prepared in accordance with Appended Form No. 6 attaching a copy of the changed contract, or a written notification of the cancellation of a guarantee contract prepared in accordance with Appended Form No. 7 attaching a document evidencing the fact of the cancellation of the contract; and in addition, in the case of the change of the contract, the financial instruments business operator must present the original of the changed contract.

(Day of Commencement for Counting of Time Limit for Additional Deposit for Operation)

- Article 28 The day to be specified by Cabinet Office Order as referred to in Article 31-2, paragraph (8) of the Act is the day specified in the following items, in accordance with the reasons for a deficiency in the amount of the deposit for



operation respectively set forth therein:

- (i) if the financial instruments business operator has changed any of the terms of the contract under Article 31-2, paragraph (3) of the Act (hereinafter referred to as the "contract" in this and the following item) with an approval under Article 15-13, item (iii) of the Order (hereinafter referred to as the "approval" in the following item), as a result of which the amount of deposit for operation deposited as set forth in Article 31-2, paragraph (10) of the Act (including the contract amount set forth in paragraph (3) of that Article) has become less than the amount set forth in Article 15-12 of the Order: the day when the term of the contract was changed;
- (ii) if the financial instruments business operator has cancelled the contract with the approval: the day of the cancellation of the contract;
- (iii) if the procedures for execution of the right as set forth in Article 15-14 of the Order is implemented: the day when the financial instruments business operator received a copy of the payment entrustment document sent pursuant to the provisions of Article 11, paragraph (3) of the Cabinet Office Order on Security Finance Companies (Order of the Cabinet Office and the Ministry of Justice No. 3 of 2007);
- (iv) if, for the purpose of implementing procedures for the execution of the rights as set forth in Article 15-14 of the Order, the Commissioner of the Financial Services Agency or other competent official has realized the deposited securities (including the book-entry transferred bond set forth in Article 278, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares (Act No. 75 of 2001)), and has deposited the realized amount after deducting the realization expenses: the day on which the financial instruments business operator has received a notice under Article 12, paragraph (4) of the Regulation on Security Deposits by Financial Instruments Business Operators; or
- (v) if a financial instruments business operator (limited to an individual only engaged in an investment advisory and agency business and an individual only engaged in type-II small amount electronic public offering service which is type-II financial instruments business) has obtained a registration of change under Article 31, paragraph (4) of the Act, as a person engaged in type-II financial instruments business: the day when such operator obtained the registration of change.

(Types of Securities Which May Be Substituted for Deposits for Operation)

Article 29 The securities to be specified by Cabinet Office Order as referred to in Article 31-2, paragraph (9) of the Act are as follows. In this case, if the attribution of any right to be indicated on any of the following securities is to be determined based on statement or record of a book-entry transfer account

book as referred to in the Act on Book-Entry Transfer of Corporate Bonds and Shares, such right is deemed to be the securities:

- (i) national government bond securities;
- (ii) municipal bond securities;
- (iii) government-guaranteed bond certificates (meaning the securities specified in Article 2, paragraph (1), item (iii) of the Act, for which the government guarantees redemption of principal and interest payments; hereinafter the same applies in Article 65, item (i), (c));
- (iv) corporate bond certificates or any other bond certificates designated by the Commissioner of the Financial Services Agency (excluding a registered bond certificate and a bond certificates issued by way of discounting, and also excluding the bonds certificates specified in the preceding item).

(Value of Securities Which May Be Substituted for Deposits for Operations)

Article 30 (1) The value of the securities if the securities are to be substituted for a deposit for operations pursuant to the provisions of Article 31-2, paragraph (9) of the Act is the amount specified in the following items, in accordance with the categories of the securities respectively set forth therein:

- (i) the securities specified in item (i) of the preceding Article: the face value thereof (if the attribution of the right pertaining to such securities is to be determined in accordance with the statement or record of the book-entry transfer account book as referred to in the Act on Book-Entry Transfer of Corporate Bonds and Shares, the amount stated or recorded in the book-entry transfer account book; hereinafter the same applies in this Article);
  - (ii) the securities specified in item (ii) of the preceding Article: the amount calculated by discounting the face value of 100 yen to 90 yen;
  - (iii) the securities specified in item (iii) of the preceding Article: the amount calculated by discounting the face value of 100 yen to 95 yen;
  - (iv) the securities specified in item (iv) of the preceding Article: the amount calculated by discounting the face value of 100 yen to 80 yen.
- (2) With regard to the securities issued by way of discounting, the issue value after adding the amount calculated in accordance with the following formula is deemed to be the face value thereof, and the provisions of the preceding paragraph apply.

$$\frac{(\text{face value} - \text{issue value})}{\text{the number of years from the date of issuance to the date of redemption}} \times \text{the number of years from the date of issuance to the date of deposit}$$

- (3) For the purpose of calculation in accordance with the formula set forth in the preceding paragraph, if any fraction of less than one year arises with regard to the number of years from the date of issuance and the date of redemption and the number of years from the date of issuance to the date of deposit, or if any

fraction of less than one yen arises with regard to the amount obtained by dividing the difference between face value and issue value by the number of years from the date of issuance to the date of redemption, that fraction is rounded down.

(Notification of Concurrent Holding of Officers' Positions)

Article 31 (1) A notification under Article 31-4, paragraphs (1) and (2) of the Act (excluding the notification to be filed in the case of a resignation as set forth in those provisions) must be filed by submitting a written notification stating the following particulars to the Commissioner of the Financial Services Agency or other competent official:

- (i) the person's name;
- (ii) the trade name of the financial instruments business operator;
- (iii) the title of the position assumed at the financial instruments business operator;
- (iv) the trade name of the other company at which the person concurrently assumes the position of officer;
- (v) the title of the position assumed at the company of which the person concurrently assumes the position, and information as to whether such person has been granted the authority of representation; and
- (vi) the date of assumption of office, and the term of office.

(2) In the case referred to in the preceding paragraph, if any change to the matters specified in item (iv) or (v) of that paragraph arises, a written notification of the change of a concurrently held position stating the following particulars must be submitted to the Commissioner of the Financial Services Agency or other competent official:

- (i) the person's name;
- (ii) the trade name of the financial instruments business operator;
- (iii) the title of the position assumed at the financial instruments business operator;
- (iv) the particulars of the change; and
- (v) the date of the change.

(3) A notification under Article 31-4, paragraphs (1) and (2) of the Act (limited to the notification to be filed in the case of a resignation as set forth in those provisions) must be filed by submitting a written notification stating the following particulars to the Commissioner of the Financial Services Agency or other competent official:

- (i) the person's name;
- (ii) the trade name of the financial instruments business operator;
- (iii) the title of the position assumed at the financial instruments business operator;

- (iv) the trade name of the company at which the person concurrently held the position of officer;
- (v) the title of the position assumed at the company of which the person concurrently held the position, and information as to whether such person had been granted the authority of representation; and
- (vi) the date of resignation.

(Persons Excluded from Being Defined as a Parent Corporation and Subsidiary Corporation)

Article 32 The person to be specified by Cabinet Office Order as referred to in Article 15-16, paragraphs (1) and (2) of the Order is as follows:

- (i) a person solely engaged in a business for the execution of the financial instruments business, etc., the financial instruments intermediary service or the securities, etc. intermediary business operations of any of the following parties:
  - (a) the party itself; or
  - (b) the party itself, and its parent corporation, etc. or subsidiary corporation, etc.;
- (ii) a person solely engaged in business (excluding business related to the undisclosed information (limited to information which relates to customers of a financial instruments business, etc., a financial instruments intermediary service or securities, etc. intermediary business operations conducted by the issuer or by the party itself)) related to the execution of the business of any of the following parties (excluding a financial instruments business, etc., a financial instruments intermediary service and securities, etc. intermediary business operations):
  - (a) the party itself; or
  - (b) the party itself, and its parent corporation, etc. or subsidiary corporation, etc.;
- (iii) a corporation or any other organization of a foreign state which has no business office, office or any other establishment equivalent thereto in Japan.

(Persons Which Fall Under the Category of Parent Company)

Article 33 (1) The companies to be specified by Cabinet Office Order as referred to in Article 15-16, paragraph (3) of the Order are the following companies, etc. (meaning the companies, etc. prescribed in that paragraph; hereinafter the same applies in this Article through Article 35); provided, however, that this does not apply if it is clearly found that the company does not have control over the decision-making body (meaning the decision-making body specified in that paragraph; the same applies in item (ii), (e)) of other company, etc., in light of the financial, operational or business relationship therewith:

- (i) a company, etc. which, on its own account, holds the majority of voting rights in another company, etc. (excluding another company, etc. which has been subject to an order for the commencement of bankruptcy proceedings, an order for the commencement of rehabilitation proceedings or an order for the commencement of reorganization proceedings or any other company, etc. equivalent thereto, regarding which it is found that no effective controlling interest exists; hereinafter the same applies in this paragraph);
- (ii) a company, etc. which, on its own account, holds 40 percent or more but 50 percent or less of the voting rights in another company, etc., and which falls under any of the following requirements:
  - (a) that the voting rights held by the company, etc. on its own account, and by the voting rights held by any person having a close relationship with the company, etc. in terms of equity, personnel affairs, funding, technology, business transactions, etc. and therefore being likely to exercise the voting rights in concert with the intention of the company, etc. and by any person having consented to exercise the voting rights in concert with the intention of the company, etc. constitute a majority of the voting rights in that other company, etc.;
  - (b) that the officers or employees of the company, etc. or persons that have formerly been in such positions and would have an influence on the decision of such other company, etc. with regard to its financial policies and operational or business policies constitute a majority of the members of the board of directors or any other organ equivalent thereto of such other company, etc.;
  - (c) that there exist a contract, etc. concluded between the company, etc. and such other company, etc. which provides for control over decision of such other company, etc. with regard to any important financial, operational or business policies;
  - (d) that the company, etc. has financed (including the provision of a guarantee of obligation and the provision of securities; the same applies in (d) and Article 34, item (ii), (b)) more than half of the total amount of funds procured by such other company, etc. (limited to the amount inserted into the liability section of the balance sheet) (including if the amount financed by the company, etc., and the amount financed by a person with a close relationship with the company, etc. in terms of equity, personnel affairs, funding, technology, business transactions, etc. constitutes more than half of the total amount of the funds procured); or
  - (e) that there exists any other fact implying that the company, etc. controls the decision-making body of that other company, etc.;
- (iii) the company, etc. which falls under any of the requirements specified in (b) through (e) of the preceding item, if the voting rights held by the company,

etc. on its own account, and by the voting rights held by any person having a close relationship with the company, etc. in terms of equity, personnel affairs, funding, technology, business transactions, etc. and therefore being likely to exercise its voting rights in concert with the intention of the company, etc. and by any person having consented to exercise the voting rights in concert with the intention of the company, etc. constitute a majority of the voting rights in another company, etc. (including if the company, etc. does not hold voting rights on its own account).

- (2) Notwithstanding the provisions of the preceding paragraph, with regard to a special purpose company (meaning a specific purpose defined in Article 2, paragraph (3) of the Act on Securitization of Assets (Act No. 105 of 1998) and an entity conducting the business equivalent thereto with a restriction on the change of business contents; the same applies hereinafter), if the purpose of the incorporation thereof is to make the owners of the securities it issues (including the creditors of the specific borrowing defined in paragraph (12) in that Article) enjoy the profit generating from assets that the special purpose company has acquired at a fair value, and if the business thereof is properly implemented in compliance with such purpose, such special purpose company is regarded as being independent of the companies, etc. which transferred the assets to it (hereinafter referred to as the "transferor company, etc." in this paragraph), and is presumed not to fall under the category of a subsidiary company, etc. of the transferor company, etc.

(Persons Classed as Affiliated Companies)

Article 34 The affiliated companies, etc. to be specified by Cabinet Office Order as referred to in Article 15-16, paragraph (4) of the Order are as follows; provided, however, that this does not apply if it is clearly found that the company, etc. (including a subsidiary company, etc. of such company, etc.) is unable to have any material impact on the decision on the financial policies and operational or business policies of another company etc. except for a subsidiary company, etc., in light of its financial, operational or business relationship therewith:

- (i) the other company, etc. except for a subsidiary company, etc., if a company, etc. (including a subsidiary company, etc. of such company, etc.) holds on its own account 20 percent or more of the voting rights in such other company, etc. except for a subsidiary company, etc. (excluding another company, etc. except for a subsidiary company, etc. which has been subject to an order for the commencement of bankruptcy proceedings, order for the commencement of rehabilitation proceedings or order for the commencement of reorganization proceedings, or another company, etc. except for a subsidiary company, etc. equivalent thereto, in which case it is found that the company,

etc. would not be able to give any material impact on the decision on its financial policies and operational or business policies; hereinafter the same applies in this Article);

- (ii) the other company, etc. except for a subsidiary company, etc. which falls under any of the following requirements, if the company, etc. (including a subsidiary company, etc. of such company, etc.) holds on its own account 15 percent or more but less than 20 percent of the voting rights in another company, etc. except for a subsidiary company, etc.:
  - (a) that any officer or employee of the company, etc. or any person that has formerly been in such a position and is able to give an impact on decision of its financial policies and operational or business policies of has assumed the position of its director, executive officer or any other position;
  - (b) that any important loan has been granted by the company, etc.;
  - (c) that any important technology is furnished by the company, etc.;
  - (d) that there exists any important operational or business transaction with the company, etc. in regard to distribution, purchasing or others; or
  - (e) that there exists any other fact implying that the company, etc. is able to have a material impact on the decision on its financial, operational or business policies;
- (iii) the other company, etc. except for a subsidiary company, etc. which falls under any of the requirements listed in (a) through (e) of the preceding item, if 20 percent or more of the voting rights in such other company except for a subsidiary company, etc. is constituted by the voting rights held by the company, etc. (including a subsidiary company, etc. of such company, etc.) on its own account, and by the voting rights held by any person having a close relationship with the company, etc. in terms of equity, personnel affairs, funding, technology, business transactions, etc. and therefore is likely to exercise the voting rights in concert with the intention of the company, etc. and by any person having consented to exercise the voting rights in concert with the intention of the company, etc. (including if the company, etc. does not hold voting rights on its own account).

#### (Criteria for Determining Holding Voting Rights)

Article 35 (1) For the purpose of determining the holding voting rights as set forth in Article 15-16, paragraph (5) of the Order, the voting rights held are to include the voting rights held under the name of any other person (or under a fictitious name; the same applies in Article 203, paragraph (1)), and the voting rights pertaining to shares or equity in any of the following cases (hereinafter referred to as the "shares, etc." in this Article):

- (i) if a person has been granted the authority to exercise the voting rights in the company, etc. or the authority to give instructions as to the exercise

- thereof, under the provisions of a contract such as a monetary trust agreement or the laws;
- (ii) if any person in special relationship as set forth in Article 15-10 of the Order holds the voting rights in the company, etc.;
  - (iii) if, pursuant to the provisions of Article 147, paragraph (1) or Article 148, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares (including if these provisions are applied mutatis mutandis pursuant to Article 228, paragraph (1), Article 235, paragraph (1), Article 239, paragraph (1) and Article 276 (limited to the parts pertaining to item (ii)) of that Act), a person may not assert the shares, etc. held by such person (including the shares, etc. pertaining to the voting rights which, pursuant to the provisions of this paragraph, are to be included in the voting rights held by the specified individual shareholder set forth in Article 15-16, paragraph (1), item (iv) of the Order) against the issuer thereof.
- (2) Notwithstanding the provisions of the preceding paragraph, the voting rights held as set forth in that paragraph are not to include the voting rights pertaining to the following shares, etc.:
- (i) the shares, etc. owned by a corporation, if a person with the authority of representation for such corporation or a manager having the authority to act as an agent therefor has been granted the authority to exercise the voting rights or to give instruction as to the exercise thereof or the authority required for making an investment, based on such authority of representation or authority to act as an agent;
  - (ii) the shares, etc. owned by heirs as their inherited property (limited to the shares, etc. owned prior to the day when the heir (excluding the case of a joint inheritance) gave an unqualified acceptance (including if an unqualified acceptance is deemed to have been given) or a qualified acceptance, or the shares, etc. which the coheirs of that inherited property have not yet divided).

### **Subsection 3 Major Shareholders**

(Submission of Notification of Holding Subject Voting Rights)

Article 36 A person that submits a notification of holding subject voting rights as set forth in Article 32, paragraph (1) of the Act pursuant to that paragraph must submit such notification prepared in accordance with Appended Form No. 8, attaching a copy thereof as well as the documents to be attached thereto under paragraph (2) of that Article, to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, etc. (in the case of an individual, the domicile or residence) (or, if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof), in the case of a resident (meaning the resident set



forth in the first sentence of Article 6, paragraph (1), item (v) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949); hereinafter the same applies in this Chapter); or, to the Director-General of the Kanto Finance Bureau, in the case of a non-resident (meaning a non-resident as set forth in Article 6, paragraph (1), item (vi) of that Act; hereinafter the same applies in this Chapter).

(Matters to Be Specified in Notifications of Holding Subject Voting Rights)

Article 37 (1) The matters to be specified by Cabinet Office Order as referred to in Article 32, paragraph (1) of the Act are as follows:

- (i) the trade name or name;
- (ii) the location of the head office or principal office (in the case of an individual, the domicile or residence);
- (iii) in the case of a corporation, the name of its representative; and
- (iv) the number of voting rights held.

(2) The number of voting rights held by all the shareholders, etc. set forth in Article 32, paragraph (1) of the Act is the number of voting rights held by all the shareholders, etc. (meaning the voting rights held by all the shareholders, etc. as prescribed in Article 29-4, paragraph (2) of the Act; the same applies hereinafter) as of the day when the person comes to hold the subject voting rights (meaning the subject voting rights prescribed in Article 29-4, paragraph (2) of the Act); provided, however, that if it is difficult to identify the number of voting rights held by all the shareholders, etc., the number of voting rights held by all the shareholders, etc. stated in the latest annual securities report, etc. (meaning the annual securities report prescribed in Article 24, paragraph (1) of the Act, the quarterly securities report prescribed in Article 24-4-7, paragraph (1) of the Act or the semiannual securities report prescribed in Article 24-5, paragraph (1) of the Act; hereinafter the same applies in this paragraph) (if the annual securities reports, etc. have not been submitted, the number of the voting rights held by all the shareholders, etc. calculated based on the particulars contained in the commercial registry or any other document) may be stated.

(Documents to Be Attached to Notifications of Holding Subject Voting Rights)

Article 38 The documents to be specified by Cabinet Office Order as referred to in Article 32, paragraph (2) of the Act are as follows:

- (i) in the case of an individual, an extract copy of the certificate of residence (limited to that containing information on the registered domicile), or any other document in lieu thereof;
- (ii) in cases where the former surname and given name are stated together with the current name in a notification of holding subject voting rights under

Article 32, paragraph (1) of the Act and where the document specified in the preceding item is not a document certifying the former surname and given name, a document certifying the former surname and given name; and (iii) in the case of a corporation, its certificate of registered matters, or any other document in lieu thereof.

(Notification about Becoming a Specified Major Shareholder)

Article 38-2 A major shareholder other than a specified major shareholder of a financial instruments business operator that makes notification pursuant to the provisions of Article 32, paragraph (3) of the Act (meaning the specified major shareholder as defined in paragraph (4) of that Article; hereinafter the same applies in this Article and Article 38-5) must submit a notification about becoming a specified major shareholder, which is prepared pursuant to Appended Form No. 8-2, attached with a copy of the notification, to the Director-General of a Local Finance Bureau with jurisdiction over the location of such major shareholder's head office, etc. (in cases of an individual, the address or residence) in the case of a resident (if the location is in the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof), or to the Director-General of the Kanto Finance Bureau in the case of a non-resident.

(Persons Falling Under the Category of Parent Company)

Article 38-3 The companies provided for by Cabinet Office Order defined in Article 15-16-2, paragraph (2) of the Order are the following persons (excluding those in cases related to companies that do not have an impact on the content of the documents related to financial accounting):

- (i) a parent company defined in Article 8, paragraph (3) of the Regulation on Terminology, Forms, and Preparation Methods of Financial Statements (Order of the Ministry of Finance No. 59 of 1963; hereinafter referred to as the "Regulation on Financial Statements, etc."); and
- (ii) a company that is treated the same as those listed in the preceding item when preparing documents related to financial accounting under the designated international accounting standards (meaning the designated international accounting standards defined in Article 93 of the Regulation on Terminology, Forms, and Preparation Methods of Financial Statements (Order of the Ministry of Finance No. 28 of 1976; the same applies hereinafter)) and other fair and appropriate standards or practices of corporate accounting standards in a foreign state.

(Persons Classed as Affiliated Companies)

Article 38-4 The affiliated companies, etc. provided for by Cabinet Office Order

as defined in Article 15-16-2, paragraph (3) of the Order are the following companies (excluding companies that have no impact on the content of documents related to financial accounting):

- (i) affiliated companies defined in Article 8, paragraph (5) of the Regulation on Financial Statements, etc.; and
- (ii) a company that is treated the same as those listed in the preceding item when preparing documents related to financial accounting under the designated international accounting standards and other fair and appropriate standards or practices of corporate accounting standards in a foreign state.

(Notification about Becoming a Major Shareholder Other Than a Specified Major Shareholder)

Article 38-5 A specified major shareholder of a financial instruments business operator that makes notification pursuant to the provisions of Article 32-3, paragraph (2) of the Act must submit a notification about becoming a major shareholder other than a specified major shareholder, which is prepared pursuant to Appended Form No. 8-3, attached with a copy of the notification, to the Director-General of a Local Finance Bureau with jurisdiction over the location of such major shareholder's head office, etc. (in cases of an individual, the address or residence) in the case of a resident (if the location is in the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof), or to the Director-General of the Kanto Finance Bureau in the case of a non-resident.

(Application Mutatis Mutandis)

Article 39 The provisions of Articles 36 through 38 apply mutatis mutandis to if the provisions of Article 32, paragraphs (1) and (2) of the Act are applied mutatis mutandis pursuant to Article 32-4 of the Act.

#### **Subsection 4 Registered Financial Institutions**

(Securities Equivalent to Specified Corporate Bond Certificates)

Article 40 The securities to be specified by Cabinet Office Order as referred to in Article 15-17, paragraph (1), item (ii) of the Order are those which satisfy all of the following requirements:

- (i) that there exist assets to be transferred directly or indirectly from the owner to a corporation incorporated or managed for the purpose of the issuance of such securities (such assets are hereinafter referred to as the "transferred assets" in the following item); and
- (ii) that the corporation set forth in the preceding item issues such securities,

and appropriates the money generated from the management, investment or disposition of the transferred assets for the performance of the obligations arising from such securities (including the securities issued for purpose of the refinancing of such securities).

(Securities Equivalent to Short-Term Bonds)

Article 41 The securities to be specified by Cabinet Office Order as referred to in Article 15-17, paragraph (3) of the Order are as follows:

- (i) book-entry transfer foreign bonds (meaning a book-entry transfer foreign bond as prescribed in Article 66 (excluding item (i)) of the Act on Book-Entry Transfer of Corporate Bonds and Shares as applied mutatis mutandis pursuant to Article 127 of that Act; hereinafter the same applies in this item) which satisfy all of the following requirements:
  - (a) that the book-entry foreign bonds are yen-denominated;
  - (b) that the amount of each book-entry transfer foreign bond is not less than 100 million yen;
  - (c) that there are provisions setting forth that the fixed due date for the redemption of principal is the day on which less than one year has elapsed from the day of paying-in of the total amount of the book-entry transfer foreign bonds, and that there are no provisions setting forth that the redemption of principal be made in installments; and
  - (d) that there are provisions setting forth that the due date for the interest payment is the same date as the due date for the redemption of principal as set forth in (c);
- (ii) the securities which satisfy all of the requirements listed in the items of the preceding Article (limited to those specified in the preceding item).

(Securities Equivalent to Share Certificates)

Article 42 The securities to be specified by Cabinet Office Order as referred to in Article 15-18, item (i) of the Order are the corporate bond certificate with special provisions setting forth that redemption by means of share certificates (including preferred equity securities (meaning the preferred equity securities prescribed in the Act on preferred equity investment by cooperative financial institutions; the same applies hereinafter)), share option certificates or corporate bond certificates with share options may be made (limited to the corporate bond certificates with special provisions setting forth that redemption may be made by means of the aforementioned securities issued by a company other than the issuer company of such corporate bond certificates).

(Application for Registration)

Article 43 A person that intends to obtain the registration under Article 33-2 of

the Act must submit to the Director-General of a Local Finance Bureau with jurisdiction over the location of that person's head office, etc. (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof) a written application for registration set forth in Article 33-3, paragraph (1) of the Act prepared in accordance with Appended Form No. 9, attaching a copy thereof and the documents or electronic or magnetic record to be attached thereto pursuant to the provisions of paragraph (2) or (3) of that Article.

(Matters to Be Stated in Written Application for Registration)

Article 44 The matters to be specified by Cabinet Office Order as referred to in Article 33-3, paragraph (1), item (ix) of the Act are as follows:

- (i) if any of the employees of the applicant for registration falls under any of the following, the name of such employee:
  - (a) a person that supervises the affairs related to instructions for ensuring compliance with the laws and regulations in regard to the registered financial institution business; and a person that holds a position whereby the person may exercise the authority on behalf of the person that supervises such affairs, such as a general manager, vice-chief, section manager or any other person, irrespective of the job title;
  - (b) a person that supervises the section in charge of carrying out advise and investment (including the provision of an instruction thereon; the same applies hereinafter) and a person that makes an investment decision based on analysis of the value of financial instruments and other factors, in connection with the investment advisory business or investment management business;
- (ii) the trade name or name of the designated dispute resolution organization with which a basic contract for implementation of dispute procedures is concluded for the purpose of taking the measures to conclude such contract for implementation of dispute procedures pertaining to the business specified in Article 37-7, paragraph (1), item (v), (a) of the Act and the name of the financial instruments firms association of which the applicant for registration is to become a member; and the name of the certified investor protection organization of which the applicant for registration is to become a target business operator;
- (iii) the name or trade name of the financial instruments exchange of which the applicant for registration is to become a member, etc.;
- (iv) if the applicant for registration intends to conduct any of the acts specified in Article 33-2, item (i) or (ii) of the Act in the course of trade, the following matters:
  - (a) to that effect;

- (b) if the applicant for registration intends to conduct in the course of trade the act specified in Article 33, paragraph (2), item (v) of the Act with regard to the transaction specified in that item, to that effect;
- (iv)-2 in cases of conducting electronic trading platform management services, to that effect;
- (v) in cases of conducting commodity-related businesses, to that effect;
- (vi) if the applicant for registration intends to conduct any financial instruments intermediation operation, the trade name of the entrusting financial instruments business operator (meaning the financial instruments business operator engaged in type-I financial instruments business from which the applicant for registration accepts the entrustment of a financial instruments intermediation operation; the same applies hereinafter except in Article 275, paragraph (1), item (xxvii));
- (vii) if the applicant for registration intends to conduct a business related to commodities investment, the following matters:
  - (a) to that effect;
  - (b) if the business related to commodities investment to be conducted by the applicant for registration only pertains to the goods specified in Article 37, paragraph (1), item (ii), (b) of the Order or the agriculture, forestry and fisheries goods, etc., to that effect;
  - (c) if the business related to commodities investment to be conducted by the applicant for registration only pertains to the goods specified in Article 37, paragraph (1), item (ii), (c) through (e) of the Order or the economy, trade and industry goods, etc., to that effect; and
  - (d) if the applicant for registration intends to conduct a business related to investment in racehorses, to that effect;
- (viii) if the applicant for registration intends to conduct the acts listed in the items of Article 194-6, paragraph (2) of the Act in the course of trade, to that effect;
- (ix) if the applicant for registration intends to conduct a business of transaction, etc. of beneficial interest in real property trust, to that effect;
- (x) if the applicant for registration intends to conduct a specified investment management business related to real property, to that effect;
- (xi) in cases where the registration applicant intends to conduct the acts set forth in Article 33-2, item (i), (ii) or (iv) of the Act with regard to Electronically Recorded Transferable Rights to Be Indicated on Securities, etc., or the acts set forth in Article 33-2, item (i) or (ii) of the Act with regard to the Derivative Transactions prescribed in Article 29-2, paragraph (1), item (viii) of the Act in the course of trade, or in cases where the registration applicant intends to conduct an Investment Management Business pertaining to Electronically Recorded Transferable Rights to Be Indicated on

- Securities, etc., or said Derivative Transactions, to that effect;
- (xii) in cases where the registration applicant intends to conduct the acts set forth in Article 33-2, item (iii) of the Act with regard to the Derivative Transactions prescribed in Article 29-2, paragraph (1), item (ix) of the Act in the course of trade, or in cases where the registration applicant intends to conduct an Investment Management Business pertaining to said Derivative Transactions, to that effect; and
  - (xiii) the names and locations of its head office, etc.

(Contents and Methods of Business)

Article 45 The contents and methods of a business to be specified by Cabinet Office Order as referred to in Article 33-3, paragraph (2), item (ii) of the Act are as follows:

- (i) the basic principles of business operation;
- (ii) the method of execution of business;
- (iii) the method of allocation of business operation;
- (iv) types of acts that constitute financial instruments transactions to be conducted in the course of trade;
- (v) the system for handling complaints (including the contents of the complaint processing measures and dispute resolution measures concerning the business specified in Article 37-7, paragraph (1), item (v), (b) of the Act);
- (vi) if the applicant for registration intends to conduct any of the acts listed in the items of Article 33-2 of the Act in the course of trade, the following matters:
  - (a) the types of the securities to be handled, and the type of the derivative transactions to be conducted in the course of trade (in cases where the securities in question are electronically recorded transferable rights to be indicated on securities, etc. or that the derivatives transactions in question are the derivatives transactions prescribed in Article 29-2, paragraph (1), item (viii) of the Act, including to that effect and in cases of conducting commodity-related business, including the commodities for transactions or indicators pertaining to the commodities);
  - (b) if the applicant for registration intends to handle the rights specified in Article 2, paragraph (2), item (i) or (ii) of the Act, the type of the trust property pertaining to such rights;
  - (c) if the applicant intends to handle the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act, the outline of the business subject to investment pertaining to such rights;
  - (d) the means of risk management concerning loss;
  - (e) if the applicant for registration intends to conduct a business related to the wholesale underwriting of securities with regard to the securities

specified in Article 33, paragraph (2), item (i) of the Act, the following matters:

1. the name and title of the person responsible for management of the business;
2. the name and organizational structure of the section in charge of the business;
3. the method of calculating the value of loss risk equivalent pertaining to the business;
4. the method of establishment and application of a ceiling on the value of loss risk equivalent pertaining to the business;
5. the name and structure of the section in charge of calculating the value of loss risk equivalent pertaining to the business and management of the ceiling thereof;
6. the frequency of inspection of the execution of the business, the value of loss risk equivalent and the status of the application of the ceiling thereof, and the name and structure of the section in charge of such inspection; and
7. any other important matter related to the risk management concerning loss pertaining to the business;

(f) if the applicant for registration intends to conduct a business in relation to the act specified in Article 33, paragraph (2), item (v) of the Act in connection with the transaction specified in that item, the following matters:

1. the name and job title of the person responsible for the management of the business;
2. the name and organizational structure of the section in charge of the business;
3. the conditions for starting transactions with the customers of the business;
4. the method and frequency of calculating the value of loss risk equivalent pertaining to the business (such information is itemized by the risk of loss which may accrue due to fluctuations in indicators such as quotations on the financial instruments exchange market, interest rates or value of currencies, the risk of loss which may accrue due to a default in the performance of contracts by counterparties to the transactions and on any other reason, and the risk or loss which may accrue due to reasons other than on the aforementioned reasons);
5. the method of the establishment and application of a ceiling on the value of loss risk equivalent pertaining to the business; and the method of the establishment and application for such ceiling classified in accordance with the types of transactions and categories of the



- customers;
6. the name and structure of the section in charge of calculating the value of loss risk equivalent pertaining to the business and management of the ceiling thereof;
  7. the frequency of reporting the value of loss risk equivalent pertaining to the business and the status of the application of the ceiling thereof to directors or executive officers with the authority of representation or board members (in the case of a foreign corporation, its directors, executive officers or any other person holding a position equivalent thereto that is stationed at the business office or other office in Japan, or its representative person in Japan);
  8. the method of the preparation and preservation of material which would serve as the basis of the calculation of the value of loss risk equivalent pertaining to the business;
  9. the frequency of inspection of the execution of the business, the value of loss risk equivalent and the status of the application of the ceiling thereof, and the name and structure of the section in charge of such inspection; and
  10. any other important matter related to the risk management concerning loss pertaining to the business;
- (vii) if the applicant for registration intends to conduct an electronic trading platform management service, the following matters:
- (a) the types and specific details of the specified over-the-counter derivatives transactions to be conducted in relation to the electronic trading platform management service;
  - (b) the name and job title of the person responsible for the management of the electronic trading platform management service;
  - (c) the name and organizational structure of the section in charge of the electronic trading platform management service and the section in charge of the business relating to the publication under Article 40-7, paragraph (2) of the Act (if a part of the electronic trading platform management service or a part of the business relating to the publication under that paragraph is to be entrusted to any other person, including such person);
  - (d) the conditions for starting transactions with customers pertaining to the electronic trading platform management service, and the methods of management of the customers;
  - (e) matters relating to fees;
  - (f) the method of disclosing quotes for the sale or purchase and other pricing information to customers (limited to the method using an electronic data processing system or other electronic methods);
  - (g) the method for deciding the transaction price (for a specified over-the-

counter derivatives transactions, if the amount designated by the party as a notional principal does not exceed the amount specified in the items of Article 125-8, paragraph (2) according to the categories of periods from the day when the specified over-the-counter derivatives transaction takes effect to the day when such transaction ceases to be in effect as respectively specified in these items, limited to the method enabling customers to choose either the method specified in the following 1., or the method specified in the following 1. or 2., as well as the time when the transaction takes effect;

1. the method using a price based on quotes for the sale or purchase of itself or customers publicized pursuant to the provisions of (f);
  2. the method using a price determined based on a negotiation among customers (limited to a negotiation conducted after requesting three or more other customers designated by the customer to present quotes for the sale or purchase, and notifying the customer of the quotes for sale or purchase presented by the other customers in response to the request, the quotes for sale or purchase publicized pursuant to the provisions of (f) and the quotes if the applicant for registration presents the quotes for sale or purchase);
- (h) the method of the public announcement under Article 40-7, paragraph (2) of the Act;
- (i) the outline, location, volume and maintenance method of the electronic data processing system to be used for the electronic trading platform management service, and the method of handling if a malfunction of the electronic data processing system occurs;
- (j) the method of settlement for the electronic trading platform management service (including the method of ensuring that the obligations arising from the transactions specified in Article 156-62, item (i) or (ii) of the Act are assumed by a financial instruments clearing organization (including a collaborating clearing organization, etc., if the financial instruments clearing organization conducts collaborative financial instruments obligation assumption service) or a foreign financial instruments clearing organization in an appropriate and swift manner), and the method of handling if a customer defaults on a contract;
- (k) the method for the preparation and preservation of the transaction records for the electronic trading platform management service;
- (l) the frequency of the inspection on the status of the execution of the electronic trading platform management service, and the name and structure of the section in charge of such inspection;
- (m) the method of the prevention of unfair transactions, and any other matters relating to the securing of fair transactions; and

- (n) other important matters in regard to methods of management of risks of loss relating to the electronic trading platform management service;
- (viii) if the applicant for registration intends to conduct an investment advisory and agency business, the matters listed in Article 8, item (viii), (a) through (d);
- (ix) if the applicant for registration intends to conduct investment management business, the matters listed in Article 8, item (ix), (a) through (e);
- (x) if the applicant for registration intends to conduct a securities, etc. management business, the management methods under Article 43-2 through Article 43-3 of the Act;
- (xi) in cases of conducting electronic public offering services, the matters specified in Article 8, item (x), (a) and (d);
- (xii) the following matters concerning the measures listed in the respective items of Article 70-4, paragraph (1):
  - (a) the method for carrying out such measures; and
  - (b) the organization in charge of carrying out such measures and the positions of personnel therefor;
- (xiii) if the applicant for registration intends to receive or supply information in the cases referred to in Article 123, paragraph (1), item (xviii), (e) and item (xxiv), (d), the following matters concerning affairs related to the maintenance and management of electronic data processing systems and concerning affairs related to internal management and operation prescribed in Article 153, paragraph (3):
  - (a) the trade name or name of the entrusting financial instruments business operator that receives or supplies the information;
  - (b) the method for execution of the affairs; and
  - (c) the organization in charge of such affairs and the positions of the personnel therefor;
- (xiv) if the applicant for registration intends to supply information in the case referred to in Article 154, item (iv), (g), (i) and (j), the trade name or name of the parent corporation, etc. or subsidiary corporation, etc. that receives such information;
- (xv) if the applicant for registration intends to conduct high-speed trading as a registered financial institution business, the matters specified in Article 8, item (xi), (a) through (d). and
- (xvi) in cases where the registration applicant intends to conduct the acts set forth in Article 33-2, item (iii) of the Act with regard to the Derivative Transactions prescribed in Article 29-2, paragraph (1), item (ix) of the Act in the course of trade, or in cases where the registration applicant intends to conduct an Investment Management Business pertaining to said Derivative Transactions, the name of the Cryptoassets and Financial Indicators set

forth in Article 8, item (xii)

(Documents to Be Attached to Written Application for Registration)

Article 46 The conditions to be specified by Cabinet Office Order as referred to in Article 33-3, paragraph (2), item (iii) of the Act are the status of the associated company (meaning a parent corporation, etc., a subsidiary corporation, etc. or a holding company; the same applies in item (v)), as listed in the following items:

- (i) the trade name or name;
- (ii) the amount of stated capital, the total amount of funds or the total amount of investment;
- (iii) the location of the head office or principal office;
- (iv) the type of business;
- (v) the capital relationship and personal relationship between the applicant for registration and the associated company, as well as their business relationship in the past year; and
- (vi) information as to whether the associated company falls under the category of parent corporation, etc., subsidiary corporation, etc. or the holding company.

Article 47 (1) The documents to be specified by Cabinet Office Order as referred to in Article 33-3, paragraph (2), item (iv) of the Act are as follows:

- (i) documents stating the applicant for registration's system for conducting business, such as its structure of personnel and the organizational structure pertaining to the business;
- (ii) the resumes of the officers and major employees (meaning an employee that falls under any of Article 44, item (i), (a) or (b); the same applies in Article 51, paragraph (1), item (iv)) in charge of the registered financial institution business (if the officer is a corporation, the document containing the background of such officer);
- (iii) if the applicant for registration is not to become a member of a financial instruments firms association (limited to an association having principal association members or members that are persons conducting the business implemented by the applicant for registration), the internal rules concerning the business;
- (iv) if the applicant for registration intends to conduct an electronic trading platform management service, the following documents:
  - (a) the resume of the person responsible for the management of the electronic trading platform management service;
  - (b) the internal rules concerning the electronic trading platform management service;

- (c) contracts to be used for the transactions with customers in relation to the electronic trading platform management service and their attachments; and
  - (d) an appraisal report issued by a person having no special interest relationship with the applicant for registration in relation to the matters specified in Article 45, item (vii), (i);
  - (v) if the applicant for registration intends to conduct a business related to commodities investment pertaining to racehorses, a document evidencing that the applicant for registration does not fall under the criteria specified in Article 49, item (iii);
  - (vi) if the applicant for registration intends to conduct a business of transaction, etc. of beneficial interest in real property trust, a document evidencing that the applicant for registration does not fall under the criteria specified in Article 49, item (iv);
  - (vii) a document stating the matters related to the applicant for registration's ability to carry out the business, if the applicant for registration intends to conduct a specified investment management business related to real property;
  - (viii) the notes in reference to the balance sheet and the notes in reference to the profit and loss statement;
  - (ix) if the applicant for registration intends to conduct a business pertaining to the wholesale underwriting of securities in regard to the securities specified in Article 33, paragraph (2), item (i) of the Act, or the business pertaining to the act specified in item (v) of that paragraph with regard to the transaction specified in that item, the following documents:
    - (a) the resume of the person responsible for the management of the business;
    - (b) the internal rules regarding the business;
    - (c) the contracts to be used in transactions with customers in connection with the business; and
  - (x) if the applicant for registration intends to conduct a financial instruments intermediation operation, a copy of the contract for the entrustment of a financial instruments intermediation operation concluded with the entrusting financial instruments business operator;
  - (xi) in the case of conducting a high-speed trading as a registered financial institution business, the resume of the person responsible for the management of business relating to the high-speed trading.
- (2) If the applicant for registration intends to attach the document specified in item (vii) of the preceding paragraph, if the notes in reference to the balance sheet or the notes in reference to the profit and loss statement have been prepared by means of an electronic or magnetic record, such applicant for registration may attach the electronic or magnetic record (limited to the record

specified in Article 11) in lieu of documents; and  
(xii) in the case referred to in Article 45, item (xvi), a document explaining the outline of the Cryptoassets and Financial Indicators set forth in Article 8, item (xii).

(2) In cases where the registration applicant intends to attach the document specified in item (vii) of the preceding paragraph, if the notes in reference to the balance sheet or the notes in reference to the profit and loss statement have been prepared by means of an Electromagnetic Record, such registration applicant may attach the Electromagnetic Record (limited to the record specified in Article 11) in lieu of documents.

(Public Inspection of Registry of Registered Financial Institutions)

Article 48 The competent Director-General of a Local Finance Bureau, etc. is to keep the registry of registered financial institutions containing information on the registered financial institutions to which such person has granted registrations, at the local finance bureau with jurisdiction over the location of the relevant registered financial institution's head office, etc. (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, at the Fukuoka Local Finance Branch Bureau), and make it available for public inspection.

(Criteria for Examination of Structure of Personnel)

Article 49 When conducting an examination under Article 33-5, paragraph (1), item (iii) of the Act as to whether the applicant for registration lacks a structure of personnel sufficient to conduct a registered financial institution business in the appropriate manner, it is to be examined whether the applicant for registration falls under any of the following criteria:

- (i) that the applicant for registration is found not to be able to conduct the business in a proper manner, considering status of securing officers or employees having sufficient knowledge and experience for conducting the business as well as its organizational structure;
- (ii) that the applicant for registration is found to be likely to cause a loss of confidence in a registered financial institution business, on the grounds of having any officer or employee with qualities unfit for the operation of the business in light of such officer's or employee's career, relationship with the organized crime group set forth in Article 2, item (ii) of the Act on Prevention of Illegal Acts by Organized Crime Group Members or relationship with the organized crime group members set forth item (vi) of that Article or any other circumstances;
- (iii) that, if the applicant for registration intends to conduct a business related to commodities investment for racehorses, such applicant for registration

does not fall under any of the following requirements:

- (a) that the applicant for registration has been given guidance in advance by the Japan Racing Association or the National Association of Racing;
- (b) that the business related to commodities investment to be conducted by the applicant for registration only falls under either of the business related to investment in racehorses pertaining to the rights specified in Article 7, item (iv), (d), 1. or the business related to investment in racehorses pertaining to the rights specified in Article 7, item (iv), (d), 2.;
- (c) that, if the applicant for registration intends to conduct a business related to investment in racehorses pertaining to the rights specified in Article 7, item (iv), (d), 2., such applicant for registration has obtained a registration under Article 13, paragraph (1) of the Horse Racing Act (including as applied *mutatis mutandis* pursuant to Article 22 of that Act);
- (iv) that, if the applicant for registration intends to conduct a business of transaction, etc. of beneficial interest in real property trust, such applicant for registration does not fall under the following requirements:
  - (a) that the applicant for registration has assigned its officers or employees having expert knowledge of and experience in the transaction related to building lots or buildings to each of the following sections:
    1. the section in charge of supervising the business of transaction, etc. of beneficial interest in real property trust;
    2. the section in charge of the internal audit; and
    3. the section in charge of affairs related to instructions for ensuring compliance with the laws and regulations, etc.;
  - (b) that the officers or the employees that are to conduct the business of transaction, etc. of beneficial interest in real property trust have sufficient expert knowledge of and experience in transactions of building lots or buildings which enable them to provide explanations so that a customer is able to understand the matters specified in the items of Article 85, paragraph (1), in a manner and to the extent as may be required in light of the customer's knowledge, experience and conditions of property and in light of the purpose of the conclusion of a financial instruments transaction contract.
- (v) that, if the applicant for registration intends to conduct a specified investment management business related to real property, such applicant for registration does not fall under the requirements specified by the Commissioner of the Financial Services Agency.

(Conditions for Registration of Over-the-Counter Transactions of Derivatives Pertaining to Securities)

Article 50 The conditions to be specified by Cabinet Office Order as referred to

in Article 33-5, paragraph (2) of the Act are as follows:

- (i) that, if any bank, insurance company (meaning an insurance company as prescribed in Article 2, paragraph (2) of the Insurance Business Act (Act No. 105 of 1995) and including a foreign insurance company, etc. as prescribed in paragraph (7) of that Article; the same applies hereinafter), federation of Shinkin banks, the Norinchukin Bank or the Shoko Chukin Bank Limited, which falls under the category of registered financial institution, conducts over-the-counter transactions of derivatives related to share certificates (meaning the transaction specified in Article 33, paragraph (2), item (v) of the Act wherein the market value fluctuates depending on the fluctuation of price of share certificates or stock price index (meaning the index calculated based on the price of share certificates; the same applies in item (iv)); hereinafter the same applies in this Article) in the course of trade, the accounting for such over-the-counter transactions of derivatives related to share certificates is managed in a specified transaction account (meaning the specified transaction account prescribed in Article 13-6-3, paragraph (1) of the Regulation for Enforcement of Banking Act (Order of the Ministry of Finance No. 10 of 1982), Article 12-4-3, paragraph (1) of the Regulation for Enforcement of Long Term Credit Bank Act (Order of the Ministry of Finance No. 13 of 1982), Article 53-6-2, paragraph (1) of the Regulation for Enforcement of Insurance Business Act (Order of the Ministry of Finance No. 5 of 1996), Article 107, paragraph (1) of the Regulation for Enforcement of the Shinkin Bank Act (Order of the Ministry of Finance No. 15 of 1982), Article 65, paragraph (1) of the Regulation for Enforcement of the Norinchukin Bank Act (Order of the Cabinet Office and the Ministry of Agriculture, Forestry and Fisheries No. 16 of 2001) or Article 18, paragraph (1) of the Regulation for Enforcement of The Shoko Chukin Bank Limited Act Relevant to the Ministry of Economy, Trade and Industry, the Ministry of Finance and the Cabinet Office (Order of the Cabinet Office, the Ministry of Finance and the Ministry of Economy, Trade and Industry No. 1 of 2008) (in case of a branch office of a foreign bank prescribed in Article 47, paragraph (2) of the Banking Act (Act No. 59 of 1981) or a foreign insurance company, etc. prescribed in Article 2, paragraph (7) of the Insurance Business Act, an account similar to a specified transaction account); hereinafter the same applies in this Article);
- (ii) that, if any registered financial institution other than that specified in the preceding item intends to conduct over-the-counter transactions of derivatives related to share certificates in the course of trade, the accounting for such over-the-counter transactions of derivatives related to share certificates is managed in an account equivalent to the specified transaction account;



- (iii) that, notwithstanding the provisions of the preceding two items, a registered financial institution which conducts over-the-counter transactions of derivatives related to share certificates in the course of trade may manage only the over-the-counter transactions of derivatives related to share certificates which satisfy all of the following requirements in an account other than the specified transaction account (in the case of a registered financial institution as set forth in the preceding item, an account other than an account equivalent to the specified transaction account):
- (a) that the counterparty to the over-the-counter transactions of derivatives related to share certificates is a financial instruments business operator conducting the transaction specified in Article 28, paragraph (8), item (iv) of the Act, or an intermediary, brokerage (excluding brokerage for clearing of securities, etc.) or agency service therefor in the course of trade, or is a registered financial institution conducting the act specified in Article 33, paragraph (2), item (v) of the Act in regard to the transaction set forth in that item in the course of trade; and
  - (b) that the counterparty to the over-the-counter transactions of derivatives related to share certificates manages the accounting for such over-the-counter transactions of derivatives related to share certificates in the specified transaction account (in the case of a financial instruments business operator, in the same type of account as the specified transaction account; or in the case of a registered financial institution set forth in the preceding item, in an account equivalent to the specified transaction account);
- (iv) that, if a registered financial institution conducts any over-the-counter transactions of derivatives related to share certificates in the course of trade, it is to, to the maximum extent possible, mitigate the amount of loss in the specified transaction account which may accrue from a fluctuation in the price of share certificates or stock price index pertaining to such over-the-counter transactions of derivatives related to share certificates by immediately effecting a transaction (limited to a transaction managed in the specified transaction account (in case of a registered financial institution prescribed in item (ii), in an account equivalent to the specified transaction account; hereinafter the same applies in this item)) which would effectively reduce the loss arising from a fluctuation in the price of share certificates or stock price index pertaining to such over-the-counter transactions of derivatives related to share certificates.

(Notification of Changes to Matters Stated in a Written Application for Registration)

Article 51 (1) A registered financial institution which intends to file the

notification under Article 33-6, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the particulars and date of and reasons for the change, attaching a document stating the particulars after such change prepared in accordance with Appended Form No. 9, a copy thereof and a document specified in the following items in accordance the categories of documents respectively set forth therein; provided, however, the documents specified in each of the following items may be submitted without delay after submission of the written notification, if any unavoidable ground exists:

- (i) if there has been any change to the matters specified in Article 33-3, paragraph (1), item (i) or (ii) of the Act, or the matters specified in Article 44, item (xiii): the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (ii) if there has been any change to the matters specified in Article 33-3, paragraph (1), item (iii) or (iv) of the Act: the following documents:
  - (a) the documents stating the registered financial institution's system for conducting business, such as its structure of personnel and the organizational structure pertaining to the business;
  - (b) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof; and
  - (c) the resume of the person that has newly assumed the position of officer (limited to an officer in charge of registered financial institution business and an accounting advisor) (if the officer is a corporation, the document containing the background of the officer);
- (iii) if there has been any change to the matters specified in Article 33-3, paragraph (1), item (vii) of the Act (but only if the business office or any other office was abolished): a document containing the details of the treatment of a customer's account incidental to such change;
- (iv) if there is a change to the matters specified in Article 44, item (i): the resume of the person that newly assumes the position of a major employee;
- (v) in the case of any change in the matters specified in Article 44, items (iv) through (xii) (but only if the registered financial institution newly conducts the businesses specified in these items): internal rules relating to the businesses, if the applicant for registration is not a member of any financial instruments firms association (limited to an association having principal association members or members that are persons conducting the business implemented by the applicant for registration);
- (vi) in the case of any change in the matters specified in Article 44, item (iv)-2 (but only if the registered financial institution is to conduct an electronic trading platform management service), the following documents:
  - (a) the resume of the person responsible for the management of the electronic

- trading platform management service;
  - (b) the internal rules concerning the electronic trading platform management service;
  - (c) contracts to be used for the transactions with customers in relation to the electronic trading platform management service and their attachments; and
  - (d) an appraisal report issued by a person having no special interest relationship with the notifying person in relation to the matters specified in Article 45, item (vii), (i);
  - (vii) if there is a change to the matters specified in Article 44, item (vi) (but only if the registered financial institution has come to newly accept the entrustment of a financial instruments intermediation operation): a copy of the contract for the entrustment of a financial instruments intermediation operation concluded with the entrusting financial instruments business operator;
  - (viii) if there is a change to the matters specified in Article 44, item (vii), (d) (but only if the registered financial institution has come to conduct a business related to investment in racehorses): a document evidencing that the registered financial institution does not fall under the criteria specified in Article 49, item (iii);
  - (ix) if there is a change to the matters specified in Article 44, item (ix) (but only if the registered financial institution has come to conduct a business of transaction, etc. of beneficial interest in real property trust): a document evidencing that the registered financial institution does not fall under the criteria specified in Article 49, item (iv); and
  - (x) if there is a change to the matters specified in Article 44, item (x) (but only if the registered financial institution has come to conduct a specified investment management business related to real property): a document containing matters related to its ability to execute the business when a specified investment management business related to real property is to be conducted.
- (2) If the Commissioner of the Financial Services Agency or other competent official has received from any registered financial institution a notification on the relocation of the head office, etc. filed beyond the jurisdictional district of the competent finance bureau commissioner, etc., the commissioner or official is to send or instruct to send the written notification, the portion of the registry of registered financial institutions pertaining to the relevant registered financial institution and any other documents to the Director-General of a Local Finance Bureau with jurisdiction over the relocated address of the head office, etc. notified thereunder (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the

Director-General thereof).

- (3) The Director-General of a Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau who has received the documents sent pursuant to the provisions of the preceding paragraph is to register the matters related to the registered financial institution in the registry of registered financial institutions.

(Notification on Change of Content and Method of Business)

Article 52 A registered financial institution which intends to file the notification under Article 33-6, paragraph (3) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the particulars and the scheduled or actual date of and reasons for the change, attaching a document stating the matters specified in the items of Article 45 (limited to those matters whose details have been changed), the document specified in Article 47, paragraph (1), items (xi) and (xii)(limited to those with changes in contents) and the documents specified in Article 51, paragraph (1), item (vi) (limited to those with changes in contents).

### **Subsection 5 Professional Investors**

(Contract Type)

Article 53 The kind of contract to be specified by Cabinet Office Order as referred to in Article 34 of the Act is as follows:

- (i) a contract for conducting acts listed in Article 2, paragraph (8), items (i) through (x) of the Act, acts specified in item (xvi) of that paragraph or in Article 1-12, item (ii) of the Cabinet Order to be conducted with regard to any of those acts, or acts specified in item (xvii) of that paragraph, in relation to the securities;
- (ii) a contract for conducting acts listed in Article 2, paragraph (8), items (i) through (v) of the Act, acts specified in item (xvi) of that paragraph or in Article 1-12, item (ii) of the Cabinet Order to be conducted with regard to any of those acts, or acts specified in item (xvii) of that paragraph, in relation to derivative transactions;
- (iii) an investment advisory contract, and a contract for conducting the act specified in Article 2, paragraph (8), item (xiii) of the Act (limited to the act pertaining to an investment advisory contract); and
- (iv) a discretionary investment contract, and a contract for conducting the act specified in Article 2, paragraph (8), item (xiii) of the Act (limited to the act pertaining to a discretionary investment contract).

Article 54 deleted

(Matters to Be Stated in Document to Be Delivered to Professional Investor That Made Request)

Article 55 The matters to be specified by Cabinet Office Order as referred to in Article 34-2, paragraph (3), item (iv) of the Act are as follows:

- (i) that the applicant (meaning an applicant prescribed in Article 34-2, paragraph (3) of the Act; the same applies in the following item) will be treated as a customer other than a professional investor with regard to the subject contract (meaning a subject contract prescribed in that paragraph; the same applies in that item and Article 57-2), only by the financial instruments business operator, etc. which has accepted the request pursuant to the provisions of paragraph (2) of that Article; and
- (ii) that, with regard to any financial instruments transaction contract which the financial instruments business operator, etc., on behalf of the applicant, concludes with another financial instruments business operator, etc. on or after the date of acceptance (meaning the date of acceptance prescribed in Article 34-2, paragraph (3), item (i) of the Act) pursuant to the subject contract, such applicant is also treated as a customer other than a professional investor by such other financial instruments business operator, etc.

(Provision by Use of Information and Communications Technology)

Article 56 (1) The means specified by Cabinet Office Order as referred to in Article 34-2, paragraph (4) of the Act (including as applied mutatis mutandis pursuant to Article 34-3, paragraph (12) (including as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act), Article 34-4, paragraph (3), Article 37-3, paragraph (2), Article 37-4, paragraph (2), Article 37-5, paragraph (2), Article 40-2, paragraph (6), Article 40-5, paragraph (3) and Article 42-7, paragraph (2) of the Act; hereinafter the same applies in this Article) are the following means (hereinafter referred to as the "electronic or magnetic means"):

- (i) the means of using an electronic data processing system set forth in the following items:
  - (a) to transmit information to be contained in a document (hereinafter referred to as the "information" in this Article) via telecommunications line connecting the computers used by a financial instruments business operator, etc. (including a person that, pursuant to the contract with a financial instruments business operator, etc. providing information set forth in Article 34-2, paragraph (4) of the Act, stores files onto a computer managed by such person, and make such files available for the party to which such information is provided (hereinafter referred to as the

- "customers" in this Article) or for such financial instruments business operator, etc.; hereinafter the same applies in this Article) and the computers used by the customers, etc. (meaning a customer, and a person that, pursuant to a contract with the customer, stores the customer file (meaning the file solely made available to the customers; hereinafter the same applies in this Article) onto a computer managed by such person; hereinafter the same applies in this Article), and to record the information into the customer file stored onto the computer used by the customers, etc. (if the applicant acknowledges the provision of information by the means specified in Article 34-2, paragraph (4) of the Act or if the applicant notifies to the effect that the applicant will not receive information by such means, the means by which to record such acknowledgment or notice into a file stored on the computer used by the financial instruments business operator, etc. which provides the information set forth in that paragraph);
- (b) to make the information recorded into the files stored on a computer used by a financial instruments business operator, etc. available for a customer's inspection via telecommunications line, and to record the information into the customer file of the relevant customer stored on the computer used by such customer, etc. (or, if the applicant acknowledges the provision of information by the means specified in Article 34-2, paragraph (4) of the Act or if the applicant notifies to the effect that the applicant will not receive information by such means, to record such acknowledgment or notice into a file stored on the computer used by the financial instruments business operator, etc.);
  - (c) to make the information recorded into the customer files stored on the computer used by a financial instruments business operator, etc. available for a customer's inspection via telecommunications line; and
  - (d) to make the information recorded into the inspection file (meaning a file stored on a computer used by a financial instruments business operator, etc. with which to record the information for the purpose of making them available for public inspection by multiple customers at the same time; hereinafter the same applies in this Article) available for a customer's inspection via telecommunications line;
- (ii) to deliver the file storing the information, which is prepared by the use of any object which can securely record certain information by means of magnetic disks, CD-ROMs or any other means equivalent thereto.
- (2) The means set forth in the items of the preceding paragraph must conform to the following criteria:
- (i) that the means enables a customer to prepare a document by outputting information recorded on the customer file or inspection file;
  - (ii) in the case of the means listed in item (i), (a), (c) or (d) of the preceding

- paragraph (excluding the means to record the information into the customer file stored on a computer used by a customer), that the customer is informed of the fact that the information will be or have been recorded into the customer file or the inspection file; provided, however, that this does not apply if it is confirmed that the customer has inspected the information;
- (iii) in the case of the means listed in item (i), (c) or (d) of the preceding paragraph, that the following matters cannot be deleted or altered for the period until five years have elapsed from the day when the transaction referred to in the information was finally conducted (if any complaint related to the information has been raised within the period before the expiration date of such period, for the period until either the expiration date of such period or the day when the complaint was settled, whichever comes later); provided, however, that the information may be deleted if the information that has been made available for inspection is delivered in writing, if that information is provided by the means listed in item (i), (a) or (b) of the preceding paragraph or in item (ii) of the preceding paragraph with the customer's consent (meaning consent given by the means specified in Article 15-22 of the Order), or if the customer has instructed that the information should be deleted:
- (a) in the case of the means specified in item (i), (c) of the preceding paragraph, the information recorded in the customer file; and
- (b) in the case of the means specified in item (i), (d) of the preceding paragraph, the information recorded in the inspection file;
- (iv) in the case of the means specified in item (i), (d) of the preceding paragraph, that it conforms to the following requirements:
- (a) that information necessary for a customer's inspection of the inspection file is recorded into the customer file; and
- (b) that, before the elapse of the period set forth in the preceding item, the customer file recording the information necessary for the customer's inspection of the inspection file as set forth in (a) and such inspection file are kept connectible via telecommunications line; provided, however, that this does not apply if the customer that has been given access to the files has notified to the effect that such connectibility need not be maintained.
- (3) The term "electronic data processing system" as used in paragraph (1), item (i) means an electronic data processing system connecting a computer used by a financial instruments business operator, etc. and a computer storing customer files used by a customer, etc. or financial instruments business operator, etc., via telecommunications line.

(Types and Content of Electronic or Magnetic Means)

Article 57 The types and contents of the means to be specified as set forth in

Article 15-22, paragraph (1) and Article 15-23, paragraph (1) of the Order are as follows:

- (i) the means set forth in the items of paragraph (1) of the preceding Article or the items of Article 57-3, paragraph (1), which are to be used by the financial instruments business operator, etc.; and
- (ii) the format for recording information into a file.

(Matters to Be Stated in Document Indicating Consent by Person That Made Request for Reinstatement as Professional Investor)

Article 57-2 The matters to be specified by Cabinet Office Order as referred to in Article 34-2, paragraph (11) of the Act are as follows:

- (i) the day when the acceptance under the provisions of Article 34-2, paragraph (11) of the Act is to be given (hereinafter referred to as the "date of acceptance" in this Article);
- (ii) the kind of contract to which the subject contract belongs (meaning the kind of contract prescribed in Article 34 of the Act; hereinafter the same applies in this Subsection);
- (iii) a statement to the effect that the applicant for reinstatement (meaning an applicant for reinstatement prescribed in Article 34-2, paragraph (11) of the Act; hereinafter the same applies in this Article) understands the following matters:
  - (a) that the provisions listed in the items of Article 45 of the Act do not apply if the applicant for reinstatement is any of the persons specified respectively in those items with regard to the subject contract (excluding the cases specified in the proviso to that Article);
  - (b) that if a person that, in light of the knowledge, experience and state of property of the person, is deemed inappropriate to be treated as a professional investor with regard to the subject contracts is treated as a professional investor, the protection of such person might be impaired;
- (iv) that the applicant for reinstatement will be treated as a professional investor again when soliciting the conclusion of, or concluding, the subject contract on or after the date of acceptance;
- (v) that, with regard to any financial instruments transaction contract which the financial instruments business operator, etc., on behalf of the applicant for reinstatement, concludes with another financial business operators, etc. on or after the date of acceptance pursuant to the subject contract, the applicant for reinstatement will also be treated as a professional investor again by such other financial instruments business operators, etc.; and
- (vi) that the applicant for reinstatement may make a request under the provisions of Article 34-2, paragraph (1) of the Act at any time on or after the date of acceptance.



(Obtaining Consent Using Information and Communication Technology)

Article 57-3 (1) The means to be specified by Cabinet Office Order as referred to in Article 34-2, paragraph (12) of the Act (including as applied mutatis mutandis pursuant to Article 34-3, paragraph (3) (including as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act) and Article 43-4, paragraph (3) of the Act; hereinafter the same applies in this Article) are as follows:

- (i) the means of using an electronic data processing system, as listed in the following:
    - (a) to transmit information via telecommunications line connecting a computer used by a financial instruments business operator, etc. and that used by the other party that it seeks consent from pursuant to Article 34-2, paragraph (12) of the Act (hereinafter referred to as the "customer" in this Article), and to record such information in a file stored on a computer used by the recipient; and
    - (b) to make information related to the customer's consent recorded into a file stored on a computer used by a financial instruments business operator, etc. available for the customer's inspection via telecommunications line, and to record information related to the customer's consent into a file stored on a computer used by such financial instruments business operator, etc.;
  - (ii) to obtain the file storing the information related to a consent, which is prepared by the use of any object which can securely record certain information by means of magnetic disks, CD-ROMs or any other means equivalent thereto.
- (2) The means listed in the items of the preceding paragraph must be the means enabling a financial instruments business operator, etc. to prepare a document by way of outputting the information recorded on the files.
- (3) The "electronic data processing system" as used in paragraph (1), item (i) means an electronic data processing system connecting a computer used by a financial instruments business operator, etc. and a computer used by a customer via telecommunications line.

(Expiration Date If a Corporation Which Is Customer Other Than Professional Investor Is Deemed to Be Professional Investor)

Article 58 (1) The case specified by Cabinet Office Order as prescribed in Article 34-3, paragraph (2) of the Act is a case in which a financial instruments business operator, etc. has designated a certain date and publicized the following matters by posting them at a place easily accessible to the public at its business office or any other office, or by any other appropriate means:

- (i) that designated date; and
  - (ii) to the effect that the day set forth in the following paragraph is the expiration date (meaning the expiration date set forth in Article 34-3, paragraph (2), item (ii) of the Act; the same applies in paragraph (2) of the following Article and Article 60).
- (2) The day to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (2) of the Act is the day designated by the financial instruments business operator, etc. under the preceding paragraph, which is the latest of the days within one year from the date of acceptance (meaning the date of acceptance prescribed in item (i), paragraph (2) of that Article; the same applies in item (v), paragraph (2) of the following Article and Article 60).

(Matters to Be Specified in Document Indicating Consent by Corporation Which Is Customer Other Than Professional Investors That Made Request)

- Article 59 (1) The matters to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (2), item (iv), (a) of the Act are the fact that the provisions listed in the items of Article 45 of the Act do not apply if the applicant (meaning the applicant prescribed in Article 34-3, paragraph (2) of the Act; the same applies in the following paragraph) falls under any of the persons respectively set forth in such items with regard to the subject contract (meaning the subject contract prescribed in Article 34-3, paragraph (2), item (ii) of the Act; the same applies in the following paragraph and Article 60-2) (excluding the case specified in the proviso to Article 45 of the Act).
- (2) The matters to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (2), item (vii) of the Act are as follows:
- (i) that, in regard to any act related to the subject contract (excluding an investment advisory contract and a discretionary investment contract) concluded prior to the expiration date, which is to be conducted pursuant to the provisions of laws and regulations or the contract, the applicant is treated as a professional investor, even if that act is conducted after the expiration date;
  - (ii) if the kinds of contract pertaining to the request set forth in Article 34-3, paragraph (2) of the Act falls under any of those specified in Article 53, items (iii) and (iv), the fact that, in regard to any act related to the subject contract (limited to an investment advisory contract and a discretionary investment contract), which is to be conducted pursuant to the provisions of laws and regulations or the contract, the applicant is treated as a professional investor only in respect of the act conducted prior to the expiration date;
  - (iii) that the applicant will be treated as a professional investor with regard to the subject contract, only by the financial instruments business operator, etc. which has accepted the request pursuant to the provisions of Article 34-3,

- paragraph (2) of the Act;
- (iv) that, with regard to any financial instruments transaction contract which the financial instruments business operator, etc., on behalf of the applicant, concludes with another financial instruments business operator, etc. prior to the expiration date pursuant to the subject contract, such applicant is also treated as a professional investor by such other financial instruments business operator, etc.; and
  - (v) that the applicant may make a request under the provisions of Article 34-3, paragraph (9) of the Act at any time on or after the date of acceptance.

(Period Necessary for a Corporation Which Is Customer Other Than Professional Investors That Made Request to Make Request for Renewal)  
Article 60 (1) The period to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (7) of the Act is eleven months (or, in the following cases, the period set forth in the respective items):

- (i) when the period between the date of acceptance and the expiration date is less than one year (excluding the case specified in the following item): that period minus one month; or
  - (ii) when the period between the date of acceptance and the expiration date does not exceed one month: one day.
- (2) With regard to the application of the provisions of the preceding paragraph in the cases prescribed in Article 34-3, paragraph (8) of the Act, the term "date of acceptance" in the items of that paragraph is deemed to be replaced with "day following the previous expiration date".

(Matters to Be Stated in a Document to Be Delivered to a Corporation That Made a Request for Reinstatement as a Customer Other Than a Professional Investor)  
Article 60-2 The matters to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (11) of the Act are as follows:

- (i) the day when the acceptance under the provisions of Article 34-3, paragraph (10) of the Act is to be given (hereinafter referred to as the "date of acceptance" in this Article);
- (ii) the kind of contract to which the subject contract belongs;
- (iii) that the corporation that made a request under the provisions of Article 34-3, paragraph (9) of the Act (hereinafter referred to as the "applicant for reinstatement" in the following item) will be treated as a customer other than a professional investor again when soliciting the conclusion of, or concluding, the subject contract on or after the date of acceptance; and
- (iv) that, with regard to any financial instruments transaction contract which the financial instruments business operator, etc., on behalf of the applicant

for reinstatement, concludes with another financial business operator, etc. on or after the date of acceptance pursuant to the subject contract, the applicant for reinstatement will also be treated as a customer other than a professional investor again by such other financial instruments business operator, etc.

(Proprietors That May Make a Request for Treatment as Professional Investor)

Article 61 (1) The excluded individual to be specified by Cabinet Office Order as referred to in Article 34-4, paragraph (1), item (i) of the Act is that who satisfies any of the following requirements:

- (i) that the individual has not obtained the consent from all of the silent partners on making a request under Article 34-4, paragraph (1) of the Act; or
- (ii) that the total amount of the equity investment under the silent partnership contract which the individual concluded is less than 300 million yen.

(2) The individuals to be specified by Cabinet Office Order as referred to in Article 34-4, paragraph (1), item (i) of the Act are as follows:

- (i) an individual who has concluded a partnership contract and has become a partner delegated to manage the business of the partnership (limited to an individual who satisfies all of the following requirements):
  - (a) that the individual has obtained the consent from all of the other partners on making a request under Article 34-4, paragraph (1) of the Act; and
  - (b) that the total amount of the equity investment under the partnership contract is not less than 300 million yen.
- (ii) an individual who has concluded a limited liability partnership agreement and is involved in the decision-making on the execution of the important business of the partnership, and who is also a partner personally executing such business (limited to an individual who satisfies all of the following requirements):
  - (a) that the individual has obtained the consent from all of the other partners on making a request under Article 34-4, paragraph (1) of the Act; and
  - (b) that the total amount of the equity investment under the limited liability partnership agreement is 300 million yen or more.

(Individual Who May Make a Request for Treatment as Professional Investor)

Article 62 The requirements to be specified by Cabinet Office Order as referred to in Article 34-4, paragraph (1), item (ii) of the Act are the fulfillment of all of the following:

- (i) that, judging reasonably from the status of the transactions or any other circumstances, the total amount of the assets of the applicant (meaning the applicant prescribed in Article 34-4, paragraph (2) of the Act; hereinafter the same applies in this Article and Article 64) as of the date of acceptance (meaning the date of acceptance prescribed in Article 34-3, paragraph (2),

- item (i) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act; the same applies in the following item, paragraph (2) of the following Article, and Article 64, paragraph (2), item (v) and Article 64-2), less the total amount of its liabilities as of that date is likely to be 300 million yen or more;
- (ii) that, judging reasonably from the status of the transactions or any other circumstances, the total amount of the applicant's assets (limited to the assets listed in the following) as of the date of acceptance is likely to be 300 million yen or more:
- (a) securities (excluding the securities specified in (e) and (f) (limited to contracts that are concluded with a special enterprise operator as defined in Article 2, paragraph (9) of the Real Estate Specified Joint Enterprise Act (Act No. 77 of 1994)));
- (b) rights pertaining to a derivative transaction;
- (c) specified deposits, etc. as prescribed in Article 11-5 of the Agricultural Cooperatives Act (Act No. 132 of 1947), specified deposits, etc. as prescribed in Article 11-11 of the Fishery Cooperatives Act (Act No. 242 of 1948), specified deposits, etc. as prescribed in Article 6-5-11 of the Act on Financial Businesses by Cooperative (Act No. 183 of 1949), specified deposits, etc. as prescribed in Article 89-2 of the Shinkin Bank Act (Act No. 238 of 1951), specified deposits, etc. as prescribed in Article 17-2 of the Long Term Credit Bank Act (Act No. 187 of 1952), specified deposits, etc. as prescribed in Article 94-2 of the Labor Bank Act (Act No. 227 of 1953), specified deposits, etc. as prescribed in Article 13-4 the Banking Act, specified deposits, etc. as prescribed in Article 59-3 of the Norinchukin Bank Act (Act No. 93 of 2001) and specified deposits, etc. as prescribed in Article 29 of the Shoko Chukin Bank Limited Act (Act No. 74 of 2007);
- (d) the rights pertaining to benefits such as insurance proceeds, mutual aid benefits and refunds payable under a specified mutual aid contract as prescribed in Article 11-10-3 of the Agricultural Cooperatives Act, a specified mutual aid contract as prescribed in Article 12-3, paragraph (1) of the Consumer Cooperatives Act (Act No. 200 of 1948), a specified mutual aid contract as prescribed in Article 15-12 of the Fisheries Cooperatives Act, a specified mutual aid contract as prescribed in Article 9-7-5, paragraph (2) of the Small and Medium-Sized Enterprise Cooperatives Act (Act No. 181 of 1949) and a specified insurance contract as prescribed in Article 300-2 of the Insurance Business Act;
- (e) beneficial interest in a trust pertaining to a specific trust agreement as prescribed in Article 24-2 of the Trust Business Act;
- (f) rights under a real estate specified joint enterprise contract as prescribed in Article 2, paragraph (3) of the Real Estate Specified Joint Enterprise

Act; and

(g) rights pertaining to transactions on a commodity market (meaning the transactions on a commodity market defined in Article 2, paragraph (10) of the Commodity Futures Trading Act (Act No. 239 of 1950)), foreign commodity market transaction (meaning the foreign commodity market transaction defined in paragraph (13) of that Article; the same applies in Article 67, item (i)), and over-the-counter commodity derivatives transactions (meaning the over-the-counter commodity derivatives transactions defined in Article 2, paragraph (14) of that Act; the same applies in Article 67, item (ii) and Article 123, paragraphs (8) and (12)); and

(iii) that one year has elapsed from the day when the applicant concluded with the financial instruments business operator, etc. a financial instruments transaction contract which is of the type pertaining to the request under Article 34-4, paragraph (1) of the Act for the first time.

(Expiration Date of Period When Individual Who Is Customer Other Than Professional Investor Is Deemed to Be Professional Investor)

Article 63 (1) The case specified by Cabinet Office Order as prescribed in Article 34-3, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act is one in which a financial instruments business operator, etc. has designated a certain date and publicized the following matters by posting them at a place accessible to the public at its business office or any other office, or by any other appropriate means:

(i) that designated date; and

(ii) to the effect that the day set forth in the following paragraph is the expiration date (meaning the expiration date set forth in Article 34-3, paragraph (2), item (ii) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act; the same applies in paragraph (2) of the following Article and Article 64-2).

(2) The day to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act is the day designated by the financial instruments business operator, etc. under the preceding paragraph, which is the latest of the day within one year from the date of acceptance.

(Matters to Be Stated in Documents Indicating Consent by an Individual Who Is a Customer Other Than the Professional Investor That Made a Request)

Article 64 (1) The matters to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (2), item (iv), (a) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act are the fact that

the provisions listed in the items of Article 45 do not apply if the applicant falls under any of the persons set forth respectively in such items in regard to the subject contract (meaning the subject contract prescribed in Article 34-3, paragraph (2), item (ii) of the Act; the same applies in the following paragraph and Article 64-3) (excluding the case specified in the proviso to Article 45 of the Act).

- (2) The matters to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (2), item (vii) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act are as follows:
- (i) that, with regard to any act related to the subject contract (excluding an investment advisory contract and a discretionary investment contract) concluded prior to the expiration date, which is to be conducted pursuant to the provisions of laws and regulations or the contract, the applicant is treated as a professional investor, even if that act is conducted after the expiration date;
  - (ii) if the kind of contract pertaining to the request set forth in Article 34-3, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act falls under any of the kinds specified in Article 53, items (iii) and (iv), to the effect that, with regard to any act related to the subject contract (limited to an investment advisory contract and a discretionary investment contract), which is to be conducted pursuant to the provisions of laws and regulations or the contract, the applicant is treated as a professional investor only with regard to an act conducted prior to the expiration date;
  - (iii) that the applicant is treated as a professional investor in regard to the subject contract, only by the financial instruments business operator, etc. which has accepted the request pursuant to the provisions of Article 34-3, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act;
  - (iv) that, with regard to any financial instruments transaction contract which the financial instruments business operator, etc., on behalf of the applicant, concludes with another financial instruments business operator, etc. prior to the expiration date pursuant to the subject contract, such applicant is also treated as a professional investor by such other financial instruments business operator, etc.; and
  - (v) that the applicant may make a request under the provisions of Article 34-4, paragraph (4) of the Act at any time on or after the date of acceptance.

(Period Necessary for an Individual Who Is a Customer Other Than a Professional Investor That Made a Request to Make a Request for Renewal)  
Article 64-2 (1) The period to be specified by Cabinet Office Order as referred to

in Article 34-3, paragraph (7) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act is eleven months (or, in the following cases, the period set forth in the respective items):

- (i) when the period between the date of acceptance and the expiration date is less than one year (excluding the case specified in the following item): that period minus one month; or
  - (ii) when the period between the date of acceptance and the expiration date does not exceed one month: one day.
- (2) With regard to the application of the provisions of the preceding paragraph in the cases prescribed in Article 34-3, paragraph (8) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act, the term "date of acceptance" in the items of that paragraph is deemed to be replaced with "day following the previous expiration date".

(Matters to Be Stated in Documents to Be Delivered to an Individual Who Made a Request for Reinstatement as a Customer Other Than a Professional Investor)

Article 64-3 The matters to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (11) of the Act as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act are as follows:

- (i) the day when the acceptance under the provisions of Article 34-4, paragraph (5) of the Act is to be given (hereinafter referred to as the "date of acceptance" in this Article);
- (ii) the kind of contract to which the subject contract belongs;
- (iii) that the corporation that made a request under the provisions of Article 34-4, paragraph (4) of the Act (hereinafter referred to as the "applicant for reinstatement" in the following item) will be treated as a customer other than a professional investor again when soliciting the conclusion of, or concluding, the subject contract on or after the date of acceptance; and
- (iv) that, with regard to any financial instruments transaction contract which the financial instruments business operator, etc., on behalf of the applicant for reinstatement, concludes with another financial business operator, etc. on or after the date of acceptance pursuant to the subject contract, the applicant for reinstatement will also be treated as a customer other than a professional investor again by such other financial instruments business operator, etc.

## **Section 2 Business**

### **Subsection 1 General Rules**

(Money Loan Secured by Securities in Safe Custody)

Article 65 The money loan to be specified by Cabinet Office Order as referred to



in Article 35, paragraph (1), item (iii) of the Act is the money loan which falls under any of the following items:

- (i) a money loan that may be necessary for a customer in maintaining the ownership in the securities specified as follows deposited by a customer for safe custody (limited to the securities owned by the customer which has made such deposit for safety custody), which is secured by such securities, and in which case the total of the amount to be loaned to the customer and the amount of loan already extended as secured by such securities does not exceed five million yen (limited to the amount within the range of market price of the securities as of the time of such loan; the same applies in the next item):
  - (a) national government bond securities;
  - (b) municipal bond securities;
  - (c) government guaranteed bond certificates;
  - (d) corporate bond certificates;
  - (e) share certificates;
  - (f) beneficiary certificates of an investment trust or a foreign investment trust as prescribed in the Act on Investment Trust and Investment Corporations (Act No. 198 of 1951);
  - (g) investment securities (meaning the investment securities provided in Article 2, paragraph (15) of the Act on Investment Trust and Investment Corporations; the same applies hereinafter), investment corporation bond certificates (meaning the investment corporation bond certificates provided in paragraph (20) of that Article; the same applies in Article 117, paragraph (20), item (iii) and Article 153, paragraph (1), item (iv), (c) and (d)) or foreign investment securities (excluding those similar to certificates of investment equity subscription rights);
  - (h) instruments or certificates issued by a foreign state or a foreign corporation, which have the natures of the securities listed in (a) through (e);
- (ii) if the securities deposited by a customer for safe custody fall under the category of any of the following beneficiary certificates pertaining to an investment trust (limited to the securities owned by the customer that has made the deposit for safety custody), a money loan secured by such securities in the amount equivalent to a cancellation money for such securities, which is to be granted prior to the payment of the cancellation money to the customer that has requested the cancellation of such securities, and in which case the total of the amount to be loaned to the customer and the amount of loan already granted as secured by such securities does not exceed five million yen:
  - (a) a bond investment trust prescribed in Article 13, item (ii), (a) of the

Regulation for Enforcement of the Act on Investment Trust and Investment Corporations (Order of the Prime Minister's Office No. 129 of 2000) which satisfies all of the following requirements and whose primary investment targets comprise financial assets such as short-term public or corporate bonds (meaning the securities listed in (a) through (d) of the preceding item (including instruments or certificates issued by a foreign state or a foreign corporation which have a similar nature thereto)), deposits, money trusts and call loans:

1. that the term of the trust is unlimited;
  2. that the account is settled and the amount in excess of the principal is distributed every day, and that the dividend thereof is to be reinvested at the end of each month;
  3. that the bond investment trust is cancellable at any time; and
  4. that the cancellation money is payable on the day of cancellation or on the business day immediately after such day;
- (b) beneficiary certificates of an investment trust which satisfy all of the requirements listed in (a), 1. through 4. and whose primary investment targets comprise financial assets such as medium-term interest-bearing government bonds, deposits, money trusts and call loans; and
- (c) beneficiary certificates of the bond investment trust prescribed in Article 25, item (ii) of the Regulation for Enforcement of the Act on Investment Trust and Investment Corporations (limited to the bond investment trust of which accounting period is one day).

(Conclusion of Contracts for Cumulative Investment)

Article 66 The conclusion to be specified by Cabinet Office Order as referred to in Article 35, paragraph (1), item (vii) of the Act is the conclusion of a contract which satisfies all of the requirements listed in the following items:

- (i) that the contract provides for, as a method of purchases of securities, the types of the securities and the method for the appropriation of a deposit for making purchases;
- (ii) that the contract provides, as a method for the management of deposits, that the fruits derived from the money paid and securities deposited by the customer, and the money which the financial instruments business operator's keeps custody due to acceptance of redemption are treated as the cumulative investment deposit, and that accounting of such cumulative investment deposit is managed separately from any other deposit;
- (iii) that the contract provides that, in the case of the joint purchase with another customer or financial instruments business operator, it is certain that the customer gains sole ownership in the securities purchased by such customer when the code and number thereof are identified;

- (iv) that the contract provides, as a method for the management of securities, that the deposited securities (limited to those co-owned by the financial instruments business operator and the customer) are managed separately from any other securities; and
- (v) that the contract may be cancelled if the customer so requests.

(Acts Contributing to Regional Revitalization)

Article 66-2 The acts to be specified by Cabinet Office Order as referred to in Article 35, paragraph (1), item (xvii) of the Act are the following acts (in the case of newly acquiring management resources for performing operations to execute the acts in addition to the human resources, information and communications technology, equipment and any other management resources retained by the financial instruments business operator pertaining to the financial instruments business conducted by the financial instruments business operator, even if most of the parts are not used due to demand status, limited to acts that are not likely to hinder the sound and appropriate performance of the operations of the financial instruments business operator and excluding acts falling under the acts specified in items (viii), (xi), (xii) and (xvi) of that paragraph):

- (i) consultation on management of other business operators, etc. (meaning a corporation, other organization, and an individual carrying out a business (limited to an individual in the case of performing an act for the interest of the business); the same applies hereinafter in this Article and Article 68), introduction of business operators, etc. or customers related to operations of the other business operator, etc., provision of other necessary information, advice, and acceptance of entrusted affairs related thereto;
- (ii) worker dispatch prescribed in Article 2, item (i) of the Act on Securing the Proper Operation of Worker Dispatching Businesses and Protecting Dispatched Workers (Act No. 88 of 1985) related to a professional with highly-skilled capabilities and other professionals contributing to improving the management of business operators, etc. who are users of the financial instruments business operator (limited to the worker dispatch implemented in relation to conducting the acts specified in the preceding item in the course of trade and other operations performed by the financial instruments business operator wherein dispatched workers subject to the worker dispatch (meaning dispatched workers prescribed in item (ii) of that Article and limited to those subject to the worker dispatch prescribed in item (i) of that Article implemented in the course of trade) are not regularly employed workers);
- (iii) system design, development, or maintenance (limited to these acts pertaining to a system that is designed or developed solely by the financial

instruments business operator or jointly with other business operators, etc., or an equivalent system thereto), or program design, creation, sale (including the sale of peripheral equipment that is necessary in association with the sale of the program), or maintenance (limited to the act pertaining to a program that is designed or created solely by the financial instruments business operator or jointly with other business operators, etc., or an equivalent program thereto) that function by using a computer for other business operators, etc.;

- (iv) advertising, publicizing, investigating, analyzing information, or providing information related to the operations of other business operators, etc.; and
- (v) visiting users of the financial instruments business operator regularly or in response to a notification.

(Transactions Conducted by Using Fluctuations in Indicators)

Article 67 The transactions to be specified by Cabinet Office Order as referred to in Article 35, paragraph (2), item (ii) of the Act are as follows:

- (i) foreign commodity market transaction; and
- (ii) over-the-counter commodity derivatives transactions.

(Business Subject to Notification)

Article 68 The business to be specified by Cabinet Office Order as referred to in Article 35, paragraph (2), item (vii) of the Act is as follows:

- (i) business pertaining to purchase and sale of gold bullion, or an intermediation, brokerage, or agency therefor;
- (ii) business pertaining to conclusion of a partnership contract, or an intermediation, brokerage, or agency therefor;
- (iii) business pertaining to conclusion of a silent partnership contract, or an intermediation, brokerage, or agency therefor;
- (iv) business pertaining to conclusion of a loan participation contract (meaning a contract wherein the economic profit and risk of loss originating from a loan claim of a financial institution, etc. is transferred from the original creditor thereof to a third party, instead of transferring any right and obligation arising from the original loan), or an intermediation, brokerage, or agency therefor;
- (v) business pertaining to insurance solicitation as prescribed in Article 2, paragraph (26) of the Insurance Business Act or insurance intermediary business operations as prescribed in Article 11, paragraph (3) of the Act on the Provision of Financial Services;
- (vi) business pertaining to lease of real properties owned by a financial instruments business operator itself;
- (vii) goods leasing business;

- (viii) business pertaining to creation and sale of computer programs for the business of any other business operator, etc., and a business to accept the entrustment of computing service;
- (ix) business of management of the defined contribution pension prescribed in Article 2, paragraph (7) of the Defined Contribution Pension Act (Act No. 88 of 2001);
- (x) business of carrying out the affairs listed in Article 61, paragraph (1), item (i), (ii) or (v) of the Defined Contribution Pension Act (with regard to the affair specified in item (v), limited to the affairs related to the measures set forth in Article 22 of that Act as applied mutatis mutandis pursuant to Article 73 of that Act or the affairs related to the acceptance of a notification on pensions for individuals as prescribed in Article 2, paragraph (3) of that Act), based on an entrustment from the national pension fund association pursuant to the provisions of Article 61, paragraph (1) of that Act;
- (xi) trust agreement agency business prescribed in Article 2, paragraph (8) of the Trust Business Act;
- (xii) an intermediary service for a conclusion of a contract for the business specified in Article 1, paragraph (1), item (iv) of the Act on Provision of Trust Business by Financial Institutions (Act No. 43 of 1943), a contract for the business specified in item (vi) of that paragraph which relates to the execution of a will, or a contract for the business specified in that item or item (vii) of that paragraph (excluding (a)) which relates to the arrangement of an estate (limited to intermediary services provided for a financial institution engaged in trust business (meaning a financial institution authorized under that paragraph; the same applies hereinafter));
- (xiii) financial institution agency service (meaning the bank agency service prescribed in Article 2, paragraph (14) of the Banking Act, the long term credit bank agency service prescribed in Article 16-5, paragraph (2) of the Long-Term Credit Bank Act, the Shinkin Bank agency service prescribed in Article 85-2, paragraph (2) of the Shinkin Bank Act, the credit cooperative agency service prescribed in Article 6-3, paragraph (2) of the Act on Financial Businesses by Cooperative, the Labor Bank agency service prescribed in Article 89-3, paragraph (2) of the Labor Bank Act, the specific credit business agency service prescribed in Article 92-2, paragraph (2) of the Agricultural Cooperatives Act, the specific credit business agency service prescribed in Article 106, paragraph (2) of the Fishery Cooperatives Act, the Norinchukin Bank agency service prescribed in Article 95-2, paragraph (2) of the Norinchukin Bank Act, or the deposit, etc. intermediary business operations prescribed in Article 11, paragraph (2) of the Act on the Provision of Financial Services; the same applies hereinafter);
- (xiv) real property management business;

- (xv) advisory business related to real property investment;
- (xvi) business of a conclusion of a contract on the acquisition or transfer of carbon dioxide equivalent quotas (meaning the carbon dioxide equivalent quotas prescribed in Article 2, paragraph (7) of the Act on Promotion of Global Warming Countermeasures (Act No. 117 of 1998) or any other subject-matter similar thereto; the same applies in the following item), or an intermediation, brokerage, or agency therefor;
- (xvii) business of conducting any of the following transactions, or an intermediation, brokerage, or agency therefor:
  - (a) a transaction wherein the parties mutually promise to pay money with regard to the carbon dioxide equivalent quotas of which quantities are fixed by the parties, based on a quotation for the carbon dioxide equivalent quotas fixed by the parties, or any other transaction similar thereto; and
  - (b) a transaction wherein the parties thereto promise that one of the parties thereto grants to the other party the right to effect a transaction pertaining to the contract specified in the preceding item and a transaction specified in (a) between the parties upon the other party's manifestation of intention and the other party pays money in consideration for such right, or any other transaction similar thereto;
- (xviii) business of conducting the affairs specified in Article 117, paragraph (1), item (iv) of the Act on Investment Trust and Investment Corporations, based on an entrustment by an investment corporation (meaning an investment corporation prescribed in Article 2, paragraph (12) of that Act; the same applies hereinafter) pursuant to the provisions of Article 117, paragraph (1) of that Act; or the business of conducting the affairs related to the management of an organ of a special purpose company, based on entrustment by such special purpose company;
- (xix) business of investing money or other properties (excluding Cryptoassets) for other person, as an investment in assets other than securities or rights pertaining to a derivative transaction (excluding the business which falls under any of the categories of business listed in Article 35, paragraph (2), items (i), (ii), (v)-2 and (vi) of the Act);
- (xx) business of concluding a contract for a guarantee or assumption of an obligation, or an intermediation, brokerage, or agency therefor;
- (xxi) business of making an arrangement with or introducing another business operator, etc., to customers of its business;
- (xxii) business of creating any advertisement or promotion in regard to the business of any other business operator, etc.;
- (xxiii) funds transfer business prescribed in Article 2, paragraph (2) of the Payment Services Act ; and
- (xxiv) business incidental to those listed in Article 35, paragraph (2), items (i)

through (vi) of the Act or in the preceding items.

(Notification of Additional Business)

Article 69 A financial instruments business operator which intends to file a notification under Article 35, paragraph (3) or (6) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the type of business to be notified as well as the date of and reason for the commencement or discontinuation of such business, attaching a document specified in the following items in accordance the categories of documents set forth respectively therein:

- (i) in the case of the commencement of the business: a document stating the following particulars:
  - (a) the business methods;
  - (b) the method of the risk management concerning loss arising from the business; and
  - (c) the name of the section in charge of the business and the positions of the personnel;
- (ii) in the case of the discontinuation of the business: a document stating the means of the treatment of customers' accounts incidental to the discontinuation of such business.

(Applications for Approval of Additional Business)

Article 70 (1) A financial instruments business operator which intends to obtain the approval under Article 35, paragraph (4) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written application for approval stating the following particulars:

- (i) the trade name;
  - (ii) the registration date and registration number;
  - (iii) the type of business for which approval is sought; and
  - (iv) the scheduled date for the commencement of the business.
- (2) A document stating the following particulars must be attached to a written application for approval as set forth in the preceding paragraph:
- (i) the content of the business and business methods;
  - (ii) the following matters in relation to the method of risk management concerning risk of loss pertaining to the business:
    - (a) the method of calculating the value of loss risk equivalent pertaining to the business (in the case of a person engaged in type-I financial instruments business, including the market risk equivalent defined in Article 178, paragraph (1), item (i) and the counterparty risk equivalent defined in item (ii) of that paragraph, and the Basic Risk Equivalent defined in item (iii) of that paragraph; hereinafter the same applies in this

- item);
- (b) the method of the establishment and application of a ceiling on the value of loss risk equivalent pertaining to the business;
- (c) the name and structure of the section in charge of the calculation of the value of loss risk equivalent pertaining to the business and the management of the ceiling thereof;
- (d) the method of preparation and preservation of materials which would serve as the basis of the calculation of the value of loss risk equivalent pertaining to the business;
- (e) the frequency of inspection of the value of loss risk equivalent pertaining to the business and the status of the application of the ceiling thereof, and the name and structure of the section in charge of such inspection; and
- (f) any other important matter related to the risk management concerning loss pertaining to the business;
- (iii) the organizational structure for executing the business and the positions of the personnel therefor;
- (iv) the internal rules regarding the management of the business.

(Establishment of Operational Control System)

Article 70-2 (1) The operational control system to be established by a financial instruments business operator, etc. pursuant to Article 35-3 of the Act is to develop internal rules, etc. (meaning internal rules and other documents equivalent thereto) for ensuring the implementation of financial instruments business, etc. in an appropriate way and to implement employee training and other measures to ensure compliance with the internal rules, etc.

(2) The operational control system to be established by a financial instruments business operator, etc. (limited to an operator conducting electronic public offering services or an operator conducting the acts specified in Article 2, paragraph (8), item (vii) of the Act by the method specified in the items of Article 6-2 (limited to the case relating to the securities specified in the items of Article 3 of the Act or the securities not listed on a financial instruments exchange (excluding the securities specified in the items of Article 15-4-2 of the Order)) in the course of trade; the same applies in item (ii)), pursuant to Article 35-3 of the Act, must satisfy the following requirements beyond the requirements under the preceding paragraph.

- (i) that the measures to ensure sufficient control of the electronic data processing system pertaining to the financial instruments business, etc. have been taken;
- (ii) that, for the matters to be indicated on the sign under Article 36-2, paragraph (1) of the Act pursuant to that paragraph (if the financial instruments business operator, etc. conducts electronic-based application



- type electronic public offering services, and if it is not a member of any financial instruments firms association (limited to an association having principal association members or members that are persons conducting the business implemented by the financial instruments business operator, etc. (limited to the business pertaining to the electronic-based application type electronic public offering services)), including such fact), measures have been taken to make available for public inspection the contents of information recorded into the files stored on the computer used by the financial instruments business operator via telecommunications line;
- (iii) that, for the securities to be handled in the course of electronic-based application type electronic public offering services, etc., measures have been taken for the examination, in an appropriate manner, of the financial status of the issuers, details of business plans, purpose of use of funds and any other matters to facilitate the decision of whether it is appropriate to handle the securities as part of electronic-based application type electronic public offering services, etc. (including the confirmation of the appropriateness of the amount fixed as a target for the subscription amount of customers of the public offering or private placement of securities handled as part of the electronic-based application type electronic public offering services (referred to as "target subscription amount" in the following item and item (v) as well as Article 83, paragraph (1), item (vi), (b) and (c))) in light of the business plan of the issuer;
- (iv) that the method of handling the target subscription amount are provided for a case in which the subscription amount of customers of the public offering or private placement of securities handled as part of the electronic-based application type electronic public offering services failed to reach the target subscription amount within the period during which the customers may make a subscription for the acquisition of the securities (referred to as "subscription period" in the following item and Article 83, paragraph (1), item (vi), (a)) and a case in which the subscription amount exceeded the target subscription amount, and that measures have been taken to prevent the customers' misunderstanding as to the method;
- (v) that, in relation to the public offering or private placement of the securities handled as part of the electronic-based application type electronic public offering services, if the financial instruments business operator, etc. uses a method whereby the securities are issued subject to the achievement of the target subscription amount for the subscription amount of customer within the subscription period, measures have been taken to ensure that the issuer will not receive the payment of subscription price (including anything equivalent to this; the same applies in item (vii) and Article 83, paragraph (1), item (vi), sub-item (d)) before the target subscription amount is achieved;

- (vi) that the measures have been taken to confirm that customers may withdraw the subscription or cancel the subscription contract with the issuer before the elapse of the period which is not less than eight days from the day when the customer of the electronic-based application type electronic public offering services, etc. made a subscription for the acquisition of securities to be handled as part of the electronic-based application type electronic public offering services;
  - (vii) that the measures have been taken to ensure that the issuer provides customers with appropriate information on the business on a regular basis after the issuer receives the payment of the subscription price by the customer of the electronic-based application type electronic public offering services; and
  - (viii) that necessary and appropriate measures have been taken to prevent the total amount of issue value of the securities for the public offering or private placement handled as part of the type-I small amount electronic public offering service or type-II small amount electronic public offering service and the amount to be paid by the person acquiring the securities from falling below the requirements specified in the items of Article 15-10-3 of the Order (including the measure for the appropriate calculation of the total amount of issue value of the securities or the amount to be paid by the person acquiring the securities in accordance with the calculation methods provided in the paragraphs of Article 16-3).
- (3) The term "electronic-based application type electronic public offering services, etc." referred to in items (ii) through (vii) of the preceding paragraph means electronic-based application type electronic public offering services (meaning an electronic public offering services whereby the counterparty to the electronic public offering services (hereinafter referred to as a "customer" in this paragraph) makes a subscription for the acquisition of securities by the following means; hereinafter the same applies in this paragraph), or electronic public offering services conducted by a type-I small amount electronic public offering service provider or type-II small amount electronic public offering service provider (excluding services which fall under the category of electronic-based application type electronic public offering services; hereinafter the same applies in this paragraph), and the acts specified in Article 2, paragraph (8), item (ix) of the Act in relation to the securities for the public offering and private placement to be handled as part of these services (excluding the services which fall under the categories of electronic-based application type electronic public offering services, or electronic public offering services conducted by a type-I small amount electronic public offering service provider or type-II small amount electronic public offering service provider):
- (i) a means whereby the matters relating to the securities to be subscribed for

- by a customer recorded in the files stored on a computer used by a financial instruments business operator, etc. are made available for inspection via telecommunication lines, and by the matters relating to the subscription by the customer is recorded in the file stored on a computer used by the financial instruments business operator, etc.; or
- (ii) a means whereby the matters relating to the securities to be subscribed for by a customer that intends to make a subscription for the acquisition of the securities are transmitted via telecommunication lines connecting a computer used by a financial instruments business operator, etc. and a computer used by the customer or similar means (excluding the case of involving a communication through audio transmission), and by the matters relating to the subscription by the customer are recorded in the file stored on a computer used by the financial instruments business operator, etc.
- (4) The operational control systems to be established by financial instruments business operators, etc. (limited to the business operators conducting high-speed trading as financial instruments business, etc.) pursuant to Article 35-3 of the Act are the measures to ensure sufficient management of an electronic data processing systems for the high-speed trading and other facilities, beyond the requirements under paragraph (1).
- (5) The operational control system to be established by Financial Instruments Business Operators, etc. (limited to those conducting the Securities, etc. Management Business or the business prescribed in Article 7, item (xi) with regard to Electronically Recorded Transferable Rights to Be Indicated on Securities, etc.) pursuant to Article 35-3 of the Act are the measures to ensure that the business operators formulate, publicize and implement the policies concerning the performance of obligations in cases where they are unable to perform all of the obligations in relation to the management of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that the business operators assume against their customers, out of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that the Financial Instruments Business Operators, etc. manage distinctively or separately from their own assets under the provisions of Article 43-2, paragraph (1) or Article 43-3, paragraph (1) of the Act, as a result of the improper disclosure, loss, or damage of information necessary for transferring financial values on which Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. are indicated or due to other grounds (policies include actions necessary for performing the relevant obligations and times to take those actions), in addition to the requirements under paragraph (1).
- (6) The operational control systems to be established by financial instruments business operators, etc. (limited to the business operators whose parent company (meaning a parent company provided in Article 57-2, paragraph (8) of

the Act; hereinafter the same applies in this paragraph) is a foreign company designated by the Commissioner of the Financial Services Agency) pursuant to Article 35-3 of the Act are the measures to ensure continuous implementation of business with the parent company as prescribed by the Commissioner of the Financial Services Agency, in addition to the requirements under paragraph (1).

- (7) The operational control systems to be established by financial instruments business operators, etc. (limited to an operator conducting the purchase and sale of securities or market derivatives transactions on the financial instruments exchange market (limited to those conducted outside the trading session or through off-floor trading as prescribed in the operational rules of a financial instruments exchange operating the financial instruments exchange market) or a brokerage service for the entrustment of those transactions (excluding brokerage for the clearing of securities, etc.) in the course of trade by using an intra-company transaction system (meaning a system under which the financial instruments business operators, etc. or any other person determines the price of the purchase and sale of securities or market derivatives transactions or other transaction conditions or conducts similar acts by using electronic data processing systems with many persons as the other party or each party simultaneously, but excluding the proprietary trading system prescribed in Article 26-2-2, paragraph (7) of the Order; the same applies hereinafter in this paragraph and Article 158, paragraph (5))) pursuant to Article 35-3 of the Act must meet the following requirements, in addition to the requirements under paragraph (1):
- (i) measures are taken to understand the operation status of the intra-company transaction system that the financial instruments business operator, etc. uses (excluding the system established by the financial instruments business operator, etc.); and
  - (ii) measures are taken to provide appropriate explanation to customers concerning the intra-company transaction system that the financial instruments business operator, etc. uses on the following matters, in light of the customers' knowledge, experience, conditions of property, and purpose of conducting the purchase and sale of securities or market derivatives transactions:
    - (a) conditions in the case of using the intra-company transaction system; and
    - (b) a person establishing the intra-company transaction system, a person who can participate in making decisions on transaction conditions, methods of making decisions on transaction conditions, and other information related to operation of the intra-company transaction system.

(Range of Financial Instruments Related Business)

Article 70-3 The businesses to be specified by Cabinet Office Order as referred to in Article 36, paragraph (2) of the Act are the businesses specified in the following items according to the category of cases set forth in the respective items:

- (i) when a specified financial instruments business operator, etc. (meaning a specified financial instruments business operator, etc. prescribed in Article 36, paragraph (3) of the Act; the same applies hereinafter) is a person listed in Article 15-27, item (i) of the Order: the businesses listed in (a) and (b) below:
  - (a) financial instruments business or registered financial institution business; and
  - (b) a business incidental to financial instruments business prescribed in Article 35, paragraph (1) of the Act (including a business conducted by a subsidiary financial institution, etc. of such specified financial instruments business operator, etc. (meaning a subsidiary financial institution, etc. prescribed in Article 36, paragraph (5) of the Act; the same applies hereinafter) that is equivalent to such business); and
- (ii) when a specified financial instruments business operator, etc. is a person listed in Article 15-27, item (ii) of the Order: the businesses listed in (a) and (b) below:
  - (a) financial instruments business or registered financial institution business; and
  - (b) a business incidental to financial instruments business prescribed in Article 35, paragraph (1) of the Act.

(Measures Required So That Interests of Customer Would Not Be Unjustly Impaired)

Article 70-4 (1) A specified financial instruments business operator, etc. must take the following measures so that, as a result of any transaction it or its parent financial institution, etc. (meaning a parent financial institution, etc. prescribed in Article 36, paragraph (4) of the Act; the same applies hereinafter) or subsidiary financial institution, etc. conducts, the interests of a customer pertaining to financial instruments related business (meaning a financial instruments related business prescribed in paragraph (2) of that Article; the same applies hereinafter) conducted by the specified financial instruments business operator, etc. or its subsidiary financial institution etc. would not be unjustly impaired:

- (i) the establishment of a system for identifying a subject transaction in an appropriate manner;
- (ii) the establishment of a system for ensuring in an appropriate manner the protection of such customer by following means and any other means:

- (a) means of separating the section conducting the subject transaction and the section conducting a transaction with such customer;
  - (b) means of changing the terms or means of the subject transaction or the transaction with such customer;
  - (c) means of discontinuing the subject transaction or the transaction with such customer; and
  - (d) means of disclosing in an appropriate fashion that as a result of the subject transaction, the interests of such customer might be unjustly impaired;
- (iii) the formulation of policies for implementing the measures listed in the preceding two items and the publication of an overview thereof by an appropriate means; and
- (iv) the storage of the following records:
- (a) the records pertaining to the identification of subject transactions performed under the system under item (i); and
  - (b) the records pertaining to the measures for ensuring in an appropriate manner the protection of customers performed under the system under item (ii).
- (2) The records prescribed in item (iv) of the preceding paragraph must be preserved for five years after the preparation thereof.
- (3) A "subject transaction" under paragraph (1) means a transaction conducted by a specified financial instruments business operator, etc. or its parent financial institution, etc., or subsidiary financial institution, etc., as a result of which the interests of a customer pertaining to financial instruments related business conducted by such specified financial instruments business operator, etc. or its subsidiary financial institution, etc. might be unjustly impaired.

(Forms of Signs to Be Posted)

Article 71 The forms to be specified by Cabinet Office Order as referred to in Article 36-2, paragraph (1) of the Act are the forms specified in the following items, in accordance with the categories of the persons respectively set forth therein:

- (i) financial instruments business operator: Appended Form No. 10; or
- (ii) registered financial institution: Appended Form 11.

(Acts Similar to Advertising)

Article 72 The acts to be specified by Cabinet Office Order as referred to in the paragraphs of Article 37 of the Act are the provision of identical information to many persons, by means of postal mail, correspondences delivery (meaning a correspondence delivery as prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002)

that is provided by a general correspondence delivery operator as prescribed in paragraph (6) of that Article or by a specified correspondence delivery operator as prescribed in paragraph (9) of that Article; the same applies in Article 266), transmission by facsimile devices, transmission by electronic mails (meaning the electronic mail prescribed in Article 2, item (i) of the Act on Regulation of Transmission of Specified Electronic Mail (Act No. 26 of 2002); the same applies in Article 266), distribution of leaflets or pamphlets or by any other means (excluding those listed in the following):

- (i) distribution of documents prepared in accordance with laws or regulations, or in accordance with the dispositions rendered by administrative agencies under the laws and regulations;
- (ii) distribution of materials on the analysis and appraisal of the respective companies not intended to be used for solicitation for the conclusion of a financial instruments transaction contract;
- (iii) provision of premiums or any other goods only indicating all of the following information (limited to premiums or goods clearly and accurately indicating the information listed in (b) through (d)) (if any of the following information is not indicated on the premiums or other goods, such provision includes the provision of such premiums or other goods incorporating other goods indicating such information as an integral part thereof):
  - (a) the name, issue or alias of any of the following:
    - 1. the financial instruments transaction contract or the types thereof;
    - 2. the securities or the types thereof;
    - 3. the business subject to investment or the types thereof; or
    - 4. the information equivalent to those listed in 1. through 3.;
  - (b) the trade name, name or alias of the financial instruments business operator, etc. which provides identical information to many persons by the means specified in this item;
  - (c) the matters specified in Article 16, paragraph (2), item (i) of the Cabinet Order and the matters specified in Article 76, item (iii) (limited to the case where the letters or numerical characters representing such matter are indicated in a size which does not differ substantially from the size of the largest letters or numerical characters representing matters other than such matters);
  - (d) a notice to the effect that the recipient thereof should read any of the following documents comprehensively:
    - 1. the document prescribed in Article 37-3, paragraph (1) of the Act (hereinafter referred to as the "document for delivery prior to conclusion of contract");
    - 2. the explanatory document on listed securities, etc. prescribed in Article 80, paragraph (1), item (i);

3. the prospectus prescribed in Article 80, paragraph (1), item (iii) (if there is any document to be delivered as an integral part of such prospectus pursuant to the provisions of that item; such prospectus and such document); and
4. the explanatory document on change to contract information prescribed in Article 80, paragraph (1), item (iv), (b).

(Method of Indication of Advertisement on the Content of Financial Instruments Business)

Article 73 (1) If a financial instruments business operator, etc. intends to make an advertisement or to conduct any other acts specified in the preceding Article (hereinafter referred to as the "advertisement, etc." in this Subsection) with regard to the contents of its financial instruments business (in the case of a registered financial institution, its registered financial institution business; the same applies in the following paragraph and paragraph (3)), it must clearly and accurately indicate the matters listed in the items of Article 37, paragraph (1) of the Act.

(2) If a financial instruments business operator, etc. intends to make an advertisement, etc. in regard to the contents of its financial instruments business, it is to indicate the letters or numerical characters representing the matters specified in Article 16, paragraph (1), items (iv) and (v) of the Cabinet Order and the matters specified in Article 76, item (iii) in a size which does not differ substantially from the size of the largest letters or numerical characters representing matters other than such matters.

(3) Notwithstanding the provisions of the preceding paragraph, if a financial instruments business operator, etc. intends to make any advertisement of the contents of its financial instruments business by means of having broadcast through the use of broadcasting facilities of a basic broadcaster (meaning the basic broadcaster prescribed in Article 2, item (xxiii) of the Broadcast Act (Act No. 132 of 1950) and excluding the Japan Broadcasting Corporation and the Open University of Japan (meaning the Open University of Japan defined in Article 3 of the Act on the Open University of Japan (Act No. 156 of 2002); the same applies hereinafter) or by any of the means listed in the items of Article 77, paragraph (1) (excluding the means of sound broadcasting), it is to indicate the letters or numerical characters representing the matters specified in Article 16, paragraph (2), item (i) of the Cabinet Order and the matters specified in Article 76, item (iii) in a size which does not differ substantially from the size of the largest letters or numerical characters representing matters other than such matters.

(Matters Related to Consideration Payable by Customers)



Article 74 (1) The matters to be specified by Cabinet Office Order as referred to in Article 16, paragraph (1), item (i) of the Order are the amount of the consideration payable by customers in relation to a financial instruments transaction contract irrespective of its name such as fees, remuneration, expenses or others (excluding the price of the securities or the amount of security deposit, etc. (meaning the amount of security deposit, etc. prescribed in item (iii) of that paragraph; the same applies in Article 268, paragraph (1); hereinafter referred to as the "fees, etc." in this Subsection)) itemized by the types of such consideration or the upper limit thereof, or the outline of the means of calculation thereof (including the ratio to the price of the securities, the amount of the derivative transactions, etc. prescribed in Article 16, paragraph (1), item (iii) of the Order or the amount of investment properties, which pertains to the financial instruments transaction contract, or the ratio to the profit generating from the acts that constitute financial instruments transactions; hereinafter the same applies in this paragraph); and the total of such amount or upper limit thereof, or the outline of the method of calculation thereof; provided, however, that if these details cannot be indicated, such fact and the reason therefor are indicated.

(2) If the financial instruments transaction contract set forth in the preceding paragraph pertains to the acquisition of rights to be indicated on the securities specified in Article 2, paragraph (1), item (x) or (xi) of the Act or of the rights specified in paragraph (2), item (v) or (vi) of that Article (hereinafter referred to as the "investment trust beneficial interests, etc." in this Article and Article 268), and if the properties pertaining to such investment trust beneficial interests, etc. is to be invested or contributed in another investment trust beneficial interests, etc. (such other investment trust beneficial interests, etc. are hereinafter referred to as the "target investment trust beneficial interests, etc." in this Article), the fees, etc. set forth in the preceding paragraph are to include a trust fee and any other fees, etc. pertaining to such target investment trust beneficial interests, etc.

(3) If the property pertaining to the target investment trust beneficial interests, etc. set forth in the preceding paragraph are to be invested or contributed in another investment trust beneficial interests, etc., such other investment trust beneficial interests, etc. are deemed to be a target investment trust beneficial interests, etc., and the provisions of the preceding two paragraphs apply.

(4) The provisions of the preceding paragraph apply mutatis mutandis to a case in which the property pertaining to the investment trust beneficial interests, etc. which is deemed to be a target investment trust beneficial interests, etc. pursuant to the provisions of that paragraph (including as applied mutatis mutandis pursuant to this paragraph) is to be invested or contributed in another investment trust beneficial interests, etc.

(Matters Equivalent to Sale Price and Purchase Price)

Article 75 The matters to be specified by Cabinet Office Order as referred to in Article 16, paragraph (1), item (vi) of the Order are the matters listed in the following items, in accordance with the categories of the transactions respectively set forth therein:

- (i) the transaction specified in Article 2, paragraph (22), item (ii) of the Act: the agreed figure under the transactions wherein the person becomes the party paying money when the actual figure (meaning the actual figure prescribed in item (ii), paragraph (21) of that Article; the same applies hereinafter) exceeds the agreed figure (meaning the agreed figure prescribed in that item; the same applies hereinafter), and the agreed figure under the transactions wherein the person becomes the party receiving such money, or any other figures similar thereto;
- (ii) the transaction specified in Article 2, paragraph (22), item (iii) or (iv) of the Act: the amount of consideration for the rights in regard to the transaction wherein the person becomes the party granting the rights specified in item (iii) or (iv) of that paragraph, and the amount of consideration for the rights in regard the transaction wherein the person becomes the party acquiring such rights;
- (iii) the transaction specified in Article 2, paragraph (22), item (v) of the Act: the interest rates, etc. (meaning the interest rates, etc. prescribed in paragraph (21), item (iv) of that Article; the same applies hereinafter) of the financial instruments (excluding that specified in paragraph (24), item (iii) of that Article) or the financial indicator as of the time of the commencement of the agreed period for the transaction wherein the person becomes the party paying money when the interest rates, etc. or the financial indicators of the financial instruments rise within the agreed period, and the interest rates, etc. of the financial instruments or the financial indicators as of the time of the commencement of the agreed period for the transaction wherein the person becomes the party receiving money when the interest rates, etc. of the financial instruments or the financial indicator rise within the agreed period, or any other figures similar thereto; and
- (iv) the transaction specified in Article 2, paragraph (22), item (vi) of the Act: the conditions of the transaction wherein the person becomes the party paying money in the case of the occurrence of any event specified in that item, and the conditions of the transaction wherein the person becomes the party receiving money in such case, or any other conditions similar thereto.

(Important Matters Which May Have Impact on Customers' Decision)

Article 76 The matters to be specified by Cabinet Office Order as referred to in

Article 16, paragraph (1), item (vii) of the Order are as follows:

- (i) the facts regarding important matters on the financial instruments transaction contract, which would be disadvantageous to the customer;
- (ii) if the financial instruments business operator, etc. is a member of a financial instruments firms association (limited to an association having principal association members or members that are persons conducting the business related to the contents of the financial instruments business), such fact and the name of such financial instruments firms association; and
- (iii) in cases of an Advertisement, etc. regarding the Acts of Financial Instruments Transaction for Cryptoassets, the following matters:
  - (a) the fact that Cryptoassets are not the Japanese currency or a foreign currency; and
  - (b) 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.
- (iv) in cases of advertisement, etc. regarding the acts of financial instruments transaction for the leveraged indicator, etc. (meaning the quotations on the financial instruments market and other indicators for which a calculation is made so that their daily fluctuation rate becomes the ratio obtained by multiplying the daily fluctuation rate of another indicator (referred to as the "original index" in sub-item (a) below and Article 83, paragraph (1), item (viii), sub-item (a)) by a certain factor; the same applies in Article 78, item (xiv) and Article 83, paragraph (1), item (viii)), the following matters:
  - (a) if there is a risk that any difference may occur between the fluctuation rate of the leveraged indicator, etc. and the ratio obtained by multiplying the fluctuation rate of the original index by a certain factor, to that effect and the reasons therefor; and
  - (b) when an investment in securities relating to the leveraged indicator, etc. does not meet the objective of medium- to long-term investments, to that effect and the reasons therefor.

(Method Equivalent to Broadcasting Using Broadcasting Facilities of Basic Broadcaster)

Article 77 (1) The methods to be specified by Cabinet Office Order as referred to in Article 16, paragraph (2) of the Order are as follows:

- (i) to broadcast using the broadcasting facilities of private broadcaster (meaning the private broadcaster defined in Article 2, item (xxv) of the Broadcast Act; the same applies in article 270, paragraph (1), item (i));
- (ii) to make available for the customer's inspection the contents of the information recorded into the files stored on the computer used by a financial instruments business operator, etc. or by a person that has accepted

entrustment of the service of an advertisement, etc. to be made by the financial instruments business operator, etc. (limited to information identical to that provided by means of broadcasting using the broadcasting facilities of a basic broadcaster or by the means specified in the preceding item) via telecommunications line; or

(iii) to expose to the public an indoor or outdoor advertisement regularly or continuously for a fixed period, by means of posting or indicating it on signboards, standing signboards, bills, notices, advertising towers, billboards, buildings or any other structures, or any other methods similar thereto.

(2) The matters to be specified by Cabinet Office Order as referred to in Article 16, paragraph (2), item (ii) of the Order are the matters specified in Article 72, item (iii), sub-item (d) and item (iii) of the preceding Article.

(Matters Prohibited from Misleading Advertisements)

Article 78 The matters to be specified by Cabinet Office Order as referred to in Article 37, paragraph (2) of the Act are as follows:

(i) the matters related to cancellation of a financial instruments transaction contract (including matters related to the provisions of Article 37-6, paragraphs (1) through (4) of the Act);

(ii) the matters related to the sharing of all or part of the losses or a guarantee of profit, in connection with a financial instruments transaction contract;

(iii) the matters related to agreement for liquidated damages (including penalties) pertaining to the financial instruments transaction contract;

(iv) the matters related to the financial instruments market or any other market similar thereto located in a foreign state, which pertains to the financial instruments transaction contract (in the case of conducting commodity-related business, including a commodity market (meaning the commodity market provided in Article 2, paragraph (9) of the Commodity Derivatives Act) or a foreign commodity market (meaning the foreign commodity market provided in paragraph (12) of that Article); the same applies in Article 271, item (iv));

(v) the matters related to the financial resources or credit of the financial instruments business operator, etc.;

(vi) the matters related to the performance of the financial instruments business conducted by the financial instruments business operator, etc. (in the case of a registered financial institution, the performance of the registered financial institution business conducted by the registered financial institution);

(vii) the matters related to the amount of the fees, etc. payable by customers in connection with a financial instruments transaction contract or the method of calculation therefor, and the method and timing of the payment of such

- fees, etc. and the payee of such fees, etc.;
- (viii) in cases of an advertisement, etc. for the purchase and sale or any other transaction of the mortgage securities, etc. (meaning the securities specified in Article 2, paragraph (1), item (xvi) of the Act, or the securities specified in item (xvii) of that paragraph (limited to those which have the nature specified in item (xvi) of that paragraph); the same applies hereinafter), the following matters:
    - (a) the matters related to the certainty or guarantee of the payment of principal and interests of the claims specified in the mortgage securities, etc.;
    - (b) the matters related to recommendation regarding a financial instruments business operator, etc.;
    - (c) the matters related to interest; and
    - (d) the matters related to the collateral on which the mortgage has been created, as stated in the mortgage securities, etc.;
  - (ix) in cases of an advertisement, etc. regarding an investment advisory contract, the matters related to the contents and methods of advice;
  - (x) in cases of an advertisement, etc. of a discretionary investment contract or a contract for conducting acts specified in Article 2, paragraph (8), item (xv) of the Act, the matters related to the contents and method of making the investment decisions;
  - (xi) in cases of an advertisement, etc. regarding the public offering or private placement of the rights specified in Article 7, item (iv), (d), 1., the matters related to bloodlines of the racehorses and the status of the management of the breeding thereof.
  - (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) the matters related to the mechanism for the holding and transfer of the Electronically Recorded Transferable Rights to Be Indicated on Securities, etc.; and
  - (xiii) in cases of an Advertisement, etc. regarding the Acts of Financial Instruments Transaction for Cryptoassets:
    - (a) the nature of the Cryptoassets;
    - (b) the matters related to the mechanism for the holding and transfer of the Cryptoassets;
    - (c) the matters related to changes in transaction volumes or prices of the Cryptoassets or prospects for these;
    - (d) the matters related to the content of the rights and obligations indicated

- on the Cryptoassets; and
- (e) the matters related to the financial resources or credit of the person who issues or intends to issue the Cryptoassets, the debtor pertaining to the rights indicated on the Cryptoassets, or the person who can exert a material impact on the value or the mechanism of the Cryptoassets, or the business conducted by such person.
- (xiv) in cases of advertisement, etc. regarding the acts of financial instruments transaction for the leveraged indicator, etc., the following matters:
  - (a) the nature of the leveraged indicator, etc. or securities relating to the leveraged indicator, etc.; and
  - (b) the matters related to changes in figures of the leveraged indicator, etc. or in prices of securities relating to the leveraged indicator, etc., or prospects for these.

(How Matters Are Stated a Document for Delivery Prior to the Conclusion of a Contract)

Article 79 (1) The matters set forth in the items of Article 37-3, paragraph (1) of the Act must be stated unambiguously and accurately in the document for delivery prior to conclusion of contract by using letters, characters and numerals larger than 8-point as provided in the JIS Z8305.

(2) Notwithstanding the provisions of the preceding paragraph, the matters listed in the following items are to be stated unambiguously and accurately after the matters required to be stated under the following paragraph in the frame of the document for delivery prior to conclusion of contract by using letters, characters and numerals larger than 12-point as provided in the JIS Z8305:

- (i) an outline of the matters listed in Article 37-3, paragraph (1), item (iv) of the Act, and the matters listed in Article 37-3, paragraph (1), items (v) and (vi) of the Act and Article 82, items (iii) through (vi) of this Cabinet Office Order;
- (ii) if the financial instruments transaction contract is a contract for over-the-counter derivatives transactions (meaning contracts listed in Article 16-4, paragraph (1), item (i), sub-items (a) through (c) of the Order (hereinafter referred to as the "over-the-counter transactions of financial futures") or contracts listed in that item pertaining to the transactions listed in sub-item (d) of that item, or contracts listed in item (ii) of that paragraph (excluding contracts pertaining to transactions listed in Article 116, paragraph (1), item (iii), (a) and (b)); the same applies hereinafter), the matters listed in Article 94, paragraph (1), items (i) and (iv); and
- (iii) if the financial instruments transaction contract relates to a transaction pertaining to electronic-based application type electronic public offering

services (meaning the electronic-based application type electronic public offering services, etc. provided in Article 70-2, paragraph (3); the same applies hereinafter), whether the matters specified in Article 83, paragraph (1), item (vi), (f) and (g) are applicable;

(iv) the matter listed in Article 82, item (ix).

- (3) A financial instruments business operator, etc. is to, when preparing the document for delivery prior to conclusion of contract, state plainly the matter listed in Article 82, item (i), the matters listed in Article 92-2, paragraph (1), item (iii) (but only if the financial instruments transaction contract to be concluded pertains to the purchase and sale and other transactions of the right of the equity of business subject to investment, of which business subject to investment pertaining to the equity of business subject to investment is the business other than a business which invests primarily in the rights pertaining to securities or derivative transactions), and particularly important matters that may have an impact on customers' judgment among the matters listed in the items of Article 37-3, paragraph (1) of the Act at the beginning of the document for delivery prior to conclusion of contract by using letters, characters and numerals larger than 12-point as provided in the JIS Z8305.

(Exemption from Requirement to Deliver Documents for Delivery Prior to the Conclusion of a Contract)

Article 80 (1) The matters to be specified by Cabinet Office Order as referred to in the proviso to Article 37-3, paragraph (1) of the Act are as follows:

- (i) if, with regard to the purchase and sale or any other transaction of securities listed on a financial instruments exchange market, over-the-counter traded securities (excluding the securities specified in Article 2, paragraph (1), item (xix) of the Act and the securities designated by the Commissioner of the Financial Services Agency), securities listed on an exchange located in a foreign state which is similar to a financial instruments exchange, or securities traded on a market located in a foreign state which is similar to the over-the counter securities market (excluding the securities designated by the Commissioner of the Financial Services Agency) (the above excludes transactions which fall under the category of derivative transactions, and also excludes margin transactions, when-issued transaction or any other transaction similar to those transactions; hereinafter collectively referred to as the "purchase and sale, etc. of listed securities, etc."), a financial instruments business operator, etc., within one year prior to the conclusion of the financial instruments transaction contract pertaining to the transaction, had delivered to the customer a document on the financial instruments transaction contract containing the matters set forth in Article 37-3, paragraph (1), items (i) through (v) of the Act and

- Article 82, items (i), (iii), (v), (xi), (xiv) and (xv), and Article 83, paragraph (1), item (viii) of this Cabinet Office Order prepared in accordance with the means equivalent to those specified in the preceding Article (hereinafter referred to as the "explanatory document on listed securities, etc.");
- (ii) if, within one year prior to the conclusion of the financial instruments transaction contract pertaining to the purchase and sale of securities (meaning the purchase and sale of securities prescribed in Article 2, paragraph (8), item (i) of the Act; the same applies hereinafter), any other type of transaction of securities, or derivative transactions, etc., a financial instruments business operator, etc. has delivered to the customer a document for delivery prior to conclusion of contract related to any other financial instruments transaction contract which is in substance identical to the first-mentioned financial instruments transaction contract;
  - (iii) if the financial instruments business operator, etc. has delivered to the customer a prospectus (limited to a prospectus containing all of the matters to be stated in the document for delivery prior to conclusion of contract, as prepared in accordance with the means equivalent to those specified in the preceding Article) (if the prospectus does not contain all of such matters, including if a document stating all of the matters not contained therein has been delivered as an integral part of such prospectus), or in the cases specified in Article 15, paragraph (2), item (ii) of the Act;
  - (iv) if the financial instruments business operator, etc. intends to conclude a financial instruments transaction contract for the purpose of effecting a partial change to any term of a financial instruments transaction contract already in effect, the following cases:
    - (a) if such partial change does not result in a change to the matters to be stated in the document for delivery prior to conclusion of contract pertaining to the financial instruments transaction contract already in effect; or
    - (b) if such partial change results in a change to the matters to be stated in the document for delivery prior to conclusion of contract pertaining to the financial instruments transaction contract already in effect, a case in which the financial instruments business operator, etc. has delivered to the customer a document stating the matters subject to such change (hereinafter referred to as the "explanatory document on change to contract information");
  - (v) in cases where a Financial Instruments Business Operator, etc. intends to conclude a Financial instruments transaction contract pertaining to Purchase and Sale, etc. of Listed Securities, etc., and has provided the matters to be stated in an Explanatory Document on Listed Securities, etc. to the relevant customer (limited to a customer who has received the delivery of



an Explanatory Document on Listed Securities, etc. from the Financial Instruments Business Operator, etc.) by using an electronic data processing system in a manner to make them available for customers' inspection (limited to cases satisfying all of the following requirements and excluding cases where said customer has requested the delivery of an Explanatory Document on Listed Securities, etc.):

- (a) that the Financial Instruments Business Operator, etc. has provided said customer with an explanation in advance to the effect that the relevant matters will be provided in the manner to make them available for customers' inspection and that an Explanatory Document on Listed Securities, etc. will be delivered upon a request of the customer by way of delivering a document or by any other appropriate method;
- (b) that the Financial Instruments Business Operator, etc. has provided said customer with information necessary for receiving the provision of the relevant matters by way of delivering a document or by any other appropriate method within one year prior to the conclusion of the Financial instruments transaction contract pertaining to said Purchase and Sale, etc. of Listed Securities, etc.;
- (c) that it has been made sure that those matters are indicated, in an easily visible location for the customer, on the screen of a computer used by the customer in accordance with the method prescribed in the preceding Article; and
- (d) that measures have been taken to ensure that those matters are kept available for easy inspection by said customer for the period until five years have elapsed from the day when said Purchase and Sale, etc. of Listed Securities, etc. was conducted (if any complaint related to those matters has been raised within the period before the expiration date of such period, for the period until either the expiration date of such period or the day when such complaint was settled, whichever comes later);
- (vi) in cases where a Financial Instruments Business Operator, etc. intends to conclude a Financial instruments transaction contract pertaining to purchase and sale or other transactions of Securities set forth in Article 2, paragraph (1), items (i) to (iii) or (v) of the Act (excluding corporate bond certificates with share options; hereinafter the same applies in this item) or the Securities set forth in item (xvii) of that paragraph that have the nature of the Securities set forth in items (i) to (iii) or (v) of that paragraph (limited to such Securities for which the due date (limited to the fixed due date; hereinafter the same applies in this item) and the amount of redemption (limited to the fixed amount; hereinafter the same applies in this item) are specified and to which no conditions are attached to the effect that all or part of the amount of redemption as of the due date will not be redeemed, and

excluding the Securities designated by the Commissioner of the Financial Services Agency) (the purchase and sale or other transactions exclude those falling under the category of Derivative Transactions, and also exclude Margin Transactions, When-Issued Transactions or any other transactions similar to these; referred to as "Purchase and Sale, etc. of Claims" in sub-items (b) and (d)), and has provided the matters to be stated in a Document for Delivery Prior to Conclusion of Contract to the relevant customer (limited to a customer who has received the delivery of a Document for Delivery Prior to Conclusion of Contract pertaining to a Financial instruments transaction contract that had a similar content to that of the relevant Financial instruments transaction contract from the Financial Instruments Business Operator, etc.) by using an electronic data processing system in a manner to make them available for customers' inspection (limited to cases satisfying all of the following requirements and excluding cases where the customer has requested the delivery of a Document for Delivery Prior to Conclusion of Contract):

- (a) that the Financial Instruments Business Operator, etc. has provided the customer with an explanation in advance to the effect that the relevant matters will be provided in the manner to make them available for customers' inspection and that a Document for Delivery Prior to Conclusion of Contract will be delivered upon a request of the customer by way of delivering a document or by any other appropriate method;
- (b) that the Financial Instruments Business Operator, etc. has provided the customer with information necessary for receiving the provision of the relevant matters by way of delivering a document or by any other appropriate method within one year prior to the conclusion of the Financial instruments transaction contract pertaining to the Purchase and Sale, etc. of Claims;
- (c) that it has been made sure that those matters are indicated, in an easily visible location for the customer, on the screen of a computer used by the customer in accordance with the method prescribed in the preceding Article; and
- (d) that measures have been taken to ensure that those matters are kept available for easy inspection by the customer for the period until five years have elapsed from the day when the Purchase and Sale, etc. of Claims was conducted (if any complaint related to those matters has been raised within the period before the expiration date of such period, for the period until either the expiration date of such period or the day when such complaint was settled, whichever comes later);
- (vii) in cases where the provision, etc. of important information in a simple manner has been conducted and explanations have been given to a customer

on the matters specified in Article 37-3, paragraph (1), items (iii) through (vii) of the Act (in the cases specified in item (iv), (b), limited to the matters related to the change as prescribed in that item), in a manner and to the extent necessary for ensuring that the customer understands such matters, in light of the customer's knowledge, experience, and conditions of property and in light of the purpose of concluding the financial instruments transaction contract (in cases where the matters to be stated in a document for delivery prior to conclusion of contract (in the case of intending to conclude a financial instruments transaction contract pertaining to purchase and sale, etc. of listed securities, etc., a document for delivery prior to conclusion of contract or explanatory document on listed securities, etc. or in the cases as prescribed in item (iv), (b), a document for delivery prior to conclusion of contract or explanatory document on changes to contract information; the same applies hereinafter in this item, paragraph (6), items (ii) and (iii)) are provided to the relevant customer by using an electronic data processing system in a manner that makes them available for customers' inspection, excluding the cases where the customer requests delivery of the document for delivery prior to conclusion of contract only where the following requirements are fully satisfied):

- (a) matters to be stated in the document for delivery prior to conclusion of contract have been displayed in an easily visible location for the customer, on the screen of a computer used by the customer in accordance with the method prescribed in the preceding Article (excluding the cases where the manner to make them available for customers' inspection conforms to the standards set forth in Article 56, paragraph (2), item (i)); and
- (b) measures are taken to keep the matters to be stated in the document for delivery prior to conclusion of contract easily available for the customer's inspection for five years after the day of the last transaction listed in said matters to be stated (if a complaint related to those matters is made prior to the last day of that period, until the last day of the period or the day when the complaint is resolved, whichever comes later);

(viii) if the financial instruments transaction contract pertains to any of the following acts:

- (a) the sale of securities (but only if a financial instruments transaction contract for the purchase of the securities has been concluded with the financial instruments business operator, etc.);
- (b) an intermediary or agency service for the purchase of securities (but only if the financial instruments business operator, etc. provides an intermediary or agency service for the purchase of securities pertaining to the tender offer (meaning the tender offer prescribed in Article 27-2, paragraph (6) of the Act (including as applied mutatis mutandis pursuant

- to Article 27-22-2, paragraph (2) of the Act); the same applies in Article 110, paragraph (1), item (ii), (g) and Article 111, item (ii)) to a tender offeror (meaning the tender offeror prescribed in Article 27-3, paragraph (2) of the Act (including as applied mutatis mutandis pursuant to Article 27-22-2, paragraph (2) of the Act); the same applies hereinafter));
- (c) an act set forth in Article 1-12, item (i) of the Cabinet Order;
  - (d) a reversing trade set forth in Article 33-14, paragraph (3) of the Cabinet Order;
  - (e) the purchase of securities under a contract for cumulative investment (meaning a contract wherein a financial instruments business operator, etc. receives a money deposit from a customer and sells securities to that customer continuously on dates designated in advance while receiving a consideration payable out of such money deposit; hereinafter the same applies in (e) and Article 110, paragraph (1), item (i), (a)), or the sale of securities to be conducted on a regular basis under a contract for cumulative investment;
  - (f) with regard to the securities specified in Article 2, paragraph (1), item (x) of the Act owned by a customer or rights specified in paragraph (2), item (v) or (vi) of that Article, an act to have such customer acquire an issue identical to such securities or rights, using the earnings generated from those securities or rights;
  - (g) the purchase and sale (excluding the initial purchase) of the securities specified in Article 2, paragraph (1), item (x) of the Act (limited to the beneficiary certificates for bond investment trust prescribed in Article 25, item (ii) of the Regulation for Enforcement of the Act on Investment Trust and Investment Corporations (limited to the bond investment trust of which accounting period is one day)), or cancellation of an investment trust agreement (meaning the investment trust agreement prescribed in Article 3 or Article 47, paragraph (1) of the Act on Investment Trust and Investment Corporations; the same applies hereinafter) pertaining to such securities;
  - (h) the underwriting of securities; or
  - (i) dealing in a public offering or secondary distribution of securities, dealing in private placement of securities, or dealing in a solicitation for selling, etc. only for professional investors (but only if the customer pertaining to the financial instruments transaction contract is the issuer or owner of such securities).
- (2) The provisions of Article 34-2, paragraph (4) of the Act, Article 15-22 of the Order, and Article 56 and Article 57 of this Cabinet Office Order apply mutatis mutandis to the delivery of an explanatory document on listed securities, etc. under item (i) of the preceding paragraph and delivery of an explanatory

document on change to contract information under item (iv), (b) of that paragraph, and the provisions of Article 27-30-9, paragraph (1) of the Act, Article 23-2 of the Cabinet Office Order on Disclosure of Corporate Affairs (Ministry of Finance Order No. 5 of 1973), Article 18-2 of the Cabinet Office Order on the Disclosure of Information, etc. on Issuers of Foreign Government Bonds, etc. (Ministry of Finance Order No. 26 of 1972), and Article 32-2 of the Cabinet Office Order on Disclosure of Information on Regulated Securities (Ministry of Finance Order No. 22 of 1993) apply mutatis mutandis to the delivery of a document prescribed in item (iii) of the preceding paragraph under said item respectively.

- (3) If, within one year from the day of delivery of the explanatory document on listed securities, etc. (including the day when the explanatory document on listed securities, etc. is deemed to have been delivered pursuant to the provisions of this paragraph), a financial instruments transaction contract pertaining to the purchase and sale, etc. of listed securities, etc. has been concluded, such explanatory document on listed securities, etc. is deemed to have been delivered on the date of the conclusion of the contract, and the provisions of paragraph (1), item (i) apply.
- (4) If, within one year from the day of delivery of the document for delivery prior to conclusion of contract (including the day when the document for delivery prior to conclusion of contract is deemed to have been delivered pursuant to the provisions of this paragraph), a financial instruments transaction contract which is in substance identical to that pertaining to such document for delivery prior to conclusion of contract (excluding the contract for over-the-counter derivatives transactions) has been concluded, such document for delivery prior to conclusion of contract is deemed to have been delivered on the date of the conclusion of the contract, and the provisions of paragraph (1), item (ii) apply.
- (5) With regard to the application of the provisions of paragraph (1), item (iii), to a prospectus (if there is any document to be delivered as an integral part of a prospectus pursuant to the provisions of paragraph (1), item (iii), such prospectus and such document) pertaining to any securities listed in Article 2, paragraph (1), item (x) of the Act, the phrase "document for delivery prior to conclusion of contract, as prepared in accordance with the means equivalent to those specified in the preceding Article" is deemed to be replaced with "document for delivery prior to conclusion of contract".
- (6) "Provision, etc. of important information in a simple manner" under paragraph (1), item (vii) means to deliver a document stating the following matters in a simple manner or to provide the matters to be stated in the document by electronic or magnetic means in order to give explanation on these matters (including to reply to customers' questions based on the examples of questions as set forth in item (i)):

- (i) outline of major matters specified in the items of Article 37-3, paragraph (1) of the Act (in the cases as prescribed in paragraph (1), item (iv), (b), limited to the matters related to the change as set forth in that item) that contribute to the judgment of customers on conclusion of a contract for a financial instrument transaction and examples of questions related thereto;
- (ii) the fact that information necessary to receive provision of matters to be stated in the document for delivery prior to conclusion of contract and the details of the matters to be provided should be read fully; and
- (iii) the fact that a document for delivery prior to conclusion of contract will be delivered at the request of a customer.

(Matters Related to Consideration Payable by Customers)

Article 81 (1) The matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (iv) of the Act are the amount of the consideration payable by customers in relation to a financial instruments transaction contract irrespective of its name such as fees, remuneration, expenses or others, as itemized by the types of such consideration or the upper limit thereof, or an outline of the method of calculation thereof (including the ratio to the price of securities, the amount of the derivative transactions, etc. prescribed in Article 16, paragraph (1), item (iii) of the Order or the amount of investment property, which pertains to the financial instruments transaction contract, or the ratio to the profit generating from acts that constitute financial instruments transactions; hereinafter the same applies in this paragraph); and the total of such amount or upper limit thereof or an outline of the method of calculation thereof; provided, however, that if these details cannot be indicated, such fact and the reason therefor are indicated.

- (2) The provisions of Article 74, paragraphs (2) through (4) apply mutatis mutandis to the fees, etc. set forth in the preceding paragraph.

(Matters to Be Stated in All Types of Documents to Be Delivered Prior to Conclusion of Contract)

Article 82 The matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows:

- (i) a notice to the effect that the recipient of the document for delivery prior to conclusion of contract should read the contents thereof comprehensively;
- (ii) the matters specified in Article 16, paragraph (1), item (ii) of the Order;
- (iii) if any act that constitutes a financial instruments transaction to be conducted by the customer bears a risk of the accrual of any loss caused directly by a fluctuation in indicators such as money rate, value of currencies or quotations on the financial instruments market, the following matters:
  - (a) the indicators; and

- (b) the reasons for the risk of loss which may be caused by any fluctuation in the indicators;
- (iv) if there is a risk that the amount of loss set forth in the preceding item may exceed the amount of any security deposit to be deposited by the customer such as customer margin (such risk is hereinafter referred to as the "risk of loss in excess of principal" in this item), the following matters:
  - (a) the indicator referred to in the preceding item which would be a direct cause of the risk of loss in excess of principal; and
  - (b) the reason of risk of loss in excess of principal which may be caused by the fluctuation in the indicators set forth in (a);
- (v) if an act that constitutes a financial instruments transaction to be conducted by the customer bears a risk of the accrual of any loss caused directly by a change to the status of the business or property of the financial instruments business operator, etc. or any other person, the following matters:
  - (a) such person; and
  - (b) the fact that any change to status of such person's business or property may result in an accrual of loss, and the reasons therefor;
- (vi) if there is a risk that the amount of loss set forth in the preceding item may exceed the amount of any security deposit to be deposited by the customer such as customer margin (hereinafter referred to as the "risk of loss in excess of principal" in this item), the following matters:
  - (a) the person set forth in the preceding item that would be a direct cause of the risk of loss in excess of principal; and
  - (b) the fact that any change to status of business or property of the person specified in (a) may result in risk of loss in excess of principal, and reasons therefor;
- (vii) an outline of the taxation related to the financial instruments transaction contract;
- (viii) if there is any ground for termination of the financial instruments transaction contract, the details thereof;
- (ix) information as to whether the provisions of Article 37-6 of the Act is applicable to the financial instruments transaction contract;
- (x) if the provisions of Article 37-6 of the Act is applicable to the financial instruments transaction contract, the matters related to the provisions of paragraphs (1) through (4) of that Article;
- (xi) an outline of the financial instruments business operator, etc.;
- (xii) an outline of contents and methods (limited to those concerning said Financial instruments transaction contract) of the financial instruments business to be conducted by the financial instruments business operator, etc. (in the case of a registered financial institution, the registered financial

- institution business to be conducted by the registered financial institution);
- (xiii) the method whereby a customer contacts the financial instruments business operator, etc.; and
- (xiv) information as to whether the financial instruments business operator, etc. is a member of Financial Instruments Firms Association (limited to an association having principal association members or members that are persons conducting the business pertaining to the Financial instruments transaction contract), and if the financial instruments business operator, etc. is a member of a financial instruments firms association, the name of the association, or whether it is a target business operator of any certified investor protection organization (limited to such certified investor protection organization if the financial instruments transaction contract is covered by the certified businesses (meaning the certified businesses prescribed in Article 79-10, paragraph (1) of the Act) of such certified investor protection organization), and if it is a member or a target business operator of any of these organizations, the name thereof;
- (xv) according to the categories specified in the following (a) or (b), the matters specified in the following (a) or (b):
- (a) if there is a designated dispute resolution organization (limited to such organization of which category for dispute resolution, services covers the business concerning such financial instruments transaction contract; hereinafter the same applies in this item): the trade name or name of the designated dispute resolution organization with which the financial instruments business operator, etc. concludes a basic contract for implementation of dispute procedures for the purpose of taking the measures to conclude such contract for implementation of dispute procedures pertaining to the business specified in Article 37-7, paragraph (1), item (i), (a), item (ii), (a), item (iii), (a), item (iv), (a) or item (v), (a) of the Act; or
- (b) if there is no designated dispute resolution organization: the contents of the complaint processing measures and dispute resolution measures concerning the business specified in Article 37-7, paragraph (1), item (i), (b), item (ii), (b), item (iii), (b), item (iv), (b) or item (v), (b) of the Act of the financial instruments business operator.

(Matters to Be Stated in All Types of Documents to Be Delivered Prior to Conclusion of Contract Pertaining to Purchase and Sale and Other Transactions of Securities)

Article 83 (1) With regard to a case in which the financial instruments transaction contract to be concluded pertains to the purchase and sale or any other transaction of securities, the matters to be specified by Cabinet Office



Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond the matters set forth in the items of the preceding Article; provided, however, if the financial instruments transaction contract to be concluded is not a contract for the transaction pertaining to the electronic public offering services, the matters specified in items (iii) through (vi) are excluded:

- (i) if the transfer of the securities is subject to any restriction, to that effect and the details of such restriction; and
- (ii) if the securities fall under the category of the tradable securities, the matters which should be noted by the customer in relation to an opportunity for the purchase and sale of the tradable securities;
- (iii) the trade name, name and address of the issuer of the securities;
- (iv) if the issuer of the securities is a corporation, the name of its representative;
- (v) the details of the business plan of the issuer of the securities and the purpose of use of funds;
- (vi) in the case of electronic-based application type electronic public offering services, the following matters:
  - (a) the subscription period;
  - (b) the target subscription amount;
  - (c) the means of handling the subscription amount for the acquisition of the securities if such amount falls below or exceeds the target subscription amount;
  - (d) the means of management of subscription prices for the acquisition of the securities;
  - (e) the summary of the measures provided in Article 70-2, paragraph (2), item (iii) and the summary of the results of implementation of the measures relating to the securities;
  - (f) the matters necessary for a customer of electronic-based application type electronic public offering services, etc. to withdraw the subscription or cancel the subscription contract with the issuer after making the subscription of acquisition of the securities;
  - (g) in relation to the acquisition of the securities, the matters relating to the opportunity for purchase and sale and any other matters which require the attention of customers; and
- (vii) in cases where the Securities fall under the category of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc., the outline of the Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. and other matters which require the attention of customers with regard to the nature of the Electronically Recorded Transferable Rights to Be Indicated on Securities, etc.

- (viii) in cases where the securities fall under securities relating to the leveraged indicator, etc., the following matters:
- (a) if there is a risk that any difference may occur between the fluctuation rate of the leveraged indicator, etc. and the ratio obtained by multiplying the fluctuation rate of the original index by a certain factor, to that effect and the reasons therefor;
  - (b) when an investment in securities relating to the leveraged indicator, etc. does not meet the objective of medium- to long-term investments, to that effect and the reasons therefor; and
  - (c) in addition to the matters set forth in sub-items (a) and (b), the outline and the nature of the leveraged indicator, etc. and securities relating to the leveraged indicator, etc. and other matters which require the attention of customers with regard to the nature of the leveraged indicator, etc. and securities relating to the leveraged indicator, etc.
- (2) Notwithstanding the provisions of the preceding paragraph, if two or more financial instruments business operators, etc. (including a financial service intermediary) are required to deliver to the customer a document for delivery prior to conclusion of contract (in the case of a financial service intermediary, a document prescribed in Article 37-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 31, paragraph (2) of the Act on the Provision of Financial Services; the same applies hereinafter in this paragraph) with regard to the same purchase and sale or any other transaction of securities pursuant to the provisions of Article 37-3, paragraph (1) of the Act (including as applied mutatis mutandis pursuant to Article 31, paragraph (2) of the Act on the Provision of Financial Services), and one of those financial instruments business operators, etc. (including a financial service intermediary) has delivered to the customer the document for delivery prior to conclusion of contract stating the matters set forth in the items of the preceding paragraph, the other financial instruments business operator, etc. need not include in its document for delivery prior to conclusion of contract the matters set forth in the items of the preceding paragraph.
- (3) Notwithstanding the provisions of paragraph (1), if the financial instruments transaction contract to be concluded pertains to an intermediation, brokerage, or agency service for the sale of securities, and if the customer pertaining to such financial instruments transaction contract is an issuer or owner of such securities, the financial instruments business operator, etc. need not specify in the document for delivery prior to conclusion of contract the matters specified in the items of that paragraph.

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to Purchase and Sale or Any

Other Transaction of Beneficial Interest in Trust)

Article 84 (1) If a financial instruments transaction contract to be concluded pertains to the purchase and sale or any other transaction of securities specified in Article 2, paragraph (1), item (xiv) of the Act, securities specified in item (xvii) of that paragraph (limited to those which have the nature of the securities specified in item (xiv) of that paragraph) or the rights specified in paragraph (2), item (i) or (ii) of that Article (hereinafter collectively referred to as the "beneficial interest in trust, etc."), the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond the matters specified in paragraph (1) of the preceding Article:

- (i) the matters related to the type of the trust property, term of the trust, method for the management or disposition of the trust property and delivery of the trust property;
- (ii) the matters related to the person that has been granted the authority to manage or dispose of the trust property, as well as the details of such authority (if the person is the financial instruments business operator that is registered pursuant to Article 29 of the Act for engaging in investment management business for qualified investors, including to that effect);
- (iii) information as to whether the trust property was appraised by any third party at the time of the creation of the trust, or any other matters related to the appraisal of the trust property;
- (iv) the matters related to procedures for the transfer of the beneficial interest in trust, etc. (limited to the rights specified in Article 2, paragraph (2), item (i) or (ii) of the Act, which are regarded as securities pursuant to the provisions of that paragraph) as prescribed by the act of trust;
- (v) the type of transaction;
- (vi) in the case of an agency or intermediary service for sales, or in case of dealing in a public offering, private placement or secondary distribution, the matters related to the seller or purchaser;
- (vii) the purpose of the trust;
- (viii) the following matters in relation to the beneficiaries' rights and obligations:
  - (a) if there are any provisions providing that the trustee and the beneficiary enter into an agreement as set forth in Article 48, paragraph (5) of the Trust Act (Act No. 108 of 2006) (including as applied mutatis mutandis pursuant to Article 54, paragraph (4) of that Act) (other than if the trust company provides an explanation pursuant to the provisions of Article 29-3 of the Trust Business Act), to that effect and the details of such agreement;
  - (b) if there are any special provisions on the decision-making of beneficiaries, to that effect and the details thereof;

- (c) if there are any special provisions on the change, consolidation or split of the trust, to that effect and the details thereof;
  - (d) if there are any special provisions on the grounds for the termination of the trust, to that effect and the details thereof;
  - (e) if there are any special provisions on the termination of the trust based on an agreement, to that effect and the details thereof; and
  - (f) if there are any provisions on the resignation of a trustee and the appointment of a new trustee, to that effect and the details thereof.
- (ix) the following matters in relation to the risk of loss of the beneficial interest in trust, etc.:
- (a) if there is any obligation pertaining to the right specified in Article 21, paragraph (1), item (iii) of the Trust Act, the matters related to details of the obligation such as the total amount of the obligation and the amount of obligation per contract (if such obligation is a borrowing, including the total amount of the borrowing, and also including information on the features of the lender, borrowed amount, due date, outstanding balance for the immediately prior accounting period, interest rates for the accounting period and borrowing period, means of repayment and creation of security, as itemized by the relevant contracts, and aim and purpose of use of such borrowing);
  - (b) beyond what is set forth in (a), if there is any obligation which may result in any loss related to the beneficial interest in the trust, to that effect and the status of the obligation such as the total amount thereof;
  - (c) if there is any trust claim, security interest created on the trust property or any other rights having priority over the beneficial interest in trust, the details of such rights;
  - (d) if a credit enhancement has been implemented in relation to the beneficial interest in trust, to that effect and the details of such credit enhancement; and
  - (e) if there are special provisions promising to compensate for loss or to supplement profit pursuant to the provisions of Article 6 of the Act on Provision, etc. of trust business by financial institutions, to that effect and the details thereof;
- (x) the matters related to tax and any other expenses for the trust property;
  - (xi) the matters related to the accounting period of the trust property;
  - (xii) the matters related to reporting of the status of the management or disposition of the trust property;
  - (xiii) the name of the trustee, and the means of giving public notice;
  - (xiv) if the money comprising the trust property is to be invested jointly with the money comprising the trustee's own property or the money comprising any other trust property, to that effect and the criteria for the allocation of

- profit and loss between such trust property, and the trustee's own property or such other trust property;
- (xv) if the financial instruments transaction contract pertains to the purchase and sale or any other transaction of the beneficial interest in trust, etc. pertaining to the trust created by the means specified in Article 3, item (iii) of the Trust Act, the following matters:
- (a) the particulars of information stated or recorded in the notarial deed or any other document or electronic or magnetic record as set forth in Article 3, item (iii) of the Trust Act;
  - (b) information as to whether the trustee has been registered under Article 50-2, paragraph (1) of the Trust Business Act, and information as to whether the inspection under paragraph (10) of that Article has been conducted;
  - (c) if the inspection under Article 50-2, paragraph (10) of the Trust Business Act has been conducted, the results thereof; and
  - (d) if the inspection under Article 50-2, paragraph (10) of the Trust Business Act has not been conducted, and if the person conducting the purchase and sale or any other transactions of the beneficial interest in trust, etc. is the trustee of such trust, the matters listed in the items of Article 51-7, paragraph (1) of the Regulation for Enforcement of the Trust Business Act (Cabinet Office Order No. 107 of 2004);
- (xvi) if the financial instruments transaction contract pertains to the purchase and sale or any other transaction of the beneficial interest in trust, etc. pertaining to the limited liability trust prescribed in Article 2, paragraph (12) of the Trust Act, the following matters beyond those set forth in items (i) through (xiv):
- (a) the name of the limited liability trust;
  - (b) the place if the affairs of the limited liability trust are handled; and
  - (c) the amount payable, and the fact that the benefit pertaining to the trust property in excess of such payable amount cannot be paid to the beneficiaries.
- (2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to the purchase and sale or any other transaction of the beneficial interest in trust, etc. In such case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 84, paragraph (1)".
- (3) The provisions of paragraph (3) of the preceding Article apply mutatis mutandis to the beneficial interest in trust, etc. In this case, the term "paragraph (1)" of that paragraph is deemed to be replaced with "Article 84, paragraph (1)".

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Beneficial Interest in Real Property Trust)

Article 85 (1) If a financial instruments transaction contract to be concluded pertains to a purchase and sale or any other transaction of beneficial interest in real property trust, the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond those specified in paragraph (1) of the preceding Article; provided, however, that if the trust property pertaining to the beneficial interest in real property trust comprises a building lot, such matters are limited to those listed in items (i) through (ix)-2 and in item (xiii):

- (i) the types and details of the registered right existing on the trust property pertaining to the beneficial interest in real property trust, as well as the name of the registered right holder thereof or the name of the owner recorded in the heading-section of the registry (in the case of a corporation, the name thereof);
- (ii) an outline of the matters related to restrictions on the building lots or building comprising the trust property pertaining to the beneficial interest in real property trust as imposed under the City Planning Act (Act No. 100 of 1968), the Building Standards Act (Act No. 201 of 1950) or any other laws and regulations, which are specified in Article 3-2 of the Order for Enforcement of the Building Lots and Buildings Transaction Business Act (Cabinet Order No. 383 of 1964);
- (iii) matters related to the burden of a private road in connection with the building lots or building comprising the trust property pertaining to the beneficial interest in real property trust;
- (iv) the status of the construction or maintenance of the facilities for the supply of drinking water, electricity and gas and the drainage facilities for the building lot or building comprising the trust property pertaining to the beneficial interest in real property trust (if these facilities have not been constructed or maintained, the matters related to plans for construction or maintenance thereof and special burden therefor);
- (v) if the development or construction work of the building lot or building comprising the trust property pertaining to the beneficial interest in real property trust has not been completed, the matters related to the shape and structure at the time of the completion thereof as well as any other matters specified in Article 19-2-4 of the Regulation for Enforcement of the Building Lots and Buildings Transaction Business Act (Order of the Ministry of Construction No. 12 of 1957);
- (vi) if the building comprising the trust property pertaining to the beneficial interest in real property trust is the subject of the unit ownership prescribed

- in Article 2, paragraph (1) of the Act on Unit Ownership, etc. of Building (Act No. 69 of 1962), the type and details of the rights related to site of a building for the purpose of ownership of the building, the provisions of a regulation in relation to common elements as specified in paragraph (4) of that Article, the other rights related to a building and its site (if two or more buildings are built in a housing complex, and if the land located within such housing complex or the rights relevant thereto are co-owned by the owners of such buildings, including such land), as well as the matters related to the management or use thereof as set forth in the items of Article 19-2-5 of the Regulation for Enforcement of the Building Lots and Buildings Transaction Business Act;
- (vii) if the building lot or building comprising the trust property pertaining to the beneficial interest in real property trust is located in the disaster prone developed residential area designated under Article 20, paragraph (1) of the Act on Regulation of Residential Land Development (Act No. 191 of 1961), to that effect;
  - (viii) if the building lot or building comprising the trust property pertaining to the beneficial interest in real property trust is located in the sediment disaster prone areas designated under Article 7, paragraph (1) of the Act on Sediment Disaster Countermeasures for Sediment Disaster Prone Areas (Act No. 57 of 2000), to that effect;
  - (ix) if the building lot or building comprising the trust property pertaining to the beneficial interest in real property trust is located in the sediment disaster prone areas designated under Article 53, paragraph (1) of the Act on Regional Development for Tsunami Disaster Prevention (Act No. 123 of 2011), to that effect;
  - (ix)-2 if the location of the building lot or building comprising the trust property pertaining to the beneficial interest in a real property trust is displayed on the drawing provided by the mayor of a municipality where the location of the building lot or building comprising the trust property is located pursuant to the provisions of Article 11, item (i) of the Regulation for Enforcement of the Flood Control Act (Order of the Ministry of Construction No. 44 of 2000), the location of the building lot or building comprising the trust property on the drawing;
  - (x) if, with regard to the building comprising the trust property pertaining to the beneficial interest in real property trust, the results of any investigation as to whether asbestos was used have been recorded, the contents of such record;
  - (xi) if the building comprising the trust property pertaining to the beneficial interest in real property trust (excluding a building for which construction work was commenced on or after June 1, 1981) has undergone a seismic test

- implemented by any of the following parties in accordance with the items serving as the technical guidelines as specified in Article 4, paragraph (2), item (iii) of the Act on Promotion of Seismic Retrofitting of Buildings (Act No. 123 of 1995), from among the basic policies specified in Article 4, paragraph (1) of that Act, the details thereof:
- (a) a designated confirmation and inspection agency as prescribed in Article 77-21, paragraph (1) of the Building Standards Act;
  - (b) an architect and building engineer as prescribed in Article 2, paragraph (1) of the Act on Architects and Building Engineers (Act No. 202 of 1950);
  - (c) a registered housing quality evaluation agency as prescribed in Article 5, paragraph (1) of the Housing Quality Assurance Act (Act No. 81 of 1999);  
or
  - (d) a local government.
- (xii) if the building comprising the trust property pertaining to the beneficial interest in real property trust is a newly constructed housing which has undergone the housing quality evaluation test prescribed in Article 5, paragraph (1) of the Housing Quality Assurance Act, to that effect; and
- (xiii) in cases where the Building Lot or building comprising the trust property pertaining to the Beneficial Interest in Real Property Trust does not conform to the content of the contract in terms of the type or quality, and when any of the measures as specified in any of the following sub-items such as a conclusion of guarantee insurance contract has been taken with regard to the performance of a non-conformity warranty obligation, the outlines thereof:
- (a) in cases where the Building Lot or building does not conform to the content of the contract in terms of the type or quality, the conclusion of a guarantee insurance contract or a liability insurance contract for the performance of a non-conformity warranty obligation;
  - (b) in cases where the Building Lot or building does not conform to the content of the contract in terms of the type or quality, the conclusion of a contract for the consignment of the establishment of guarantee insurance or liability insurance for the performance of a non-conformity warranty obligation; or
  - (c) in cases where the Building Lot or building does not conform to the content of the contract in terms of the type or quality, the conclusion of a contract for consigning the bank, etc. to jointly and severally guarantee the obligation of the performance of a non-conformity warranty obligation.
- (2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the purchase and sale or any other transaction of the beneficial interest in real property trust. In such case, the term "items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 85, paragraph (1)".



- (3) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the beneficial interest in real property trust. In this case, the term "paragraph (1)" in that paragraph is deemed to be replaced with "Article 85, paragraph (1)".

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to Purchase and Sale and Other Transactions of Mortgage Securities)

Article 86 (1) If a financial instruments transaction contract to be concluded pertains to the purchase and sale or any other transaction of mortgage securities, etc., the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond those specified in Article 83, paragraph (1):

- (i) the matters related to a unit of principal;
- (ii) the matters related to interest;
- (iii) if there are any provisions on the receipt of payment of principal and interest of the claims, as stated in the mortgage securities, etc., the details thereof;
- (iv) the method of the delivery of the price;
- (v) the timing and means of the payment of principal and interest, or any other payment method;
- (vi) the matters listed in the items of Article 12, paragraph (1) of the Mortgage Securities Act (Act No. 15 of 1931), as stated in the mortgage securities, etc.;
- (vii) the following matters in relation to the loan contract pertaining to the mortgage securities, etc.:
  - (a) the date of the conclusion of the loan contract;
  - (b) the amount, interest and purpose of the loaned fund, as well as the method and due date for payment;
  - (c) information as to whether there is any guarantor;
  - (d) the following matters with regard to the outline of the collateral pertaining to the loan contract:
    - 1. the secured amount;
    - 2. the appraisal date and the appraised value of the collateral, as well the trade name, name or contact information of the appraiser; and
    - 3. the description of the collateral.
  - (e) an outline of the repayment plan for the loaned fund specified in the business plan or any other plan pertaining to the collateral set forth in (d); and
  - (f) if the debtor is a corporation, the following matters in relation to the corporation:
    - 1. the date of incorporation, or the date of the commencement of business;
    - 2. the type of the primary business;

3. the amount of stated capital or total amount of investment as well as the balance sheet and the profit and loss statement, as of the closing day of the accounts of the business year immediately preceding the business year in which the date three months (if the financial instruments business operator, etc. is a foreign corporation, six months) prior to the delivery date of the document for delivery prior to conclusion of contract falls;
- (g) if the debtor falls under the party concerned (meaning the party concerned prescribed in Article 8, paragraph (17) of the Regulation on Financial Statements, etc.) of the financial instruments business operator, etc., to that effect; and
- (h) the method whereby the customer collects the claims from the debtor.
- (viii) the amount of stated capital or total amount of investment of the financial instruments business operator, etc., and, if it is engaged in another business, the type of such business;
- (ix) the matters to be stated in the business report under Article 46-3, paragraph (1), Article 47-2 or Article 48-2, paragraph (1) of the Act, in relation to the financial instruments business operator, etc.;
- (x) the fact that the principal of the mortgage securities, etc. is not guaranteed by the government; and
- (xi) the latest financial statements of the financial instruments business operator, etc., or any of the following matters in regard to such financial instruments business operator, etc.:
- (a) the contents of the accounting audit report set forth in the second sentence of Article 396, paragraph (1) of the Companies Act;
- (b) if the financial instruments business operator, etc. is not a company with accounting auditors, and it has been audited by a certified public accountant (including a foreign certified public accountant prescribed in Article 16-2, paragraph (5) of the Certified Public Accountants Act (Act No. 103 of 1948); the same applies hereinafter) or an auditing firm, the details of the report of such auditing; or
- (c) if the financial instruments business operator, etc. is not a company with accounting auditors, and it has not been audited by a certified public accountant or an auditing firm, the effect that it has not been audited by a certified public accountant or an auditing firm, and reason therefor.
- (2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the purchase and sale or any other transaction of the mortgage securities, etc. In this case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 86, paragraph (1)".
- (3) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the mortgage securities, etc. In this case, the term "paragraph (1)" in that

paragraph is deemed to be replaced with "Article 86, paragraph (1)."

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transactions of Equity in Business subject to Investment)

Article 87 (1) If a financial instruments transaction contract to be concluded pertains to the purchase and sale or any other transaction of the equity in business subject to investment (such contract is hereinafter referred to as "contract for transaction of equity in business subject to investment" in this Article), the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond those specified in Article 83, paragraph (1):

- (i) the following matters related to the contract for transaction of equity in business subject to investment:
  - (a) the name of the equity in business subject to investment;
  - (b) the type of the equity in business subject to investment;
  - (c) the matters related to an application for the conclusion of the contract for transaction of equity in business subject to investment;
  - (d) the matters related to the payment of money to be invested or contributed;
  - (e) if the contract term for the equity in business subject to investment has been prescribed, such contract term;
  - (f) the following matters related to the cancellation of the equity in business subject to investment:
    - 1. whether the equity in business subject to investment is cancellable;
    - 2. the calculation method, payment method and scheduled payment date of the money concerns the distribution of the properties related to the equity in business subject to investment, which is payable upon cancellation thereof; and
    - 3. the cancellation fee;
  - (g) if there is an agreement for agreement for liquidated damages (including penalties), the details thereof;
  - (h) the following matters in connection with the scope of the rights and liabilities of the customer:
    - 1. information as to whether the customer has a right to monitor the properties pertaining to the business subject to investment and if so, the details of such right;
    - 2. ownership in the properties pertaining to the business subject to investment;
    - 3. the scope of the customer's liabilities owed to third parties;
    - 4. the matters related to the allocation of losses to be borne by the

- customer, in cases of any detriment to the properties pertaining to the business subject to investment due to any loss; and
5. the details of the equity in business subject to investment;
- (ii) the following matters in relation to the operation of the business subject to investment:
- (a) the contents of the business subject to investment and the operation policy therefor;
  - (b) matters related to the operational system for the business subject to investment, such as its organizational structure, internal rules and decision-making process for the business subject to investment;
  - (c) the trade name, name, duty and relevant business of the issuer of the equity in business subject to investment;
  - (d) the trade name, name, duty and relevant business of the person operating the business subject to investment (if the person is a financial instruments business operator that is registered as set forth in Article 29 of the Act for engaging in investment management business for qualified investors, including to that effect);
  - (e) if the business subject to investment is a business which invests in securities, the trade name, name, duty and relevant business of the following persons (if the person listed in 2. is a financial instruments business operator that is registered as set forth in Article 29 of the Act for engaging in investment management business for qualified investors, including to that effect):
    - 1. the issuers of the securities (limited to the first to the 30th-ranked securities, in accordance with the descending order of the proportion to the total amount of investment) (if the Issuer (limited to the issuer of the investment trust beneficial interests, etc. prescribed in Article 74, paragraph (2)) makes an investment in other securities, such other securities are regarded as the securities);
    - 2. the person accepting entrustment of an investment or the custody of money or any other property from the issuer of the equity in business subject to investment or a person specified in 1. (another person that such person re-entrusts an investment to is deemed to be the person accepting entrustment from the issuer of the equity in business subject to investment or the person specified in 1.);
  - (f) the policy for the dividend of profit generating from the investment business, or the policy for the distribution of properties pertaining to the business subject to investment (hereinafter collectively referred to as the "dividends, etc.");
  - (g) the business year, accounting period or any other period similar thereto;
  - (h) the method for the collection of fees, etc. pertaining to the business

- subject to investment and the matters related to tax to be imposed thereon;  
and
- (i) the management method set forth in Article 40-3 of the Act.
  - (iii) the following matters in relation to the accounting of the business subject to investment;
    - (a) the balance sheet;
    - (b) the profit and loss statement;
    - (c) the total amount of the equity in business subject to investment;
    - (d) the total number of issued equity interests in business subject to investment;
    - (e) the following matters related to the dividends, etc.:
      - 1. the total amount of the dividends, etc.;
      - 2. the payment method of the dividends, etc.;
      - 3. if the distribution of the properties pertaining to the business subject to investment is to be made prior to the last day of the contract term specified in item (i), (e), the payment method of the money pertaining to such distribution; and
      - 4. the method for and rate of taxation on the dividends, etc.
    - (f) the amount of total assets, the net assets, the amount of operating profit or loss, the amount of current profit or loss and the amount of net profit or loss;
    - (g) the amount of total net assets, the amount of net profit or loss and the amount of dividends, etc. per unit of equity in business subject to investment;
    - (h) the capital-to-asset ratio and return on equity;
    - (i) if the business subject to investment is a business which invests in securities, the following matters related to the securities:
      - 1. the issues of the securities itemized by the place of issuance or regions if the financial instruments exchange or any others similar thereto are located; if the category of the securities is a share certificate, the type of business of the issuer thereof, and the volumes and amount thereof (the amount means the total book value and the total market value or the total appraisal value; hereinafter the same applies in this item); and if the category of the securities is a bond, the interest rates and the amount of redemption;
      - 2. the method of the appraisal of the amounts specified in 1.; and
      - 3. the proportion of each of the amounts specified in 1. to the total amount of assets pertaining to the business subject to investment.
    - (j) if the business subject to investment is a business which invests in any asset other than securities, the following matters related to the asset:
      - 1. the volumes and amount of asset, as itemized by the type of assets;

2. the method of appraisal of the amounts set forth in 1.;
  3. the proportion of each of the amounts specified in 1. to the total amount of assets pertaining to the business subject to investment; and
- (iv) in cases of conducting the act specified in Article 129, paragraph (1), item (iii) or (iv), to that effect.
- (2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the purchase and sale or any other transaction of equity in business subject to investment. In this case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 87, paragraph (1)".
- (3) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the equity in business subject to investment. In this case, the term "paragraph (1)" in that paragraph is deemed to be replaced with "the items of Article 87, paragraph (1)."

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Equity in Foreign Business subject to Investment)

Article 88 (1) If a financial instruments transaction contract to be concluded pertains to the purchase and sale or any other transaction of the right specified in Article 2, paragraph (2), item (vi) of the Act (hereinafter referred to as the "equity in foreign business subject to investment"), the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond those specified in paragraph (1) of the preceding Article:

- (i) the name of the laws governing the contract or any other juridical act related to the equity in foreign business subject to investment, and the outline thereof;
- (ii) existence of the authority of the foreign state supervising the issuer of the equity in foreign business subject to investment, and if the authority exists, the name and the outline of the supervision;
- (iii) the treatment of remittance of the dividends, etc., sales proceeds and any other payment, in regard to exchange control;
- (iv) information as to whether there is any person domiciled in Japan who has been granted authority to act as an agent of the issuer of the equity in foreign business subject to investment in connection with acts in or out of court, and there is such person, the name and address and the contents of such authority; and
- (v) if the contract or any other juridical act related to the equity in foreign business subject to investment provides for the court to have jurisdiction over an action related to such equity in foreign business subject to

investment, the name and location of such court and the procedure for execution.

- (2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the purchase and sale or any other transaction of the equity in foreign business subject to investment. In such case, the term "items of the preceding paragraph" is deemed to be replaced with "the items of Article 88, paragraph (1)".
- (3) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the equity in foreign business subject to investment. In this case, the term "paragraph (1)" in that paragraph is deemed to be replaced with "Article 88, paragraph (1)."

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transactions of Equity in Business subject to Investment Whose Business subject to Investment Is Business Which Primarily Invests in Beneficial Interest in Trust)

Article 89 (1) If a financial instruments transaction contract to be concluded pertains to a purchase and sale or any other transaction of equity in business subject to investment wherein the business subject to investment related to such equity in business subject to investment is a business which primarily invests in beneficial interest in trust, etc., the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are the matters listed in the items of Article 84, paragraph (1), in addition to those specified in Article 87, paragraph (1) (if the financial instruments transaction contract pertains to the purchase and sale or any other transaction of equity in foreign business subject to investment, beyond those specified in paragraph (1) of the preceding Article).

- (2) The beneficial interest in trust, etc. set forth in the preceding paragraph is to include the beneficial interest in trust, etc. if the business subject to investment set forth in that paragraph is a business which invests in an equity in business subject to investment and the business subject to investment related to such equity in business subject to investment (referred to as the "secondary business subject to investment" in the following paragraph and paragraph (4)) is a business which invests in beneficial interest in trust, etc.
- (3) If the secondary business subject to investment set forth in the preceding paragraph is a business which invests in equity in business subject to investment and the business subject to investment related to such equity in business subject to investment is a business which invests in beneficial interest in trust, etc., such business subject to investment is deemed to be a secondary business subject to investment, and the provisions of the preceding

two paragraphs apply.

- (4) The provisions of the preceding paragraph apply mutatis mutandis if the business subject to investment which is deemed to be the secondary business subject to investment pursuant to the provisions of that paragraph (including as applied mutatis mutandis pursuant to this paragraph) is a business which invests in equity in business subject to investment, and if the business subject to investment related to such equity in business subject to investment is a business which invests in the beneficial interest in trust, etc.
- (5) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the purchase and sale or any other transaction of the equity in business subject to investment if the business subject to investment related to such equity in business subject to investment is a business which primarily invests in the beneficial interest in trust, etc. In such case, the terms "the items of the preceding paragraph", "in that paragraph" and "the items of that paragraph" are deemed to be replaced with "the items of Article 84, paragraph (1)", "in Article 89, paragraph (1)", and "items of Article 84, paragraph (1)", respectively.
- (6) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the equity in business subject to investment if the business subject to investment related to such equity in business subject to investment is a business which primarily invests in the beneficial interest in trust, etc. In this case, the term "paragraph (1)" of that paragraph is deemed to be replaced with "Article 89, paragraph (1)."

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Right under Partnership Contract, Wherein Business subject to Investment Pertaining to the Right Is Primarily Intended for Investment in Beneficial Interest in Real Property Trust)

- Article 90 (1) If a financial instruments transaction contract to be concluded pertains to the purchase and sale or any other transaction of a right under a partnership contract, a silent partnership contract or a limited partnership agreement for investment, wherein the business subject to investment pertaining to such right is primarily intended for investment in beneficial interest in real property trust, the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are the matters listed in the items of Article 85, paragraph (1), beyond the matters specified in paragraph (1) of the preceding Article.
- (2) The beneficial interest in real property trust set forth in the preceding paragraph is to include the beneficial interest in real property trust, if the business subject to investment set forth in that paragraph is a business which invests in any equity in business subject to investment, and if the business



subject to investment related to such equity in business subject to investment (referred to as the "secondary business subject to investment" in the following paragraph and paragraph (4)) is a business which invests in the beneficial interest in real property trust.

- (3) If the secondary business subject to investment set forth in the preceding paragraph is a business which invests in equity in business subject to investment, and if the business subject to investment pertaining to such equity in business subject to investment is a business which invests in the beneficial interest in real property trust, such business subject to investment is deemed to be the secondary business subject to investment, and the provisions of the preceding two paragraphs apply.
- (4) The provisions of the preceding paragraph apply mutatis mutandis if the business subject to investment which is deemed to be the secondary business subject to investment pursuant to the provisions of that paragraph (including as applied mutatis mutandis pursuant to this paragraph) is a business which invests in equity in business subject to investment, and if the business subject to investment related to such equity in business subject to investment is a business which invests in the beneficial interest in real property trust.
- (5) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the purchase and sale or any other transaction of a right under a partnership contract, a silent partnership contract or a limited partnership agreement for investment if the business subject to investment pertaining to such right is primarily intended for investment in the beneficial interest in real property trust. In such case, the terms "the items of the preceding paragraph", "in that paragraph" and "the items of that paragraph" are deemed to be replaced with "the items of Article 85, paragraph (1)", "in Article 90, paragraph (1)", and "items of Article 85, paragraph (1)", respectively.
- (6) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the rights under a partnership contract, a silent partnership contract or a limited partnership agreement for investment if the business subject to investment pertaining to such rights is primarily intended for investment in the beneficial interest in real property trust. In such case, the term "paragraph (1)" in that paragraph is deemed to be replaced with "Article 90, paragraph (1)".

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of a Contract Pertaining to Commodity Fund-Related Transactions)

Article 91 (1) Notwithstanding the provisions of Article 84, paragraph (1), Article 87, paragraph (1), Article 88, paragraph (1) and Article 89, paragraph (1), if the financial instruments transaction contract to be concluded pertains to the purchase and sale or any other transaction of a beneficial interest in

commodity fund (hereinafter referred to as the "commodity fund-related transaction"), the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are the following matters, beyond those specified in Article 83, paragraph (1):

- (i) the trade name, name and address of the person that makes an investment (hereinafter referred to as an "investment manager" in this paragraph) of the commodity fund (meaning money or other properties invested or contributed by persons entitled to the beneficial interest in commodity fund; hereinafter the same applies in this Article and Article 109, item (v)), and of the major parties listed in any of the following from among those having a close business relationship with the commodity fund (hereinafter referred to as the "related business operators" in this paragraph); and if any of the aforementioned parties has a representative, the name thereof:
  - (a) a commodity trading advisor involved in the investment of the commodity fund (meaning the commodity trading advisor prescribed in Article 2, paragraph (4) of the Act on Regulation of Business Pertaining to Commodity Investment (Act No. 66 of 1991); hereinafter the same applies in this Article), and a person that has been granted the same type of permission as a commodity investment advisory business permission as set forth in Article 3 of that Act or any other disposition equivalent thereto (referred to as a "permissions, etc." in item (xiii)) in a foreign state under the laws and regulations of the foreign state corresponding to that Act;
  - (b) the person that accepts the investment or contribution from the commodity fund (excluding the investment manager); and
  - (c) the person that the investment manager and the person specified in (b) entrusts the investment of the commodity fund to;
- (ii) the amount of stated capital or the total amount of the contribution of the financial instruments business operator, etc. and the investment manager; the trade name or name of the major shareholder thereof (meaning a person holding ten percent or more of the voting rights held by all the shareholders, etc. under the name of such person or any other person; the same applies in Article 95, paragraph (1), item (i) and Article 153, paragraph (1), item (iv), (d), 6., i.); and if the financial instruments business operator, etc. or the investment manager conducts any additional business, the type of such business;
- (iii) the balance sheet and profit and loss statement for the business year immediately preceding the business year in which the day when the investment manager commenced the investment of properties falls, or any other document in lieu thereof;
- (iv) the names of the officers of the investment manager, and of the major employees thereof engaged in investment of the commodity fund (meaning a

- person responsible for investment of the commodity fund, such as the general manager, vice-chief, section manager or any other person irrespective of the job title); and if any officer engages in the ordinary business of any other corporation or operates a business, the name of that officer, the trade name or name of the relevant other corporation or the type of business or that ordinary business;
- (v) the following matters related to the type of the financial instruments transaction contract and the scope of the customer's rights and liabilities:
    - (a) the type of the financial instruments transaction contract;
    - (b) information as to whether the customer has a right to monitor the properties invested or contributed by the customer or trust properties pertaining to the beneficial interest in commodity fund, and if so, the details of such right;
    - (c) ownership of the properties invested or contributed by the customer, or of trust properties pertaining to the beneficial interest in commodity fund;
    - (d) the scope of the customer's liabilities owed to third parties;
    - (e) the matters related to allocation of the losses to be borne by customers, in cases of any detriment to properties invested or contributed by the customer or trust properties pertaining to the beneficial interest in commodity fund due to any loss; and
    - (f) the right to receive profit and redemption in regard to properties invested or contributed by the customer or trust properties pertaining to the beneficial interest in commodity fund;
  - (vi) an outline of the laws and regulations applicable to the financial instruments transaction contract or to the trust agreement pertaining to the beneficial interest in commodity fund;
  - (vii) the following matters related to the type of the investment of the properties invested or contributed by the customer or the trust properties pertaining to the beneficial interest in commodity fund:
    - (a) information as to whether the type of investment is principal-protected or aggressive;
    - (b) if the investment is of a principal-protected type, the means of the protection of principal and the amount of principal that may be protected;
    - (c) if the investment is of an aggressive type, the scope of the losses estimated to be incurred; and
    - (d) information as to whether any additional offering is to be made.
  - (viii) the following matters in relation to the contents and policies of the investment of the properties invested or contributed by the customer or the trust properties pertaining to the beneficial interest in commodity fund:
    - (a) if the scheduled ratio classified into categories of investment target such as ratio per region or ratio per type has been determined, such ratio and

- any other matters on the contents of and the criteria related to the primary investment target;
- (b) if any restriction on investment is imposed by laws and regulations or any other rules, the details and basis of such restriction;
  - (c) information as to whether any borrowing, concentrated investment, investment in other commodity funds or investment in any investment target lacking liquidity is to be made; and if any restriction on investment is to be imposed, the contents and basis of that restriction;
  - (d) information as to whether an accelerated redemption may be made;
  - (e) the scheduled date for the commencement of the investment;
  - (f) the scheduled date for the termination of the investment; and
  - (g) the accounting period for the investment of the commodity fund, which is not longer than one year (hereinafter referred to as the "accounting period");
- (ix) the factors expected to give rise to any loss in connection with the investment of the commodity fund by way of the transaction specified in Article 2, paragraph (1), item (i) of the Act on Control for Business Pertaining to Commodity Investment (hereinafter referred to as the "commodity futures" in this Article and Article 109, item (iv)), such as its speculative nature, efficiency of fund management, liquidity, credibility of the commodity futures transactions dealer prescribed in Article 2, paragraph (23) of the Commodity Futures Act, the method of investment adopted by the commodity trading advisor and other factors;
  - (x) the method, frequency and timing of reporting the status of the investment to customers; and
  - (xi) if a contract specified in Article 2, paragraph (5), item (iii) of the Act on Control for Business Pertaining to Commodity Investment is to be concluded, the details of the right to demand a report to be granted to the customer under that contract;
  - (xii) the following matters in relation to the investment manager:
    - (a) the purpose of the business as set forth in its articles of incorporation;
    - (b) the background of the incorporation thereof;
    - (c) the change to the trade name;
    - (d) information as to whether any change of officer of the investment manager requires the approval of the supervisory government agencies or shareholders, etc., and if such approval is required, the basis thereof as well as the procedures for obtaining such approval;
    - (e) the change to its articles of incorporation, consolidation, business transfer and acquisition of business;
    - (f) the status of the major investment or contribution; and
    - (g) material events such as lawsuits;

- (xiii) the following matters in relation to any major related business operator:
  - (a) if the related business operator is to accept an investment or contribution from the commodity fund, the amount of its stated capital or total amount of investment;
  - (b) if a corporation which is to become a related business operator is to be incorporated based on an investment or contribution to be newly made by the commodity fund, the scheduled amount of such investment or contribution;
  - (c) with regard to a commodity trading advisor and a person that has been granted the same type of permission, etc. as a permission under Article 3 of the Act on Regulation of Business Pertaining to Commodity Investment in a foreign state under the laws and regulations of the foreign state corresponding to that Act, the serial number of such permission, etc., the name of the agency which has granted such permission, etc. as well as the name of the state to which such agency belongs, the year of the establishment thereof and the year when such permission, etc. was granted; and
  - (d) the contents of the business pertaining to the investment of the commodity fund.
- (xiv) the capital relationship with the investment manager and the major related business operators;
- (xv) the following matters in relation to a public offering, private placement or secondary distribution of beneficial interest in commodity fund:
  - (a) the name of the beneficial interest in commodity fund;
  - (b) the scheduled total amount and the scheduled total unit of the public offering, private placement or secondary distribution;
  - (c) the unit of the public offering, private placement or secondary distribution;
  - (d) the period, method and place of handling of the application; and
  - (e) the payment date and the payment method.
- (xvi) the matters related to the contract period pertaining to the beneficial interest in commodity fund;
- (xvii) the matters related to a change to the financial instruments transaction contract, such as the procedures for the change, the method for the announcement that the change is to take place, and any other matters;
- (xviii) the following matters in relation to the cancellation of the financial instruments transaction contract:
  - (a) information as to whether the financial instruments transaction contract is cancellable;
  - (b) if the financial instruments transaction contract is cancellable, the following matters:

1. the conditions for and method of the cancellation;
  2. the term for the application of the cancellation;
  3. the method of calculation of the amount to be redeemed upon cancellation, as well as the payment method thereof;
  4. the scheduled date for the payment of the amount to be redeemed upon cancellation;
  5. the cancellation fee; and
  6. to the effect that, if the contracts are cancelled frequently, it may be impossible to make the investment as initially scheduled and it may be impossible to make the investment itself.
- (xix) information as to whether the financial instruments business operator, etc. conducts a buy-back, and if it conducts a buy-back, the conditions and methods therefor as well the method of calculation of the buy-back price pertaining to such buy-back, and the method and timing of the payment thereof;
- (xx) if there is an agreement for agreement for liquidated damages (including penalties), the details thereof;
- (xxi) the method by which the financial instruments business operator, etc. collects fees, etc. from the customers;
- (xxii) the payee, calculation method, amount to be paid, payment method and timing of the payment of the fees, etc. pertaining to the management of the commodity fund payable from the commodity fund, and if such amount to be paid has not been fixed, to that effect;
- (xxiii) the following matters in connection with asset appraisal, etc. pertaining to the commodity fund:
- (a) the method of calculation of the net asset per unit, and the method of appraisal of the assets per unit;
  - (b) the accounting period; and
  - (c) the method of notifying the customers;
- (xxiv) information as to whether the financial instruments business operator, etc. will have a certified public accountant or an auditing firm audit the balance sheet, profit and loss statement, any document in lieu thereof or any other documents on financial calculation of the commodity fund pertaining to the accounting period, and if so, the scope of such auditing;
- (xxv) the method and policy for the distribution of any profit of the commodity fund;
- (xxvi) the method of calculation of the amount of redemption payable upon maturity, as well as the method and timing of the payment thereof;
- (xxvii) the matters related to taxation on the dividend and the redemption;
- (xxviii) if the investment manager is a foreign corporation, information as to whether there it has any person domiciled in Japan that has been granted

- authority to act as an agent of the investment manager in connection with acts in or out of court, and if so, the trade name, name and the address of such person and the details of such authority;
- (xxix) if the contract or any other juridical act pertaining to the beneficial interest in commodity fund provides for the court to have jurisdiction over the action related to such beneficial interest in commodity fund, the name and location of such court; and
- (xxx) if a financial instruments transaction contract pertaining to commodity fund-related transactions intended for making additional investment in a commodity fund which accepts additional investment of principal is to be concluded, or if the agency or intermediary services therefor are to be provided (hereinafter referred to as the "conclusion, etc." in this item), the following matters:
- (a) the status of the distribution of assets pertaining to the commodity fund as of the last day of the month two months prior to the day of the commencement of solicitation for such conclusion, etc., classified in accordance with the following categories:
1. commodity futures (including a breakdown by the category of major goods pertaining to the commodity futures, such as precious metals, agricultural products, energy resources and others);
  2. the commodities investment prescribed in Article 2, paragraph (1), item (ii) of the Act on Control for Business Pertaining to Commodity Investment (including a breakdown by the category of major goods pertaining to the commodities investment, such as precious metals, agricultural products, energy resources and others);
  3. the commodities investment prescribed in Article 2, paragraph (1), item (iii) of the Act on Control for Business Pertaining to Commodity Investment (including a breakdown by the category of major goods pertaining to the commodities investment, such as precious metals, agricultural products, energy resources and others);
  4. investment by way of acquisition (including production), transfer or use of the goods listed in Article 37, paragraph (1), item (ii), (a) through (e) of the Order or by way of having such goods used (including a breakdown by category of the goods pertaining to such investment as listed in (a) through (e) of that item);
  5. other methods of investment (including a breakdown by category of major investment method, such as an investment in securities, negotiable deposits and other major financial instruments, a transaction listed in the items of Article 2, paragraph (21) of the Act, a transaction listed in the items of paragraph (22) of that Article, a transaction prescribed in paragraph (23) of that Article and other

- methods).
- (b) the net asset and the dividends as of the last day of each of the latest ten accounting periods, which ended on the last day of the month two months prior to the month containing the day of the commencement of such solicitation;
  - (c) the amount, the cancellation payment amount and redemption amount related to of the public offering, private placement, secondary distribution or solicitation for selling, etc. only for professional investors for each of the latest ten accounting periods, which ended on the last day of the month two months prior to the month containing the day of commencement of such solicitation;
  - (d) the balance sheet and the profit and loss statement of the commodity fund for the accounting period immediately prior to the accounting period in which the day of the commencement of the solicitation falls, or any other document in lieu thereof;
  - (e) if there is any person that has accepted an investment or a contribution from the commodity fund set forth in (d), the consolidated balance sheet and the consolidated profit and loss statement pertaining to such commodity fund and such person, or any other document in lieu thereof, which are set out in such a way that the customer may understand the net asset of such commodity fund or such person; and
  - (f) if the document specified in (d) or (e) or any other documents on the financial calculation has been audited by a certified public accountant or an auditing firm, the scope of such auditing (other than if a document related to auditing by a certified public accountant or an auditing firm is attached to the document for delivery prior to conclusion of contract, and if the scope of such auditing is clearly indicated in the document).
- (2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to a commodity fund-related transaction. In such case, the term "the items of the preceding paragraphs" in that paragraph is deemed to be replaced with "the items of Article 91, paragraph (1)".
- (3) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the beneficial interest in commodity fund. In this case, the term "paragraph (1)" in that paragraph is deemed to be replaced with "Article 91, paragraph (1)".
- (4) The term the "beneficial interest in commodity fund" as used in paragraph (1) and the preceding paragraph is as follows:
- (i) the rights to be indicated on the securities specified in Article 2, paragraph (1), item (xiv) of the Act or on the securities specified in item (xvii) of that paragraph (limited to those which have the nature of the securities specified in item (xiv) of that paragraph), or the rights specified in paragraph (2), item (i) or (ii) of that Article, the purpose of which is to receive the distribution of



profits and refund of the principal of trust primarily intended for the investment of the trust property pertaining to such right through investment by means of the following acts:

- (a) the commodities investment prescribed in Article 2, paragraph (1) of the Act on control for business pertaining to commodities investment; and
- (b) the acquisition (including production), transfer or use of any of the goods listed in Article 37, paragraph (1), item (ii), (a) through (e) of the Order, or having such goods used;
- (ii) the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act if the business subject to investment pertaining to such rights is an investment in the rights specified in the preceding item; and
- (iii) the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act if the business subject to investment pertaining to such rights is primarily intended for conducting the act specified in item (i), (a) or (b).

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to Transaction Pertaining to Business Related to Investment in Racehorses)

Article 92 (1) If a financial instruments transaction contract to be concluded pertains to a transaction of the business related to investment in racehorses, the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are the matters related to bloodlines of the racehorses and status of the management of the breeding thereof, beyond those specified in paragraph (1) of the preceding Article.

(2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to a transaction pertaining to the business related to investment in racehorses. In this case, the term "the matters listed in the items of the preceding paragraph", "that paragraph", "the matters listed in the items of that paragraph" is deemed to be replaced with "the matters related to bloodlines of the racehorses and status of the management of the breeding thereof", "Article 92, paragraph (1)", and "such matters", respectively.

(3) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the right specified in Article 7, item (iv), (d), 1. or 2. In such case, the term "paragraph (1)" in that paragraph is deemed to be replaced with "Article 92, paragraph (1)".

(Special Provisions on Matters to Be Stated in Documents to Be Delivered Prior to Conclusion of a Contract Pertaining to Purchase and Sale or Any Other Transaction of Business-Type Equity of Business subject to Investment)

Article 92-2 (1) The matters provided for by Cabinet Office Order defined in

Article 37-3, paragraph (1), item (vii) of the Act if the financial instruments transaction contract to be concluded pertains to the purchase and sale and other transactions of the right, of which the business subject to investment related to the equity of business subject to investment is mainly the business other than a business which invests primarily in the rights pertaining to securities or derivative transactions from among the equity of business subject to investment (hereinafter referred to as "business-type equity of business subject to investment" in this Article) are the following matters beyond the matters specified in Article 87, paragraph (1) (if the financial instruments transaction contract is related to the purchase and sale or other transactions of equity in foreign business subject to investment, the matters specified in Article 88, paragraph (1); if the financial instruments transaction contract is related to the purchase and sale or other transactions of those listed in Article 91, paragraph (4), item (iii), the matters specified in paragraph (1) of that Article; and if the financial instruments transaction contract is related to transactions of the business related to investment in racehorses, the matters specified in paragraph (1) of the preceding Article):

- (i) matters specified in the following (a) through (c) corresponding to the categories of money management means listed in those (a) through (c) related to the business-type equity of business subject to investment:
  - (a) the means listed in Article 125, item (ii), (a): the following matters:
    - 1. the trade name or name of the depository;
    - 2. the name and location of the business office or any other office related to the deposit;
    - 3. the name of the deposit; and
    - 4. the account number of the deposit and other necessary matters to specify the deposit;
  - (b) the means listed in Article 125, item (ii), (b): the following matters:
    - 1. the trade name or name of a bank, etc. (meaning a bank, cooperative financial institution, the Shoko Chukin Bank Limited, or a person that engages in the operations listed in Article 10, paragraph (1), item (i) of the Banking Act in a foreign state) with which there is a deposit or savings account;
    - 2. the name and location of the business office or any other office related to deposits or savings;
    - 3. the name of the deposits or savings; and
    - 4. the account number of the deposits or savings and other necessary matters to specify the deposits or savings;
  - (c) the means listed in Article 125, item (ii), (c): the following matters:
    - 1. the trade name or name of the trustee of the money trust;
    - 2. the name and location of the business office or any other office related to

- the money trust;
- 3. the name of the money trust; and
- 4. the account number of the money trust and other necessary matters to specify the money trust; and
- (d) the method set forth in Article 125, item (ii), sub-item (d): the following matters:
  - 1. the trade name or name of the party to which the management is entrusted;
  - 2. the name and location of the business office or other office pertaining to the entrustment of the management;
  - 3. the name of the entrustment of the management; and
  - 4. the account number of the entrustment of the management and other matters necessary for identifying the entrustment of the management;
- (ii) implementation status of the management specified in Article 40-3 and the means with which the financial instruments business operator, etc. checked the implementation status;
- (iii) characteristics of the contact pertaining to the purchase and sale and other transactions of the business-type equity of business subject to investment and the statement that investment should be implemented only after understanding the characteristics;
- (iv) the following matters related to the flow of funds pertaining to the business subject to investment:
  - (a) specific content of use of money and other property that is invested or paid by a person that has business-type equity of business subject to investment and the distribution policy of the money and other property for each use; and
  - (b) the trade name or name and roles of the person that transfers or sends, or manages or keeps money or other properties invested or paid by the person that has business-type equity of business subject to investment; and
- (v) existence of an external audit pertaining to money and other properties invested or paid by the person that has business-type equity of business subject to investment, and in cases of receiving an external audit, the name of the person that implements the external audit.
- (2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the purchase and sale and other transactions of the business-type equity of business subject to investment. In this case, the term "each item of the preceding paragraph" as used in that paragraph is deemed to be replaced with "each item of Article 92-2, paragraph (1)".
- (3) The provisions of Article 83, paragraph (3) apply mutatis mutandis to the business-type equity of business subject to investment. In this case, the term "paragraph (1)" in that paragraph is deemed to be replaced with "Article 92-2,

paragraph (1)".

(Matters to Be Stated in All Types of Document for Delivery Prior to Conclusion of Contracts Pertaining to Derivative Transactions)

Article 93 (1) If a financial instruments transaction contract to be concluded pertains to derivative transactions, etc., the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond those set forth in the items of Article 82:

- (i) the matters prescribed in Article 16, paragraph (1), items (iii) and (vi) of the Order;
- (ii) the means of the performance of the obligations arising from the derivative transactions, etc., and the means of settlement of such derivative transactions, etc.;
- (iii) if the derivative transactions, etc., fall under the category of the market transactions of derivatives, etc. or foreign market derivatives transactions, etc., the trade name or name of the party which establishes the financial instruments exchange market or the foreign financial instruments market pertaining to such transactions;
- (iv) the types of any security deposit to be deposited by the customer in connection with the derivative transactions, etc. such as customer margin, and the method of calculation of the amount thereof; the type of properties which may be appropriated to the customer margin or any other security deposit, and the amount which may be appropriated or any other information equivalent thereto; and the method whereby the customer deposits or restitutes the customer margin or any other security deposit.
- (v) the method of the collection of the fees, etc. from customers;
- (vi) the matters related to the procedures pertaining to derivative transactions, or becoming entrusted, etc. with them thereof (meaning becoming entrusted, etc. set forth in Article 44-2, paragraph (1), item (i) of the Act; the same applies hereinafter); and
- (vii) the major technical terms related to derivative transactions or any other basic matters.

(2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the derivative transactions, etc. In this case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 93, paragraph (1)".

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of a Contract Pertaining to Over-the-Counter Derivatives Transactions Contracts)

Article 94 (1) If a financial instruments transaction contract to be concluded

pertains to the contract of over-the-counter derivatives transactions, the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond those specified in the preceding Article:

- (i) if the financial instruments business operator, etc., for the purpose of reducing any possible loss which may accrue from the over-the-counter derivatives transactions (excluding transactions listed in Article 116, paragraph (1), item (iii), (a) and (b); hereinafter the same applies in this paragraph, Article 117, paragraph (1), item (xxvi), Article 123, paragraph (1), items (xx) and (xxi)) to be conducted vis-a-vis a customer, conducts market transactions of derivatives or foreign market derivatives transactions, or other over-the-counter derivatives transactions or other transactions vis-a-vis other financial instruments business operator, etc. or any other person (hereinafter referred to as the "counterparty business operators, etc." in this and the following items, and Article 117, paragraph (1), item (xxviii)-2, (b)), and the financial instruments or options subject to such over-the-counter derivatives transactions or financial indicators pertaining to such over-the-counter derivatives transactions, type of transaction (whether it is a purchase or sale transaction) any other particulars equivalent thereto are identical to the over-the-counter derivatives transactions conducted by the customer (such transaction is hereinafter referred to as the "cover deal"): the trade name or name of the financial instruments exchange market pertaining to such cover deal; or the trade name or name of the party which establishes the foreign financial instruments market pertaining to such cover deal, as indicated in the language used in the state or region where the foreign financial instruments market has been established, as well as the Japanese translation of the indication; or the trade name or name and the business contents of the counterparty business operators, etc. which are the counterparties to the over-the-counter derivatives transactions or other transactions (hereinafter referred to as the "counterparties to cover deals"); and if any of the counterparties to cover deals is a foreign corporation, the name of the competent authority supervising such corporation;
- (ii) the trade name, name and the business contents of the counterparty business operator, etc. which is the counterparty to the intermediation, brokerage, or agency service, if a financial instruments business operator, etc. conducts an intermediation, brokerage, or agency service for the over-the-counter derivatives transactions to be conducted by a customer (hereinafter referred to as the "counterparty to intermediary services, etc." in this item and Article 143, paragraph (1), item (ii), (d)); and if such counterparty to intermediary services, etc. is a foreign corporation, the name of the competent authority supervising such counterparty;

- (iii) the matters related to prohibited acts in connection with the contract of over-the-counter derivatives transactions; and
  - (iv) the method for management of the properties under Article 43-2, paragraph (1) or (2) or Article 43-3 of the Act, and the depository thereof.
- (2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the contract of over-the-counter derivative transactions. In this case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 94, paragraph (1)".

(Matters to Be Stated in a Document to Be Delivered Prior to the Conclusion of a Contract in Relation to Investment Advisory Contracts)

Article 95 (1) If a financial instruments transaction contract to be concluded is an investment advisory contract or a contract for conducting of the acts specified in Article 2, paragraph (8), item (xiii) of the Act (limited to the act pertaining to an investment advisory contract), the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond those set forth in the items of Article 82:

- (i) if the financial instruments business operator, etc. is a corporation, the amount of the stated capital, the total amount of investment, and the trade names or names of its officers and the major shareholders;
- (ii) the name of the person that conducts the analysis of the values, etc. of financial instruments for the purpose of making it available for the advisory service the customer under the investment advisory contract, or that makes investment decisions based on such analysis (referred to as the "analysts, etc." in Article 106, paragraph (1), item (vi));
- (iii) the contents and methods of the advisory service;
- (iv) the name of the person that performs the advisory service for customers under the investment advisory contracts;
- (v) if the provisions of Article 37-6 of the Act is applicable to the financial instruments transaction contract, the fact that the customer may, before ten days have elapsed from the day when the customer received the document set forth in Article 37-4, paragraph (1) of the Act to be prepared when the financial instruments transaction contract is effected or in the cases set forth in Article 98, paragraph (1), item (i) or (ii) (hereinafter referred to as the "document for delivery upon conclusion of contract") (if, instead of the receipt of the document for delivery upon conclusion of contract, any information to be specified therein was provided by electronic or magnetic means, from the day specified as follows in accordance with the categories of the cases set forth respectively therein), cancel the financial instruments transaction contract in writing:
  - (a) if such information has been provided by the means specified in Article 56,

- paragraph (1), item (i): the day when the matters to be stated in the document for delivery upon conclusion of contract are recorded into the file stored on a computer used by a customer; or
- (b) if such information has been provided by the means specified in Article 56, paragraph (1), item (ii): the day of the receipt of the file set forth in that item;
- (vi) the fact that a cancellation of the financial instruments transaction contract under Article 37-6, paragraph (1) of the Act comes into effect when a document notifying the cancellation thereof is dispatched;
- (vii) to the effect that the financial instruments business operator, etc. may not, in connection with its investment advisory business, conduct the acts listed in Article 2, paragraph (8), items (i) through (iv) of the Act vis-a-vis or for the customer;
- (viii) to the effect that the financial instruments business operator, etc. may not, in connection with its investment advisory business, receive any money deposit or securities from its customers or have such customer deposit the customer's money or securities to a person having a close relationship with such financial instruments business operator, etc., irrespective of the grounds therefor; and
- (ix) to the effect that the financial instruments business operator, etc. may not, in connection with its investment advisory business, loan money or securities to its customers, or provide any intermediation, brokerage, or agency for the lending of money or securities by a third party to such customers.
- (2) the provisions listed in the following items do not apply to the cases set forth respectively therein:
- (i) the provisions of item (vii) of the preceding paragraph: if the financial instruments business operator, etc. falls under the category of the following persons:
- (a) a person engaged in type I financial instruments business (excluding a type-I small amount electronic public offering service provider);
- (b) a person engaged in type II financial instruments business (excluding a type-II small amount electronic public offering service provider);
- (c) a registered financial institution;
- (d) a financial instruments intermediary service provider; or
- (e) a financial service intermediary.
- (ii) the provisions of item (viii) of the preceding paragraph: if the financial instruments business operator, etc. falls under the category of the following persons:
- (a) a person engaged in a securities, etc. management business; or
- (b) a registered financial institution (limited to a financial institution engaged in a trust business, or a financial institution accepting deposits,

- savings, or installment savings, etc. as prescribed in Article 2, paragraph (4) of the Banking Act);
- (iii) the provisions of item (ix) of the preceding paragraph: if the financial instruments business operator, etc. falls under the category of the following persons:
- (a) a person engaged in type I financial instruments business;
  - (b) a financial instruments intermediary service provider;
  - (c) a registered financial institution (limited to a financial institution engaged in a trust business); or
  - (d) a financial service intermediary.
- (3) the provisions of Article 83, paragraph (2) apply mutatis mutandis to an investment advisory contract. In this case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 95, paragraph (1)".

(Matters to Be Stated in a Document to Be Delivered Prior to Conclusion of Contract Pertaining to a Discretionary Investment Contract)

- Article 96 (1) If a financial instruments transaction contract to be concluded is a discretionary investment contract or a contract for conducting of the acts specified in Article 2, paragraph (8), item (xiii) of the Act (limited to acts pertaining to a discretionary investment contract; the same applies in item (vi)), the matters to be specified by Cabinet Office Order as referred to in Article 37-3, paragraph (1), item (vii) of the Act are as follows, beyond those set forth in the items of Article 82:
- (i) basic investment policy;
  - (ii) the means of investment pertaining to the customer's assets to be made for the customer under the discretionary investment contract, and the type of the transactions;
  - (iii) the name of a person that makes an investment decision, or a person that makes an investment decision and makes an investment based thereon, for the customer and pursuant to the discretionary investment contract;
  - (iv) the matters related to the scope of the discretionary investment decision and the implementation of the investment (including the trade name or name (if the person is a financial instruments business operator that is registered pursuant to Article 29 of the Act for engaging in investment management business for qualified investors, including to that effect), and the basic information of the person to be entrusted, if all or part of the authority for making an investment for the right holder is to be entrusted to a person as set forth in Article 42-3, paragraph (1) of the Act (including if a part of the authority so entrusted is to be re-entrusted));
  - (v) if a person that manages for the right holder based on a discretionary



investment contract is the financial instruments business operator that is registered pursuant to Article 29 of the Act for engaging in investment management business for qualified investors, including to that effect; and (vi) existence of an external audit related to business pertaining to finance of the financial instruments business operator, etc. (if the financial instruments transaction contract to be concluded is a contract for conducting acts listed in Article 2, paragraph (8), item (xiii) of the Act, the financial instruments business operator, etc. that is a counterparty of the discretionary investment contract pertaining to those acts) or a discretionary investment contract, and if the external audit has been implemented, the name of the person that implemented the external audit, the results of the external audit, and the outline of the results.

(2) If the financial instruments transaction contract to be concluded is a discretionary investment contract, the matters provided for by Cabinet Office Order specified in Article 37-3, paragraph (1), item (vii) of the Act under the policy to set the subject securities of specific issue as subject of investment based on the discretionary investment contract after concluding the discretionary investment contract are the following matters beyond the matters prescribed in the preceding paragraph:

(i) the name of the subject securities, means of calculation of the price of the subject securities, and matters related to the frequency and means of reporting the price to the person that holds the right pertaining to the subject securities;

(ii) the trade name or name, address or residence of the issuer of the subject securities, the person that engages in important operations pertaining to the investment of assets invested or paid by the person that holds the right pertaining to the subject securities (hereinafter it is referred to as "fund assets" in this item and item (iv)), the person that engages in important operations pertaining to preservation of the fund assets, and the person that engages in important operations pertaining to the matters listed in the preceding item other than investment and preservation of fund assets (limited to matters related to the calculation means of the price specified in that item or the means to report the price) (it is referred to as "persons related to fund") and matters related to the role sharing of those persons;

(iii) the capital relationship and personal relationship between the financial instruments business operator, etc. and the persons related to the fund; and

(iv) existence of an external audit pertaining to fund assets, and if the external audit is implemented, the name of the person that implements the external audit.

(3) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the discretionary investment contract. In this case, the term "the items of the

preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 96, paragraph (1) and the items of paragraph (2)", the term "of that paragraph" is deemed to be replaced with "these", and the term "each item of that paragraph" is deemed to be replaced with "each item of paragraphs (1) and (2) of that Article" respectively.

- (4) The "subject securities" set forth in paragraph (2) mean the following securities (excluding those corresponding to cases in which the disclosure prescribed in Article 4, paragraph (7) of the Act is implemented in relation to those securities):
- (i) securities listed in Article 2, paragraph (1), item (x) or (xi);
  - (ii) securities similar to beneficiary certificates of investment trust from among securities listed in Article 2, paragraph (1), item (xiv) of the Act;
  - (iii) securities listed in Article 2, paragraph (1), item (xvii) of the Act that have the nature of securities listed in the preceding item;
  - (iv) securities listed in Article 2, paragraph (1), item (xx) of the Act that indicate the rights pertaining to securities listed in the preceding three items;
  - (v) the right to be indicated on the securities listed in the preceding items that are deemed to be securities pursuant to the provisions of Article 2, paragraph (2) of the Act; and
  - (vi) the rights listed in Article 2, paragraph (2), item (v) or (vi) of the Act that are deemed to be securities pursuant to the provisions of that paragraph.

(Exemption from Requirement of Notification of Document for Delivery Prior to Conclusion of Contract)

Article 97 The cases specified by Cabinet Office Order as prescribed in the proviso to Article 37-3, paragraph (3) of the Act are those in which, in connection with the solicitation for the conclusion of a financial instruments transaction contract set forth in that paragraph, a notification under Article 4, paragraph (1) or (2) of the Act has been filed (but only if such notification document contains all of the matters to be stated in a document for delivery prior to conclusion of contract).

(Other Occasions Where Delivery of Documents Is Required)

Article 98 (1) The occasions to be specified by Cabinet Office Order as referred to in Article 37-4, paragraph (1) of the Act are as follows:

- (i) in cases of the cancellation of all or part of an investment trust agreement pertaining to the securities prescribed in Article 2, paragraph (1), item (x) of the Act or a trust agreement pertaining to the foreign investment trust prescribed in Article 2, paragraph (24) of the Act on Investment Trust and Investment Corporations (excluding the cases falling under the effectuation

- of a financial instruments transaction contract as set forth in Article 37-4, paragraph (1));
- (ii) if any investment equity (meaning the investment equity prescribed in Article 2, paragraph (14) of the Act on Investment Trust and Investment Corporations; the same applies in Article 123, paragraph (1), item (ix)) has been refunded; and
  - (iii) if a financial instruments transaction contract pertaining to the purchase and sale and any other transaction of securities or derivative transactions, etc. (excluding brokerage for clearing of securities, etc.) was effected, or if the securities, commodities (including instruments or certificates issued in relation to the deposited commodities) or money were delivered, the following cases:
    - (a) if the customer has requested that a report on outstanding balance of transactions (meaning the document prepared and delivered in the case referred to in this item, pursuant to the provisions of Article 37-4, paragraph (1) of the Act; the same applies hereinafter) be delivered for each occasion if the financial instruments transaction contract has been effected or such delivery has been made, each occasion if the financial instruments transaction contract was effected or such delivery has been made;
    - (b) in the case referred to as follows, for each last day of the reporting period containing the day when the financial instruments transaction contract was effected or the delivery was made (the term the "reporting period" means the period derived from dividing a one-year term by the terms of three months or shorter (if no financial instruments transaction contract was effected or no such delivery was made within one year from the day of preparation of the latest report on outstanding balance of transactions, and if there is any outstanding monies or securities, it means a one-year period or the period derived from dividing a one-year term by a term shorter than one year); the same applies hereinafter):
      - 1. if the customer is not the one that made the request set forth in (a); or
      - 2. if the statement of the matters specified in Article 108, paragraph (1), items (v) and (vi) is to be omitted pursuant to the provisions of Article 108, paragraph (5);
  - (iv) if a financial instruments transaction contract pertaining to commodity fund-related transactions has been concluded.
- (2) In the case referred to in item (iv) of the preceding paragraph, a financial instruments business operator, etc. must, without delay on or after the last day of the accounting period pertaining to the investment of the commodity fund related to the commodity fund-related transactions set forth in that item, prepare and deliver a written report explaining the status of the investment of

such commodity fund.

(Matters to Be Stated in All Types of Documents to Be Delivered Prior to the Conclusion of a Contract)

Article 99 (1) the following matters must be contained in a document for delivery upon conclusion of contract:

- (i) the trade name or name of the financial instruments business operator, etc.;
  - (ii) the name of the business office or any other office of the financial instruments business operator, etc.;
  - (iii) a brief description of the financial instruments transaction contract, the cancellation set forth in item (i), paragraph (1) of the preceding Article or the refund set forth in item (ii) of that paragraph (excluding those specified in Article 100 through Article 107);
  - (iv) the date when the financial instruments transaction contract is effected, or when the cancellation set forth in paragraph (1), item (i) of the preceding Article or the refunding set forth in item (ii) of that paragraph is made;
  - (v) the matters related to the fees, etc. pertaining to the financial instruments transaction contract, the cancellation set forth in item (i), paragraph (1) of the preceding Article or the refunding set forth in item (ii) of that paragraph;
  - (vi) the name of the customers; and
  - (vii) the method whereby the customer contacts the financial instruments business operator, etc.
- (2) If any financial instruments transaction contract pertaining to a market transaction of derivatives for which give-up was implemented (the "give-up" means an act whereby, in accordance with the conditions provided by a financial instruments exchange, the sale or purchase under a market transaction of derivatives conducted by a member, etc. (if such market transaction of derivatives falls under the category of a transaction specified in any of the following items, the transactions set forth respectively therein; hereinafter the same applies in this paragraph) are to be extinguished toward the future, and by, at the same time, the sale or purchase under a market transaction of derivatives identical to the purchase and sale under a market transaction of derivatives so extinguished is newly effected under the name of another member, etc.; the same applies hereinafter), a financial instruments business operator, etc. is to state the fees, etc. under item (v) of the preceding paragraph which are directly received by order executing member, etc. (meaning the member, etc. under whose name the sales or purchases of the market transactions of derivatives were extinguished toward the future through such give-up; the same applies hereinafter) and the clearance executing member, etc. (meaning the member, etc. under whose name the sales or purchases of the market transactions of derivatives were newly effected

- through such give-up; the same applies hereinafter) from the customer:
- (i) a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including a foreign market derivatives transaction similar thereto): a transaction wherein the customer becomes a party paying money or a party receiving money if the actual figure exceeds the agreed figure;
  - (ii) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including a foreign market derivatives transaction similar thereto): a transaction wherein the customer becomes a party granting options or a party acquiring options;
  - (iii) a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including a foreign market derivatives transaction similar thereto): a transaction wherein the customer becomes a party paying money or a party receiving money when the interest rate, etc. of the financial instruments or financial indicators as agreed between the customer and the counterparty increase in the agreed period;
  - (iv) a transaction specified in Article 2, paragraph (21), item (iv) of the Act: a transaction wherein a party becomes a money-paying or receiving party when a financial indicator for the instruments agreed between the customer and the counterparty rises in the agreed period; and
  - (v) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including a foreign market derivatives transaction similar thereto): a transaction wherein the customer becomes a party paying money or a party receiving money when any event agreed by the parties in advance (meaning the events specified in that item) occurs.

(Matters to Be Stated in All Types of Document for Delivery Upon Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Securities or Derivative Transactions)

Article 100 (1) Beyond the matters set forth in the items of paragraph (1) of the preceding Article, the following matters must be stated in the document for delivery upon conclusion of contract to be prepared when a financial instruments transaction contract pertaining to the purchase and sale or any other transaction of securities (excluding mortgage securities, etc.; hereinafter the same applies in this Article and the following Article) or a derivative transaction, etc. is effected or in the cases listed in Article 98, paragraph (1), item (i) or (ii) (if the purchase and sale and other transaction of securities pertains to the action specified in Article 2, paragraph (8), item (vii) of the Act or in Article 1-12, item (i) of the Cabinet Order, or in cases listed in Article 98, paragraph (1), item (i) or (ii), the matters specified in item (i) are excluded):

- (i) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer,

- and in cases of a transaction based on entrustment (limited to those pertaining to over-the-counter transaction of derivatives, etc.), the trade name or name and address or location of the counterparty; and
- (ii) information as to whether the type of transaction is a sale, etc. (meaning a sale or any other manner of transfer for value, or a cancellation or refunding; the same applies in Article 108, paragraph (1), item (ii), (c)) or a purchase, etc. (meaning a purchase or any other manner of acquisition for value; the same applies in (c) of that item) (with regard to the transactions listed in (a) through (e) below, information as to the type of such transaction respectively set forth therein):
- (a) a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including a foreign market derivatives transaction similar thereto) and a transaction specified in paragraph (22), item (ii) of that Article: whether it is a transaction wherein the customer becomes a party paying money, or a party receiving money, if the actual figure exceeds the agreed figure;
- (b) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including a foreign market derivatives transaction similar thereto) and a transaction specified in paragraph (22), items (iii) and (iv) of that Article: whether it is a transaction wherein the customer becomes a party granting options, or a party acquiring options;
- (c) a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including a foreign market derivatives transaction similar thereto) and a transaction specified in paragraph (22), item (v) of that Article: whether it is a transaction wherein the customer becomes a party paying money, or a party receiving money, when the interest rate, etc. of the financial instruments or financial indicators as agreed between the customer and the counterparty increase in the agreed period; and
- (d) a transaction specified in Article 2, paragraph (21), item (iv)-2 of the Act: a transaction wherein a party becomes a money-paying or receiving party when a financial indicator for the instruments agreed between the customer and the counterparty rises in the agreed period;
- (e) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including a foreign market derivatives transaction similar thereto) and a transaction specified in paragraph (22), item (vi) of that Article: whether it is a transaction wherein the customer becomes a party paying money, or a party receiving money, when any event agreed by the parties in advance (meaning the events specified in any of Article 2, paragraph (21), item (v) and paragraph (22), item (vi) of the Act) occurs;
- (iii) the issues (including financial instruments, financial indicators which are the subject of transactions or any others equivalent thereto);
- (iv) the agreed volumes (if there is no volume, the number of transactions or

- any other matter equivalent to volumes);
- (v) the amount or figure per transaction unit, such as the unit price, amount of consideration or agreed figure;
  - (vi) the amount of money payable by the customer and the means of calculation thereof;
  - (vii) the type of transaction; and
  - (viii) beyond what is set forth in the preceding items, the matters necessary for accurately disclosing the details of the transaction.
- (2) Notwithstanding the provisions of the preceding paragraph, if two or more financial instruments business operators, etc. (including a financial service intermediary) are required to deliver to the customer a document for delivery upon conclusion of contract (in the case of a financial service intermediary, the document prescribed in Article 37-4, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 31, paragraph (2) of the Act on the Provision of Financial Services; the same applies hereinafter in this paragraph) in regard to the same purchase and sale or any other transaction of securities or derivative transactions, etc. pursuant to the provisions of Article 37-4, paragraph (1) of the Act (including as applied mutatis mutandis pursuant to Article 31, paragraph (2) of the Act on the Provision of Financial Services), and one of those financial instruments business operators, etc. (including a financial service intermediary) has delivered to the customer the document for delivery upon conclusion of contract stating the matters set forth in the items of the preceding paragraph, the other financial instruments business operator, etc. need not specify in its document for delivery upon conclusion of contract the matters set forth in the items of the preceding paragraph.
- (3) Notwithstanding the provisions of paragraph (1), if the financial instruments transaction contract which has come into effect pertains to a pre-auction trading of government bonds (meaning a when-issued transaction of government bonds (meaning a transaction wherein, within the period between the time when the state publishes the scheduled auction date, scheduled issuance amount, scheduled issue date and scheduled redemption date of the government bonds (hereinafter referred to as "time of publication of scheduled date, etc. for government bond auction" in this paragraph) and the day immediately prior to the issue date of such government bond, a party concludes a contract for the purchase and sale of such government bond which comes into effect subject to the fulfillment of the conditions precedent that such government bonds be issued on the issue date, and in the delivery settlement under such contract is performed on or after the issue date; the same applies in Article 108, paragraph (1), item (vi) and Article 164, paragraph (1), item (i) to be conducted between the time of publication of scheduled date, etc. for government bond auction and the time of publication of the issue number and

coupon rate of such government bond; the same applies hereinafter), the document for delivery upon conclusion of contract pertaining to such financial instruments transaction contract may contain the effect that the transaction falls under the category of a pre-auction trading of government bonds, and the scheduled redemption date and the contracted yield thereof (if the government bonds are floating rate government bonds, spread on the standard interest rates specified by the state), in lieu of the matters specified in paragraph (1), items (iii), (v) and (vi); provided, however, that a document specifying such matters must be delivered before the issue date.

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Upon Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Securities or Transactions of Securities-Related Derivatives)

Article 101 (1) Beyond the matters specified in paragraph (1) of the preceding Article, the following matters must be stated in a document for delivery upon conclusion of contract to be prepared when a financial instruments transaction contract pertaining to the purchase and sale or any other transaction of securities or transactions of securities-related derivatives, etc. is effected:

- (i) if the financial instruments transaction contract pertains to the purchase and sale of securities (excluding a transaction which falls under the category of transactions of securities-related derivatives, etc.; hereinafter the same applies in this Article), the following matters:
  - (a) information as to whether the transaction is a cash transaction or a margin transaction; and
  - (b) if a financial instruments transaction contract pertains to a margin transaction, the due date for payment, and information as to whether it is a new transaction or a settlement transaction;
- (ii) if the financial instruments transaction contract pertains to a transaction specified in Article 28, paragraph (8), item (iii), (a) of the Act, or to a transaction similar to that specified in (a) of that item conducted on a foreign financial instruments market, the following matters:
  - (a) information as to whether it is a new transaction or a settlement transaction; and
  - (b) if the financial instruments transaction contract pertains to a calendar spread transaction as prescribed in the regulations of a party which establishes a financial instruments exchange or a foreign financial instruments market, to that effect;
- (iii) if the financial instruments transaction contract pertains to a transaction specified in Article 28, paragraph (8), item (iii), (b) or (c) of the Act, or to a transaction similar to that specified in (b) or (c) of that item conducted on a foreign financial instruments market, information as to whether it is a new



- transaction or a settlement transaction;
- (iv) if a financial instruments transaction contract pertains to a transaction specified in Article 28, paragraph (8), item (iv), (a) of the Act, the following matters:
    - (a) information as to whether it is a new transaction or a settlement transaction;
    - (b) the certain future timing, as promised by the parties, in relation to the delivery or receipt of securities and the consideration therefor; and
    - (c) if the transaction is to be settled by means of the delivery or receipt of the difference, the means of calculation of such difference;
  - (v) if the financial instruments transaction contract pertains to a transaction specified in Article 28, paragraph (8), item (iv), (b) of the Act, the following matters:
    - (a) the date of the calculation of the amount of money to be delivered or received;
    - (b) the means of calculation of the amount of money to be delivered or received;
    - (c) the day when the money will be delivered or received;
    - (d) beyond what is set forth in (a) through (c), the matters equivalent to such matters which are necessary for accurately disclosing the details of the transaction;
  - (vi) if the financial instruments transaction contract pertains to a transaction specified in Article 28, paragraph (8), item (iv), (c) or (d) of the Act, the matters specified in the following, in accordance with the categories of the transactions effected by exercise of the options set forth respectively therein:
    - (a) a purchase and sale of securities: the matters specified in item (i), (a) and (b);
    - (b) a transaction specified in Article 28, paragraph (8), item (iv), (a) of the Act: the matters specified in item (iv), (a) through (c);
    - (c) a transaction specified in Article 28, paragraph (8), item (iv), (b) of the Act: the matters specified in (a) through (d) of the preceding item;
    - (d) a transaction specified in Article 28, paragraph (8), item (iv), (e) of the Act: the matters specified in (a) through (g) of the following item; and
    - (e) a transaction other than that specified in (a) through (d): the matters necessary for accurately disclosing the details of the transaction;
  - (vii) if the financial instruments transaction contract pertains to a transaction specified in Article 28, paragraph (8), item (iv), (e) of the Act, the following matters:
    - (a) the amount fixed as the principal;
    - (b) the securities indicator or the securities issues pertaining to the calculation of the amount of money to be paid by the customer;

- (c) the method of calculation of the amount of money to be paid by the customer;
  - (d) the interest rate, securities indicator, type of currency or securities issues pertaining to the calculation of the amount of money to be received by the customer;
  - (e) the method of calculation of the amount of money to be received by the customer;
  - (f) the period specified in Article 28, paragraph (8), item (iv), (e) of the Act; and
  - (g) beyond what is set forth in (a) through (f), the matters equivalent to these matters which are necessary for accurately disclosing the details of the transaction.
- (2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to a purchase and sale or any other transaction of securities or transactions of securities-related derivatives, etc. In such case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 101, paragraph (1)".
- (3) Notwithstanding the provisions of paragraph (1), in the case referred to in Article 99, paragraph (2), the matters specified in Article 101, paragraph (1), item (ii), (a), item (iii), and item (iv), (a) need not be specified.

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Upon Conclusion of Contract Pertaining to Derivative Transactions)

Article 102 (1) Beyond the matters specified in Article 100, paragraph (1) (if a financial instruments transaction contract is related to transactions of securities-related derivatives, etc. (limited to those pertaining to the contract for over-the-counter derivatives transactions), the matters prescribed in paragraph (1) of the preceding Article), the following matters are stated in a document for delivery upon conclusion of contract to be prepared when a financial instruments transaction contract pertaining to derivative transactions, etc. (excluding transactions of securities-related derivatives, etc. (excluding those pertaining to the contract for over-the-counter derivatives transactions) and transactions pertaining to brokerage for clearing of securities, etc.; the same applies in following paragraph) is effected:

- (i) the types and amounts of the customer margin and any other security deposit pertaining to the derivative transactions effected (if a contract for a customer margin or any other security deposit pertaining to the derivative transactions has not been concluded for each derivative transaction, to that effect and the means of calculation of the security deposit);
- (ii) the party with which the customer margin or any other security deposit pertaining to the derivative transactions effected is to be deposited;

- (iii) the trade name or name of a party which establishes the financial instruments exchange market or the foreign financial instruments market pertaining to the derivative transactions, etc. so effected (excluding the over-the-counter transactions of derivatives);
  - (iv) the time limit of the derivative transactions effected, and if the derivative transactions so effected has been conducted in settlement of the existing derivative transactions before its time limit, to that effect and the matters specified in Article 100, paragraph (1), item (v) in regard to such existing derivative transactions;
  - (v) the trade name or name of the depository for separate management;
  - (vi) if the financial instruments transaction contract pertains to a transaction specified in Article 2, paragraph (21), item (v) or, paragraph (22), item (vi) of the Act, the following matters:
    - (a) the events determined by the parties in advance;
    - (b) the means of calculation of the amount of money to be received or paid by the customer if any event determined by the parties in advance occurs;
    - (c) the financial instruments, the rights pertaining to the financial instruments or a monetary claim (such monetary claim excludes claims which fall under the category of the financial instruments or of the rights pertaining thereto) which the parties had promised to transfer between the parties if any event determined by the parties in advance occurs; and
    - (d) the transaction period.
- (2) The provisions of Article 100, paragraph (2) apply mutatis mutandis to derivative transactions, etc. In this case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 102, paragraph (1)".

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Upon Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Mortgage Securities)

- Article 103 (1) Beyond the matters specified in Article 99, paragraph (1), the following matters must be stated in a document for delivery upon conclusion of contract to be prepared when a financial instruments transaction contract pertaining to the purchase and sale or any other transaction of mortgage securities, etc. is effected:
- (i) if there are any provisions on the receipt of the payment of the principal and interest of the claim, as specified in the mortgage securities, etc., the contents thereof;
  - (ii) the matters specified in the items of Article 12, paragraph (1) of the mortgage securities Act;
  - (iii) the matters related to the principal and interest;

- (iv) the day of the payment of the principal and interest;
  - (v) if there are any provisions on the calculation of the interests, the contents thereof;
  - (vi) the matters stated in a loan contract pertaining to the mortgage securities;
  - (vii) the matters stated in a real property appraisal report;
  - (viii) the repayment plan of the loan, as specified in the business plan or any other plan pertaining to the collateral;
  - (ix) if the debtor is a corporation, the following matters in relation to such corporation:
    - (a) the year and month when the corporation was incorporated or commenced business;
    - (b) the type of the principal business conducted; and
    - (c) the balance sheet and profit and loss statement for the business year immediately preceding the business year containing the day three months (six months, if the financial instruments business operator, etc. is a foreign corporation) prior to the day when the document for delivery upon conclusion of contract was delivered; and
  - (x) the method whereby the customer collects claims from the debtor.
- (2) The provisions of Article 100, paragraph (2) apply mutatis mutandis to the purchase and sale or any other transaction of mortgage securities, etc. In this case, the term "the items of the preceding paragraph" in that paragraph is deemed to be replaced with "the items of Article 103, paragraph (1)".

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Upon Conclusion of Contract Pertaining to Commodity Fund-Related Transactions)

- Article 104 (1) Beyond the matters specified in Article 100, paragraph (1), the following matters must be stated in a document for delivery upon conclusion of contract to be prepared when a financial instruments transaction contract pertaining to commodity fund-related transactions is effected:
- (i) the matters specified in Article 37-3, paragraph (1), items (v) and (vi) of the Act;
  - (ii) the matters specified in Article 83, paragraph (1), item (i), Article 91, paragraph (1), item (i), item (v), item (xvi), and item (xviii), (b), 2. and 4. through 6., and in item (xx) of that paragraph;
  - (iii) the details of the investment made under the act specified in Article 91, paragraph (4), item (i), (a) or (b), the investment specified in item (ii) of that paragraph or of the business specified in item (iii) of that paragraph, in connection with the beneficial interest in commodity fund;
  - (iv) the method of the distribution of the profit of the commodity fund;
  - (v) the method of the payment of the redemption payable upon maturity, and if

an accelerated redemption may be made, the method of the payment of such accelerated redemption; and

(vi) the method and rate of taxation imposed on the dividend and the redemption.

(2) The provisions of Article 100, paragraph (2) apply mutatis mutandis to commodity fund-related transactions. In this case, the term "the items of that paragraph" in that paragraph is deemed to be replaced with "the items of Article 104, paragraph (1)".

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Upon Conclusion of Contract Pertaining to Transaction of Business Related to Investment in Racehorses)

Article 105 (1) Beyond the matters specified in paragraph (1) of the preceding Article, the matters related to bloodlines of the racehorses and the status of the management of the breeding thereof must be stated in a document for delivery upon conclusion of contract to be prepared when a financial instruments transaction contract pertaining to a business related to investment in racehorses is effected.

(2) The provisions of Article 100, paragraph (2) apply mutatis mutandis to a transaction pertaining to a business related to investment in racehorses. In this case, the terms "the matters listed in the items of the preceding paragraph", "in that paragraph", and "the matters listed in the items of that paragraph" are deemed to be replaced with "the matters related to bloodlines of the racehorses and the status of the management of the breeding thereof", "in Article 105, paragraph (1)", and "such matters", respectively.

(Special Provisions on Matters to Be Stated in a Document to Be Delivered Upon Conclusion of Contract Pertaining to an Investment Advisory Contract)

Article 106 (1) Beyond the matters specified in Article 99, paragraph (1), the following matters must be stated in a document for delivery upon conclusion of contract to be prepared when an investment advisory contract or a financial instruments transaction contract for the performance of the act specified in Article 2, paragraph (8), item (xiii) of the Act (limited to that pertaining to an investment advisory contract) is effected:

(i) the contents and method of the advice;

(ii) the amount and timing of the payment of the remuneration;

(iii) the matters related to the cancellation of the contract (including the matters related to the provisions of Article 37-6, paragraphs (1) through (4) of the Act);

(iv) if there is an agreement for agreement for liquidated damages (including penalties), the details thereof;

- (v) the contract term;
  - (vi) the name of the analysts, etc.;
  - (vii) the name of the person that provides the customer with the advisory services under the investment advisory contract;
  - (viii) to the effect that the customer is entitled to receive, in preference over other creditors, a payment with regard to claims originating from the investment advisory contract, from a deposit for operation furnished by the financial instruments business operator;
  - (ix) the matters specified in Article 95, paragraph (1), item (vii);
  - (x) the matters specified in Article 95, paragraph (1), item (viii); and
  - (xi) the matters specified in Article 95, paragraph (1), item (ix).
- (2) The provisions listed in the following items do not apply to the cases set forth respectively therein:
- (i) the provisions of item (ix) of the preceding paragraph: if the financial instruments business operator, etc. falls under the category of any of the following persons:
    - (a) a person engaged in type I financial instruments business (excluding a type-I small amount electronic public offering service provider);
    - (b) a person engaged in type II financial instruments business (excluding a type-II small amount electronic public offering service provider);
    - (c) a registered financial institution;
    - (d) a financial instruments intermediary service provider; or
    - (e) a financial service intermediary.
  - (ii) the provisions of item (x) of the preceding paragraph: if the financial instruments business operator, etc. falls under the category of any of the following persons:
    - (a) a person engaged in a securities, etc. management business; or
    - (b) a registered financial institution (limited to a financial institution engaged in a trust business, or a financial institution accepting deposits, savings, or installment savings, etc. as prescribed in Article 2, paragraph (4) of the Banking Act);
  - (iii) the provisions of item (xi) of the preceding paragraph: if the financial instruments business operator, etc. falls under the category of any of the following persons:
    - (a) a person engaged in type I financial instruments business;
    - (b) a financial instruments intermediary service provider;
    - (c) a registered financial institution (limited to a financial institution engaged in a trust business); or
    - (d) a financial service intermediary.
- (3) The provisions of Article 100, paragraph (2) apply mutatis mutandis to an investment advisory contract. In this case, the term "the items of the preceding

paragraph" in that paragraph is deemed to be replaced with "the items of Article 106, paragraph (1)".

(Matters to Be Stated in a Document to Be Delivered Upon Conclusion of Contract Pertaining to Discretionary Investment Contract)

Article 107 (1) Beyond the matters listed in the items of Article 99, paragraph (1), the following matters must be stated in a document for delivery upon conclusion of contract to be prepared when a discretionary investment contract or a financial instruments transaction contract for the performance of the acts specified in Article 2, paragraph (8), item (xiii) of the Act (limited to the act pertaining to a discretionary investment contract) is effected:

- (i) the matters related to the scope of the discretionary investment decision and the implementation of an investment (if all or part of the authority for making the investment decisions or the implementation of an investment is to be entrusted to another person, including the name of such entrusted person (if the person is the financial instruments business operator that is registered pursuant to Article 29 of the Act for engaging in investment management business for qualified investors, including to that effect) and the scope of such entrustment);
- (ii) the amount and timing of the payment of the remuneration;
- (iii) the matters related to the cancellation of the contract;
- (iv) if there is an agreement for agreement for liquidated damages (including penalties) the details thereof;
- (v) the contract term;
- (vi) the particulars and amount of the customer's assets pertaining to the discretionary investment contract;
- (vii) the name of a person that makes an investment decision, or a person that makes an investment decision and makes an investment based thereon, for the customers and pursuant to the discretionary investment contract; and
- (viii) the method of the investment and the type of the transactions pertaining to the customer's assets which are conducted for the customer under the discretionary investment contract;
- (ix) if the financial instruments transaction contract has been effected through an act specified in Article 2, paragraph (8), item (xiii) of the Act, to the effect that the customer is entitled to receive, in preference over other creditors, payment with regard to claims originating from the discretionary investment contract, from a deposit for operation furnished by the financial instruments business operator;
- (x) if the person that engages in investment for the right holder based on the discretionary investment contract is the financial instruments business operator that is registered pursuant to Article 29 of the Act for engaging in

investment management business for qualified investors, to that effect; and (xi) frequency to deliver the investment report set forth in Article 42-7, paragraph (1) of the Act.

- (2) The provisions of Article 100, paragraph (2) apply mutatis mutandis to a discretionary investment contract. In this case, the term "the items of the preceding paragraph" is deemed to be replaced with "the items of Article 107, paragraph (1)".

(Matters to Be Stated in Report on Outstanding Balance of Transactions)

Article 108 (1) The following matters must be stated in a report on outstanding balance of transactions:

- (i) the name of the customer;
- (ii) the following matters pertaining to the financial instruments transaction contract as set forth in Article 98, paragraph (1), item (iii), (a), or to the financial instruments transaction contract effected during the reporting period:
  - (a) the date of the contract;
  - (b) the date of the delivery of the securities or commodities (including instruments or certificates issued in relation to the deposited commodities; hereinafter the same applies in this Article);
  - (c) information as to whether the type of transaction is a sale, etc. or a purchase, etc. (with regard to the transactions listed in 1. through 5. below, information as to the type of the transactions respectively set forth therein):
    1. a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including foreign market derivatives transactions similar thereto) and a transaction specified in Article 2, paragraph (22), item (ii) of the Act: whether it is a transaction wherein, if the actual figure exceeds the agreed figure, the customer becomes a party paying money, or a party receiving money;
    2. a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including foreign market derivatives transactions similar thereto), and transactions specified in Article 2, paragraph (22), items (iii) and (iv) of the Act: whether it is a transaction wherein the customer becomes a party granting options, or a party acquiring options;
    3. a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including foreign market derivatives transactions similar thereto), and a transaction specified in Article 2, paragraph (22), item (v) of the Act: whether it is a transaction wherein, when the interest rate, etc. of the financial instruments or financial indicators as agreed between the customer and the counterparty increase in the agreed period, the



- customer becomes a party paying money, or a party receiving money;
4. a transaction specified in Article 2, paragraph (21), item (iv)-2 of the Act: a transaction wherein a party becomes a money-paying or receiving party when a financial indicator for the instruments agreed between the customer and the counterparty rises in the agreed period; and
  5. a transaction specified in Article 2, paragraph (21), item (v) of the Act (including foreign market derivatives transactions similar thereto), and a transaction specified in Article 2, paragraph (22), item (vi) of the Act: whether it is a transaction wherein, when any event agreed by the parties in advance (meaning any of the events specified in paragraph (21), item (v) of that Article or paragraph (22), item (vi) of that Article) occurs, the customer becomes a party paying money, or a party receiving money.
- (d) the type of the securities or derivative transactions;
  - (e) the issues (including the financial instruments or financial indicators which are the subject of a transaction, the contract number specified in the contract, or any other information identifying the subject of the transaction; hereinafter the same applies in this Section);
  - (f) the agreed volumes (if there is no volume, the number of the transactions or any other information equivalent to volume);
  - (g) the amount or figure per transaction unit, such as the unit price, amount of consideration, agreed figure and option premium;
  - (h) the amount payable (including the amount of fees); and
  - (i) information as to whether the transaction is a cash transaction or a margin transaction.
- (iii) the date of the delivery of the securities completed during the reporting period, as well as the types, the numbers of shares or units, or the total face value of such securities;
  - (iii)-2 the date of delivery of the commodities completed during the reporting period, as well as the types and quantity of the commodities;
  - (iv) the date of the delivery of the money completed during the reporting period, and the amount thereof;
  - (v) the outstanding balance of the money, securities and commodities as of the last day of the reporting period;
  - (vi) the description of the unsettled account and the loss or gain on valuation of the margin transaction, when-issued transaction (excluding when-issued transaction of government bonds) and derivative transactions, as of the last day of the relevant reporting period;
  - (vii) if a financial instruments transaction contract set forth in item (ii) pertains to a margin transaction, the following matters in connection with

- such margin transaction:
- (a) information as to whether it is a new transaction or a settlement transaction;
  - (b) the due date for the payment; and
  - (c) interest payable for the margin transaction or interest receivable from the margin transaction, or share-borrowing commission or share-lending commission;
- (viii) if a financial instruments transaction contract set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iii), (a) and (b) of the Act, information as to whether it is a new transaction or a settlement transaction;
- (ix) if the financial instruments transaction contract set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iii), (c) of the Act or the trading of bonds with options (meaning bond trading wherein one party thereto is entitled to designate the delivery date, and in the contract for such trading of bonds with options will be cancelled if such party does not exercise such right within a certain period; the same applies hereinafter), the following matters in connection with such trading of bonds with options:
- (a) the exercise period;
  - (b) the exercise price;
  - (c) information as to whether it is a put option (meaning the option whereby a party acquires the position of seller by exercise of rights; the same applies hereinafter) or a call option (meaning the option whereby a party acquires the position of purchaser by exercise of rights; the same applies hereinafter);
  - (d) information as to whether it is a new transaction, or the exercising of rights, resale, buy-back or set-off; and
  - (e) the contract month;
- (x) if the financial instruments transaction contract set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iii), d) of the Act, the following matters in regard to the transaction:
- (a) the term of the transaction; and
  - (b) the delivery date;
- (xi) if the financial instruments transaction contract set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iii), (d) of the Act, the following matters in regard to that transaction:
- (a) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer;
  - (b) the due date; and

- (c) information as to whether it is a new transaction, or a settlement or a cancellation;
  - (xii) if the financial instruments transaction contract set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iv), (c) or (d) of the Act, the following matters in connection with such transaction:
    - (a) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer;
    - (b) the exercise period; and
    - (c) the details of the transaction to be effected by the exercise of options;
  - (xiii) if the financial instruments transaction contract set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iv), (e) of the Act, the following matters in regard to such transaction:
    - (a) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer;
    - (b) the term of the transaction; and
    - (c) the delivery date.
- (2) Notwithstanding the provisions of Article 98, paragraph (1), item (iii), if two or more financial instruments business operators, etc. are required to deliver to the customer a report on outstanding balance of transactions stating the matters listed in the items of the preceding paragraph, if one of such financial instruments business operators, etc. has delivered to the customer the report on outstanding balance of transactions stating the matters set forth in the items of the preceding paragraph, the other financial instruments business operator, etc. need not prepare and deliver the report on outstanding balance of transactions.
- (3) Notwithstanding the provisions of paragraph (1), the following matters are to be stated in a report on outstanding balance of transactions to be prepared in the case referred to in Article 98, paragraph (1), item (iii), (a) (but only if the delivery of the securities, commodities and money pertaining to the financial instruments transaction contract specified in (a) of that item has been completed):
- (i) the matters specified in paragraph (1), item (i), and item (ii), (b) and (e);
  - (ii) the outstanding balance of the securities, commodities and money after completion of delivery of the securities, commodities and money pertaining to respective purchase and sale or other transactions of securities or derivative transactions, etc. (excluding the matters specified in the following item);
  - (iii) the outstanding balance of the relevant securities, commodities and money after the completion of the delivery of the securities, commodities and money pertaining to the respective purchase and sale or other transactions of

- securities or derivative transaction, etc.;
- (iv) the details of the unsettled account and the loss or gain on valuation of the margin transaction, when-issued transaction (excluding when-issued transaction of government bonds) and derivatives transactions; and
  - (v) the fact that the delivery of securities, commodities and money pertaining to the respective purchase and sale or other transactions of securities or derivative transactions, etc. have been completed.
- (4) Notwithstanding the provisions of Article 98, paragraph (1), item (iii), (a), if two or more financial instruments business operators, etc. are required to deliver to the customer a report on outstanding balance of transactions stating the matters listed in the items of the preceding paragraph, if one of such financial instruments business operators, etc. has delivered to the customer the report on outstanding balance of transactions stating the matters set forth in the items of the preceding paragraph, the other financial instruments business operator, etc. need not prepare and deliver the report on outstanding balance of transactions.
- (5) Notwithstanding the provisions of paragraph (3), if a financial instruments business operator, etc. prepares and delivers to the customer that has made a request under Article 98, paragraph (1), item (iii), (a) a report on outstanding balance of transactions pursuant to (b) of that item, it may omit the statement of the following matters pertaining to such customer as of the time of the completion of the delivery of the securities, commodities and money pertaining to the financial instruments transaction contract set forth in (a) of that item:
- (i) the matters specified in paragraph (3), item (ii); and
  - (ii) the matters specified in paragraph (3), item (iv).
- (6) A financial instruments business operator, etc. may, in lieu of the preparation of a document containing the matters set forth in paragraph (1) or (3) and the delivery thereof to the customer, notify the customer of such matters by way of entering the relevant information into a passbook.
- (7) Notwithstanding the provisions of paragraph (1), if a financial instruments business operator, etc. has obtained from a customer that delivery of a document for delivery upon conclusion of contract is not required pursuant to the provisions of Article 110, paragraph (1), item (v) or (vi) a prior consent on packaging the orders for the same issues made on the same day, the financial instruments business operator, etc. may, as the matters specified in paragraph (1), item (ii), (g), state the average of the unit price for the transaction of such issues as of the same day.
- (8) If the financial instruments transaction contract set forth in paragraph (1), item (ii) is a market transaction of derivatives for which give-up was implemented, the fees which the order executing member, etc. and clearance executing member, etc. directly received from the customer, as the fees

specified in (h) of that item, are to be stated.

- (9) Notwithstanding the provisions of paragraph (1), a statement of the matters specified in items (ii) through (xiii) of that paragraph (excluding the matters listed in item (ii), (a) and (d) through (f) of that paragraph, and the matters specified in (h) of that item (limited to fees)) which have been contained in the document for delivery upon conclusion of contract for the respective derivative transactions, etc. or in the contract providing for the terms and conditions of the derivative transaction, etc. may be omitted.
- (10) If any act has been conducted which falls under the items of Article 118, item (i), (a) through (e), and if any transaction has been conducted following the customer's consent for the purpose of cancelling the transaction pertaining to that act or for performance in compliance with the purpose of the customer's order (referred to as the "handling of problematic conduct" in Article 110, paragraph (1), item (iv) and Article 164, paragraph (3), item (i)), the statement of the matters specified in the items of paragraph (1) which relates to such handling of problematic conduct may be omitted.
- (11) If the financial instruments transaction contract under paragraph (1), item (ii) is a market transaction of derivatives for which give-up was implemented, the statement of the matters specified in item (iii), item (v) (excluding information on any outstanding balance), item (vi), item (vii), (a), item (viii) and item (ix), (d) of that paragraph is to be omitted.

(Matters to Be Stated in Report on Status of Investment of Commodity Funds)  
Article 109 The report referred to in Article 98, paragraph (2) must contain the following matters:

- (i) the dates of the preparation of the relevant report and the previous report;
- (ii) the total amount of net assets, and the amount of net assets per unit (including the amount of trust property), as of the end of the accounting period;
- (iii) the progress of investments made in the accounting period;
- (iv) the status of the distribution of assets itemized by the following category, as of the end of the accounting period:
- (a) the commodity futures (including a breakdown by the category of major goods pertaining to the commodity futures, such as precious metals, agricultural products, energy resources and others);
- (b) the commodities investment prescribed in Article 2, paragraph (1), item (ii) of the Act on Control for Business Pertaining to Commodity Investment (including a breakdown by the category of major goods pertaining to the commodities investment, such as precious metals, agricultural products, energy resources and others);
- (c) the commodities investment prescribed in Article 2, paragraph (1), item

- (iii) of the Act on Control for Business Pertaining to Commodity Investment (including a breakdown by the category of major goods pertaining to the commodities investment, such as precious metals, agricultural products, energy resources and others);
- (d) investment by way of acquisition (including production), transfer or use of the goods listed in Article 37, paragraph (1), item (ii), (a) through (e) of the Order, or by way of having such goods used (including a breakdown by the category of such goods);
- (e) other methods of investment (including a breakdown by the category of major investment method such as an investment in securities, negotiable deposits or other major financial instruments, transactions listed in the items of Article 2, paragraph (21) of the Act, transactions listed in the items of paragraph (22) of that Article, a transaction prescribed in paragraph (23) of that Article and other methods);
- (v) the balance sheet and profit and loss statement of the commodity fund for the accounting period, or any other document to in lieu thereof (if there is any person that has accepted an investment from the commodity fund, the consolidated balance sheet and the consolidated profit and loss statement pertaining to such commodity fund and such person, or any other document in lieu thereof, which are set out in such a way that the customer may understand the net asset of such commodity fund or such person);
- (vi) if the document specified in the preceding item or any other documents on financial calculation have been audited by a certified public accountant or an auditing firm, to that effect and the scope of such auditing (other than if a document related to auditing by a certified public accountant or an auditing firm is attached to the document specified in that item, and if the scope of such auditing is clearly indicated in the document);
- (vii) if the document under item (v) or any other documents related to financial accounting have not been audited by a certified public accountant or an auditing firm, to that effect;
- (viii) the number of public offerings, private placements, secondary distributions or solicitations for selling, etc. only for professional investors of the beneficial interest in commodity fund conducted, cancelled and redeemed during the accounting period, as well as the increase or decrease in the amount of assets associated therewith; the number of public offerings, private placements, secondary distributions or solicitations for selling, etc. only for professional investors conducted, cancelled and redeemed during the period between the commencement of the investment and the end of the accounting period, as well as the increase or decrease in the amount of assets associated therewith; and
- (ix) the following matters in connection with the dividends:

- (a) the total amount of the dividends for the accounting period; and
- (b) the amount of dividend per unit, for the accounting period.

(When Delivery of Document for Delivery Upon Conclusion of Contract Is Not Required)

Article 110 (1) The cases specified by Cabinet Office Order as prescribed in the proviso to Article 37-4, paragraph (1) of the Act pertaining to a document for delivery upon conclusion of contract are as follows:

- (i) if the financial instruments transaction contract falls under any of the following, and if the financial instruments business operator, etc. has established a system which enables the periodic delivery of documents containing the particulars of the financial instruments transaction contract to customers, and which enables prompt responses to the customer's inquiries on respective transactions:
  - (a) a contract for the purchase of securities under the contract for cumulative investment, or for the sale of securities conducted on a regular basis under the contract for cumulative investment;
  - (b) a contract whereby the financial instruments business operator, etc. causes the customer to acquire the issues of securities or rights which are identical to the securities specified in Article 2, paragraph (1), item (x) of the Act owned by the customer or to the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act, using the earnings generated from those securities or rights; or
  - (c) a contract for the purchase and sale of the securities specified in Article 2, paragraph (1), item (x) of the Act (limited to the beneficiary certificates for bond investment trust prescribed in Article 25, item (ii) of the Regulation for Enforcement of the Act on Investment Trust and Investment Corporations (limited to the bond investment trust of which accounting period is one day)), or for the cancellation of an investment trust agreement pertaining to those securities;
- (ii) if a financial instruments transaction contract pertaining to the transaction listed in any of the following has been effected, and if a written contract containing the terms of the transaction is to be delivered on each occasion of the conclusion thereof:
  - (a) the purchase and sale of bonds, etc. (meaning the securities listed in Article 2, paragraph (1), items (i) through (v) and item (xv) of the Act (excluding convertible specified bond certificates and specified bond certificates with rights to subscribe for preferred equity as set forth in the Act on Securitization of Assets, and also excluding corporate bond certificates with share options; the same applies in (a)), the securities specified in item (xvii) of that paragraph (limited to the securities which

- have the natures of the securities listed in items (i) through (v) and (xv) of that paragraph) and the securities specified in Article 1, item (i) of the Order; hereinafter the same applies in this item) on condition of repurchase (meaning a purchase and sale wherein the repurchase price has been fixed in advance, or wherein the repurchasing date has not been fixed at the time of the conclusion of the contract and the repurchase price may be determined upon fixing the repurchasing date);
- (b) the purchase and sale of bonds, etc. on condition of resale (meaning a purchase and sale wherein the resale price has been fixed in advance, or wherein the resale date has not been fixed at the time of conclusion of the contract and the resale price may be determined upon fixing the resale date);
  - (c) a transaction of the purchase and sale of bonds, etc. wherein the period between the contract date and the delivery date is one month or longer;
  - (d) a trading of bonds with options;
  - (e) over-the-counter transactions of derivatives;
  - (f) an intermediation, brokerage, or agency service for the sale of securities (but only if the customer pertaining to the financial instruments transaction contract is the issuer or owner of the securities);
  - (g) an intermediary or agency service for the purchase of securities (limited to cases of providing to a tender offeror an intermediary or agency service for the purchase of securities subject to tender offer);
  - (h) underwriting of securities; and
  - (i) dealing in a public offering or secondary distribution of securities, dealing in a private placement of securities, or dealing in a solicitation for selling, etc. only for professional investors (but only if the customer pertaining to the financial instruments transaction contract is the issuer or owner of the securities);
- (iii) if a financial instruments transaction contract pertaining to the brokerage for clearing of securities to be conducted by a clearing participant (meaning the clearing participant prescribed in Article 156-7, paragraph (2), item (iii) of the Act) has been effected;
  - (iv) if the relevant action constitutes the handling of problematic conduct;
  - (v) if the customer has concluded a discretionary investment contract with the financial instruments business operator, etc. or any other financial instruments business operator, etc. (limited to a person engaged in an investment management business), and the purchase and sale or any other transaction of securities or derivative transactions, etc. to be conducted thereunder satisfies all of the following requirements:
    - (a) that the financial instruments business operator, etc. obtains from the customer, in writing or by means utilizing information technology, a prior



- approval for the omission of the document for delivery upon conclusion of contract;
- (b) that the financial instruments business operator, etc., without delay, delivers to the customer a document containing the matters equivalent to those specified in Article 100, paragraph (1) and any other details of the purchase and sale or any other transaction of securities or derivative transactions, etc. to be conducted under the discretionary investment contract (other than if the customer's prior consent for not requiring the delivery of the documents stating the details is obtained in writing or through telecommunication); and
  - (c) that the financial instruments business operator, etc. has established a system which enables a prompt response to the customer's inquiries on respective transactions;
- (vi) if a financial instruments transaction contract has been effected for the purpose of a partial change to the terms the financial instruments transaction contract already in effect, the following cases:
- (a) if the partial change does not result in any change to the matters to be stated in the document for delivery upon conclusion of contract pertaining to the financial instruments transaction contract already in effect; or
  - (b) if the partial change results in a change to the matters to be stated in the document for delivery upon conclusion of contract pertaining to the financial instruments transaction contract already in effect, and the financial instruments business operator, etc. has delivered to the customer a document containing the matters subject to such change;
- (vii) if the financial instruments transaction contract is a market transaction of derivatives for which give-up was implemented upon the customer's instruction, and it has been agreed in advance among the customer, the order executing member, etc. and the clearance executing member, etc., in writing, that the document for delivery upon conclusion of contract is delivered by the clearance executing member, etc., instead of the delivery thereof to the customer by the order executing member, etc.
- (2) A financial instruments business operator, etc. may, subject to the customer's approval and pursuant to the provisions of the following paragraph, provide information (hereinafter referred to as the "information" in this Article) to be contained in the document under item (i) of the preceding paragraph or the written contract under item (ii) of that paragraph (hereinafter collectively referred to as the "documents, etc." in this paragraph) by electronic or magnetic means (excluding the means specified in Article 56, paragraph (1), item (i), (d); hereinafter the same applies in this Article), in lieu of the delivery thereof. In this case, the financial instruments business operator, etc. is deemed to have delivered such documents, etc.

- (3) If a financial instruments business operator, etc. intends to provide the information pursuant to the provisions of the preceding paragraph, it must, in advance, present to the customer the type and details of the electronic or magnetic means to as specified in Article 56, paragraph (1), item (i), (a) through (c) or item (ii) which it uses and obtain approval therefrom in writing or through methods utilizing information technology.
- (4) If a customer has made a notice in writing or through means of utilizing information technology, to the effect that the customer will not receive information provided by electronic or magnetic means, a financial instruments business operator, etc. which has obtained approval under the preceding paragraph must not provide the customer with the information through means of utilizing information technology; provided, however, that this does not apply if the customer has given approval again pursuant to that paragraph.
- (5) The provisions of Article 56, paragraph (2) (excluding item (iii), (b), and also excluding item (iv)) apply mutatis mutandis to the provision of information by the electronic or magnetic means set forth in paragraph (2). In this case, the term "the transaction referred to in the information has been finally conducted" in Article 56, paragraph (2), item (iii) is deemed to be replaced with "the information were recorded".
- (6) The "means of utilizing information technology" as used in paragraph (1), item (v), (a) and (b), and in paragraphs (3) and (4) are the following means:
  - (i) the means of using electronic data processing system set forth in Article 56, paragraph (3), the following means:
    - (a) a means in which information is transmitted via telecommunications line connecting a computer used by a financial instruments business operator, etc. and that used by the customer, and such information is recorded in a file stored on a computer used by the recipient; and
    - (b) a means in which information on the customer's approval recorded into a file stored on a computer used by a financial instruments business operator, etc. is made available for such customer's inspection via telecommunications line, and such information on the customer's approval is recorded in a file stored on a computer used by such financial instruments business operator, etc.;
  - (ii) a means in which a file prepared by the use of any object which can securely record certain information by means of magnetic disks, CD-ROMs or any other means equivalent thereto and recording information on the customer's approval is obtained.
- (7) The means set forth in the items of the preceding paragraph must be means enabling a financial instruments business operator, etc. to prepare a paper document by way of outputting information recorded on the files.
- (8) The provisions of Article 34-2, paragraph (4) of the Act, Article 15-22 of the

Order, and Article 56 and Article 57 of this Cabinet Office Order apply mutatis mutandis to the delivery of the documents as set forth in paragraph (1), item (vi).

(When Delivery of Report on Outstanding Balance of Transactions Is Not Required)

Article 111 The cases to be specified by Cabinet Office Order as referred to in the proviso to Article 37-4, paragraph (1) of the Act pertaining to a report on outstanding balance of transactions are as follows:

- (i) if the customer is a foreign government, foreign governmental organization, foreign local government, foreign central bank or an international organization to which Japan has acceded; if the financial instruments business operator, etc. has obtained from a person granted the authority by such customer a prior approval on the omission of the delivery of a report on outstanding balance of transactions, in writing or through means of utilizing information technology as set forth in paragraph (6) of the preceding Article; and if the financial instruments business operator, etc. has established a system which enables prompt responses to the customer's inquiries on such customer's transaction balance (other than if the customer falls under a qualified institutional investor, or a foreign corporation which is a professional investor);
- (ii) an intermediary or agency service for the purchase of securities (but only if the financial instruments business operator, etc. provides to a tender offeror an intermediary or agency service for the purchase of securities subject to a tender offer);
- (iii) if the delivery set forth in Article 98, paragraph (1), item (iii) pertains to the underwriting of securities;
- (iv) if the financial instruments transaction contract or the delivery set forth in Article 98, paragraph (1), item (iii) pertains to dealing in a public offering or secondary distribution of securities, dealing in a private placement of securities, or dealing in a solicitation for selling, etc. only for professional investors (but only if the customer pertaining to the dealing in a public offering or secondary distribution of such securities, dealing in a private placement of such securities, or dealing in a solicitation for selling, etc. only for professional investors is the issuer or owner of the securities);
- (v) if the purchase and sale or other transaction of securities or a derivatives transaction, etc. (excluding brokerage for clearing of securities, etc.) not involving the delivery of securities, commodities (including instruments or certificates issued in relation to the deposited commodities) or money is conducted;
- (vi) if the financial instruments transaction contract is a market transaction of

derivatives for which give-up was implemented upon the customer's instruction, and it has been agreed in advance among the customer, the order executing member, etc. and the clearance executing member, etc., in writing, that the report on outstanding balance of transactions is delivered by the clearance executing member, etc., instead of the delivery thereof to the customer by the order executing member, etc.

(When Delivery of Report on Status of Investment of Commodity Fund Is Not Required)

Article 112 The cases specified by Cabinet Office Order as prescribed in the proviso to Article 37-4, paragraph (1) of the Act pertaining to a report under Article 98, paragraph (2) are those in which the customer falls under any of the categories of the following persons:

- (i) a trust company (limited to a trust company licensed under Article 3 or Article 53, paragraph (1) of the Trust Business Act);
- (ii) credit cooperatives and federations of credit cooperatives; and agricultural cooperatives, federations of agricultural cooperatives, fisheries cooperatives, federations of fisheries cooperatives, fishery processing industry cooperatives and federations of fishery processing industry cooperatives, which accept savings in the course of trade;
- (iii) a commodity derivatives business operators as prescribed in Article 2, paragraph (23) of the Commodity Futures Act;
- (iv) a commodity trading advisor as prescribed in Article 2, paragraph (4) of the Act on Regulation of Business Pertaining to Commodity Investment; or
- (v) a financial instruments business operator (limited to a business operator engaged in type II financial instruments business, and excluding a qualified institutional investor).

(Type of Security Deposit for Which a Document Is Required to Be Delivered)

Article 113 The security deposit to be specified in Cabinet Office Order as referred to in Article 37-5, paragraph (1) of the Act is a contract for over-the-counter derivatives transactions, money, securities or any other property deposited by customers in connection with a transaction under a contract set forth in the items of Article 16-4, paragraph (2) of the Order.

(Matters to Be Stated in Document to Be Delivered Upon Receipt of Security Deposits)

Article 114 (1) The following matters must be stated in the document referred to in Article 37-5, paragraph (1) of the Act:

- (i) the trade name or name of the financial instruments business operator, etc.;
- (ii) the means whereby a customer contacts the financial instruments business

- operator, etc.;
- (iii) the customer's name;
  - (iv) the date when the financial instruments business operator, etc. received the security deposit (limited to a security deposit set forth in the preceding Article; hereinafter the same applies in this paragraph);
  - (v) the type of the transactions secured by the security deposit, and the type of the financial instruments or financial indicators which are subject of the transaction;
  - (vi) if the transaction secured by the security deposit pertains to a market transaction of derivatives or foreign market derivatives transactions, the trade name or name of a party which establishes the financial instruments exchange market or the foreign financial instruments market on which such market transaction of derivatives or foreign market derivatives transactions are to be conducted; and
  - (vii) information as to whether the security deposit comprises money or securities, etc. (meaning properties other than money, such as securities; hereinafter the same applies in this item), and if the security deposit comprises securities, etc., the type (in the case of securities, the issues thereof) and quantity thereof, and the value to be appropriated.
- (2) The document set forth in the preceding paragraph must be prepared by using letters, characters and numerals larger than 8-point as provided in JIS Z8305.

(Amount of Consideration Equivalent to Money Payable by Customers for the Period Until Cancellation of Contract)

- Article 115 (1) The amount to be specified by Cabinet Office Order as referred to in Article 37-6, paragraph (3) of the Act is the amount specified in the following items, in accordance with the categories of cases set forth respectively therein:
- (i) if, for the period until the time specified in Article 37-6, paragraph (2) of the Act (hereinafter referred to as the "time of cancellation" in this paragraph), the financial instruments business operator, etc. has not given any advice under the investment advisory contract: the amount equivalent to the expenses usually required for the conclusion of an investment advisory contract;
  - (ii) if the investment advisory contract provides that the amount of the remuneration is to be calculated based on the number of occasions advice is given (excluding the case specified in the preceding item): the amount equivalent to the remuneration calculated based on the number of occasions advice was given by the financial instruments business operator, etc. before the time of cancellation (if such calculated amount exceeds the amount of the remuneration for advisory service by the financial instruments business operator, etc. which is considered appropriate in light of socially accepted

- conventions, the amount after deduction of such exceeded portion);
- (iii) the cases other than those specified in the preceding two items: the amount equivalent to that derived from the following formula: dividing the amount of the remuneration for the entire contract term of the investment advisory contract by the total number of days included in such contract term (if, at the time of cancellation, the time of the expiration of such contract term has not been fixed, the total number of days included in such contract term is deemed to be 365; the same applies in the following paragraph), and then multiplying such amount by the number of days between the day of the receipt of the document for delivery upon conclusion of contract (if, in lieu of delivering such document for delivery upon conclusion of contract, information to be contained therein was provided by electronic or magnetic means, the day specified in Article 95, paragraph (1), item (v), (a) or (b), in accordance with the categories of cases set forth respectively therein) and the time of cancellation (if such calculated amount exceeds the amount of the remuneration for advice rendered by the financial instruments business operator, etc. which is considered appropriate in light of socially accepted conventions, the amount after deduction of such exceeded portion).
- (2) For the purpose of the calculation under item (iii) of the preceding paragraph, with regard to the amount obtained by dividing the amount of the remuneration for the entire contract term of the investment advisory contract by the total number of days included in such contract term, if any fraction less than one yen occurs, such fraction is rounded down.

(Complaint Processing Measures and Dispute Resolution Measures Concerning Financial Instruments Business)

Article 115-2 (1) The measures to be specified by Cabinet Office Order as complaint processing measures as referred to in Article 37-7, paragraph (1), item (i), (b) of the Act are any of the following measures:

- (i) taking all of the following measures:
- (a) establishing a business operation system sufficient to execute business pertaining to the processing of complaints related to business of a financial instruments business, etc. (meaning complaints related to business of a financial instruments business, etc. prescribed in Article 156-38, paragraph (9) of the Act; hereinafter the same applies in this paragraph and paragraph (3)) in a fair and appropriate fashion;
- (b) establishing internal rules for executing business pertaining to the processing of complaints related to business of a financial instruments business, etc. in a fair and appropriate manner (limited to such rules containing provisions which clearly establish an internal allocation of responsibility related to such business); and

- (c) informing its customers of where to file complaints related to business of a financial instruments business, etc. and publicizing the business operation system under (a) and the internal rules under (b);
- (ii) seeking to process complaints related to business of a financial instruments business, etc. through a complaint resolution implemented by a financial instruments firms association or a certified investor protection organization pursuant to the provisions of Article 77, paragraph (1) of the Act (including as applied mutatis mutandis pursuant to Articles 78-6 and 79-12 of the Act);
- (iii) seeking to process complaints related to business of a financial instruments business, etc. through mediation prescribed in Article 19, paragraph (1) or Article 25 of the Consumer Basic Act (Act No. 78 of 1968);
- (iv) seeking to process complaints related to business of a financial instruments business, etc. through complaint processing procedures implemented by a person specified as follows according to the category of business of a financial instruments business, etc. (meaning the business of a financial instruments business, etc. prescribed in Article 156-38, paragraph (8) of the Act; the same applies in item (iv) of the following paragraph) set forth as follows respectively, or by a person holding a designation listed in the items of Article 19-7 of the Order:
  - (a) specified type I financial instruments business (meaning specified type I financial instruments business prescribed in Article 156-38, paragraph (2) of the Act; hereinafter the same applies in item (iv) of the following paragraph): a designated dispute resolution organization other than a designated type-I dispute resolution organization (meaning a designated type-I dispute resolution organization prescribed in Article 37-7, paragraph (1), item (i), (a) of the Act; the same applies in item (iv) of the following paragraph);
  - (b) specified type II financial instruments business (meaning specified type II financial instruments business as defined in Article 156-38, paragraph (3) of the Act; hereinafter the same applies in item (iv) of the following paragraph): a designated dispute resolution organization other than a designated type-II dispute resolution organization (meaning a designated type-II dispute resolution organization prescribed in Article 37-7, paragraph (1), item (ii), (a) of the Act; the same applies in item (iv) of the following paragraph);
  - (c) specified investment advisory and agency business (meaning specified investment advisory and agency business prescribed in Article 156-38, paragraph (4) of the Act; the same applies in item (iv) of the following paragraph): a designated dispute resolution organization other than a designated investment advisory and agency business dispute resolution organization (meaning a designated investment advisory and agency

- business dispute resolution organization prescribed in Article 37-7, paragraph (1), item (iii), (a) of the Act; the same applies in item (iv) of the following paragraph);
- (d) specified investment management business (meaning specified investment management business prescribed in Article 156-38, paragraph (5) of the Act; the same applies in item (iv) of the following paragraph): a designated dispute resolution organization other than a designated investment management business dispute resolution organization (meaning a designated investment management business dispute resolution organization prescribed in Article 37-7, paragraph (1), item (iv), (a) of the Act; the same applies in item (iv) of the following paragraph);
  - (e) specified business of a registered financial institution (meaning specified business of a registered financial institution prescribed in Article 156-38, paragraph (6) of the Act; the same applies in item (iv) of the following paragraph): a designated dispute resolution organization other than a designated registered financial institutions dispute resolution organization (meaning a designated registered financial institutions dispute resolution organization prescribed in Article 37-7, paragraph (1), item (v), (a) of the Act; the same applies in item (iv) of the following paragraph); and
  - (f) specified business of a securities finance company (meaning specified business of a securities finance company prescribed in Article 156-38, paragraph (7) of the Act; the same applies in item (iv) of the following paragraph): a designated dispute resolution organization other than a designated securities finance companies dispute resolution organization (meaning a designated securities finance companies dispute resolution organization prescribed in Article 156-31-2, paragraph (1), item (i) of the Act; the same applies in item (iv) of the following paragraph); or
  - (v) seeking to process complaints related to business of a financial instruments business, etc. through complaint processing procedures implemented by a corporation that has a financial accounting basis and a structure of personnel sufficient to execute business pertaining to the processing of complaints related to business of a financial instruments business, etc. in a fair and appropriate fashion (meaning a corporation prescribed in Article 156-39, paragraph (1), item (i) of the Act; the same applies in item (v) of the following paragraph).
- (2) The measures to be specified by Cabinet Office Order as dispute resolution measures as referred to in Article 37-7, paragraph (1), item (i), (b) of the Act are any of the following measures:
- (i) seeking to resolve disputes related to business of a financial instruments business, etc. (meaning disputes related to business of a financial instruments business, etc. prescribed in Article 156-38, paragraph (10) of the



- Act; hereinafter the same applies in this Article) through mediation by a financial instruments firms association or a certified investor protection organization (meaning mediation prescribed in Article 77-2, paragraph (1) of the Act (including as applied mutatis mutandis pursuant to Articles 78-7 and 79-13 of the Act));
- (ii) seeking to resolve disputes related to business of a financial instruments business, etc. through mediation by an organization as prescribed in the bar association rules under Article 33, paragraph (1) the Attorney Act (Act No. 205 of 1949) or in any other rules specified under such bar association rules or through arbitration procedures before such organization;
  - (iii) seeking to resolve disputes related to business of a financial instruments business, etc. through mediation prescribed in Article 19, paragraph (1) or Article 25 of the Consumer Basic Act, or resolution based on an agreement prescribed in that Article;
  - (iv) seeking to resolve disputes related to business of a financial instruments business, etc. through procedures seeking the resolution of disputes implemented by a person specified as follows according to the category of business of a financial instruments business, etc. set forth as follows respectively, or by a person holding a designation listed in the items of Article 19-7 of the Order:
    - (a) specified type I financial instruments business: a designated dispute resolution organization other than a designated type-I dispute resolution organization;
    - (b) specified type II financial instruments business: a designated dispute resolution organization other than a designated type-II dispute resolution organization;
    - (c) specified investment advisory and agency business: a designated dispute resolution organization other than a designated investment advisory and agency business dispute resolution organization;
    - (d) specified investment management business: a designated dispute resolution organization other than a designated investment management business dispute resolution organization;
    - (e) specified business of a registered financial institution: a designated dispute resolution organization other than a designated registered financial institutions dispute resolution organization; and
    - (f) specified business of a securities finance company: a designated dispute resolution organization other than a designated securities finance companies dispute resolution organization; or
  - (v) seeking to resolve disputes related to business of a financial instruments business, etc. through procedures seeking the resolution of disputes implemented by a corporation that has a financial accounting basis and a

structure of personnel sufficient to execute business pertaining to the resolution of disputes related to business of a financial instruments business, etc. in a fair and appropriate fashion.

- (3) Notwithstanding the provisions of the preceding two paragraphs (limited to paragraph (1), item (v), and item (v) of the preceding paragraph), a business operator involved in financial instruments transactions must not seek to process complaints related to business of a financial instruments business, etc. or resolve disputes related to business of a financial instruments business, etc. through procedures implemented by a corporation that falls under any of the following items:
- (i) a corporation that was fined pursuant to any provisions of the Act or the Attorney Act and five years have not elapsed since the day on which it served out the punishment or became no longer subject to the punishment;
  - (ii) a corporation that had its designation under the provisions of Article 156-39, paragraph (1) of the Act rescinded pursuant to the provisions of Article 156-61, paragraph (1) of the Act and five years have not elapsed since the day of that rescission, or a corporation that had its designation listed in the items of Article 19-7 of the Order rescinded and five years have not elapsed since the day of that rescission; or
  - (iii) a corporation that has a person falling under any of the following among its officers (if an officer is a corporation, including a member that is supposed to conduct the duty thereof; hereinafter the same applies in this item) in charge of its business:
    - (a) a person that was sentenced to imprisonment or a severer punishment, or was sentenced under any provisions of the Act or the Attorney Act and five years have not elapsed since the day on which the person served out the punishment or became no longer subject to the punishment; or
    - (b) a person that, at a corporation that had had its designation under the provisions of Article 156-39, paragraph (1) of the Act rescinded pursuant to the provisions of Article 156-61, paragraph (1) of the Act, was an officer of that corporation within one month prior to the day of that rescission and five years have not elapsed since the day of that rescission, or a person that, at a corporation that had had its designation listed in the items of Article 19-7 of the Order rescinded, was an officer of that corporation within one month prior to the day of that rescission and five years have not elapsed since the day of that rescission.

(Exception to the Prohibition of Cold Calling)

Article 116 (1) With regard to the act specified in Article 38, item (iv) of the Act, those acts to be specified by Cabinet Office Order as referred to in the proviso to Article 38 of the Act are as follows:

- (i) an act of a financial instruments business operator, etc. for soliciting a customer in a continuous business relationship therewith (limited to a customer that concluded two or more of contracts for over-the-counter financial instruments transactions pertaining to over-the-counter transactions of financial futures for the period of one year prior to the day of such solicitation, and that, as of the day of such solicitation, has an unsettled balance of over-the-counter transactions of financial futures) to conclude a financial instruments transaction contract pertaining to over-the-counter transactions of financial futures;
- (ii) an act of soliciting a corporation engaged in foreign trade or any other foreign exchange transactions to conclude a financial instruments transaction contract for over-the-counter transactions of financial futures, in an attempt to reduce the possible risk of losses arising from a fluctuation in the exchange rate related to the assets or liabilities held by such corporation;
- (ii)-2 an act of a Financial Instruments Business Operator, etc. to solicit a customer in a continuous business relationship therewith (limited to a customer who concluded two or more Contracts for Financial Instruments Transaction pertaining to Cryptoasset-related Over-the-Counter Derivatives Transactions (meaning the transactions set forth in Article 16-4, paragraph (1), item (i), sub-item (d) of the Cabinet Order; hereinafter, the same applies in this item, Article 117, paragraph (1), item (xxvi), Article 123, paragraph (1), items (xx) and (xxi), and Article 143, paragraph (2)) for the period of one year prior to the day of such solicitation, and who, as of the day of such solicitation, has an unsettled balance of Cryptoasset-related Over-the-Counter Derivatives Transactions) to conclude a Financial instruments transaction contract for Cryptoasset-related Over-the-Counter Derivatives Transactions;
- (iii) an act of soliciting an individual to conclude a financial instruments transaction contract pertaining to the following transactions from among securities-related over-the-counter transactions of derivatives (meaning the transactions listed in Article 28, paragraph (8), item (iv) of the Act; hereinafter the same applies in the following item):
  - (a) transactions listed in Article 28, paragraph (8), item (iv), (a) of the Act if the individual promises to sell at a fixed time in the future securities that the individual owns and loans or provides as security such securities to the financial instruments business operator, etc. to be the counterparty to such sales; and
  - (b) transactions listed in Article 28, paragraph (8), item (iv), (c) of the Act (limited to transactions if the transaction effected by execution of the right prescribed in (c) of that item is the transaction listed in (c), 1. of that item), if the individual grants to the financial instruments business operator, etc.

the right to effect the purchase of securities owned by the individual, and loans or provides the securities as security to the financial instruments business operator, etc.

- (iv) an act of the financial instruments business operators, etc. soliciting customers that are individuals in a continuous business relationship therewith (limited to a customer that concluded two or more contracts for financial instruments transaction pertaining to securities-related over-the-counter transactions of derivatives (excluding transactions listed in (a) and (b) of the preceding item; hereinafter the same applies in this item) for the period of one year prior to the day of such solicitation, and that, as of the day of such solicitation, has an unsettled balance of securities-related over-the-counter transactions of derivatives) to conclude a financial instruments transaction contract pertaining to securities-related over-the-counter transactions of derivatives; and
- (v) an act of the financial instruments business operators, etc. soliciting customers that are individuals in a continuous business relationship therewith (limited to a customer that concluded two or more contracts for financial instruments transaction pertaining to over-the-counter derivatives transactions (limited to the following transactions; hereinafter the same applies in this item) for the period of one year prior to the day of such solicitation, and that, as of the day of such solicitation, has an unsettled balance of over-the-counter derivatives transactions) to conclude a financial instruments transaction contract pertaining to over-the-counter derivatives transactions:
  - (a) a transaction comprising, on one side, the first party's promise to grant the second party the option of effecting a transaction by a unilateral manifestation of the second party's intention alone, in which the parties pay and receive the amount of money calculated based on the difference between the numerical value that they have agreed in advance to use as the agreed figure for the relevant financial indicator (limited to the price of financial instruments or the interest rate of of financial instruments (limited to those listed in item (ii) of that paragraph; the same applies in (b))) if the second party manifests the intention to effect the transaction, and the actual figure of the financial indicator (limited to a financial indicator associated with the financial instruments set forth in paragraph (24), item (ii) or item (iii) of the Act) at the time the second party manifests that intention, and, on the other side, the second party's promise to pay the value of that option, or any transaction similar thereto;
  - (b) transactions with regard to the amount that parties specified as principal, in which the parties mutually agree that one of the parties pays money based on the interest rate, etc. of financial instruments agreed with the

other party or the rate of change during the agreed period of financial indicators (excluding the interest rate, etc. of financial instruments and figures calculated based on them; the same applies in (b)) and pays money based on the interest rate of financial instruments that are specified by the other party with the other party or change rate during the agreed period of financial indicators (including transactions to promise to pay and receive money or financial instruments equivalent to the amount specified as the principal together with the payment of monies in question), or transactions similar thereto; and

(c) transactions in which parties promise mutually that the counterparty grants to the other party the right to effect transactions listed in (b) and the other party pays the value thereto, or transactions similar thereto.

(2) The matters specified by Cabinet Office Order prescribed in the proviso to Article 38 of the Act are those listed in item (iii) of the preceding paragraph in cases of acts listed in items (v) and (vi) of that Article.

(Credit Ratings Less Likely to Result in Insufficient Protection of Investors)

Article 116-2 The acts as specified by Cabinet Office Order, as referred to in Article 38, item (iii) of the Act, are as follows:

(i) a credit rating for the assessment of the credit status of the underlying assets (meaning underlying assets as set forth in Article 295, paragraph (3), item (ii) of the asset securitization products (meaning asset securitization products as set forth in item (i) of that paragraph; hereinafter the same applies in this item) for which the financial instruments transaction contract was concluded (excluding a credit rating which is deemed to be substantially a credit rating for the assessment of the credit status of the asset securitization products); and

(ii) beyond what is set forth in the preceding item, a credit rating whose prime object is the assessment of the credit status of securities other than those pertaining to the financial instruments transaction contract or the credit status of any party other than the issuer of those securities (excluding a credit rating which is deemed to be substantially the credit rating for the assessment of the credit status of those securities).

(Significance of Registration of Credit Rating Agencies and Other Matters)

Article 116-3 (1) The matters as specified by Cabinet Office Order, as referred to in Article 38, item (iii) of the Act are as follows:

(i) the significance of a registration under Article 66-27 of the Act;

(ii) the following information regarding the person that has determined the credit rating:

(a) the trade name or name;

- (b) if a person is a corporation (including an organization without juridical personality for which the representative person or administrator has been designated), the names of the officers (in cases of an organization without juridical personality for which the representative person or administrator has been designated, the name of such representative person or administrator);
  - (c) the name and location of the head office or any other principal business office;
  - (iii) an outline of the policies and means used by the person that has determined a credit rating in determining such credit rating; and
  - (iv) the assumptions, significance and limitations of the credit rating.
- (2) Notwithstanding the preceding paragraph, with regard to credit ratings determined by a person that is an associated corporation (meaning an "associated corporation" defined in Article 295, paragraph (3), item (x); hereinafter the same applies in this paragraph) of a credit rating agency and that is designated by the Commissioner of the Financial Services Agency taking into consideration contents and methods of credit rating business conducted by the associated corporation of the credit rating agency or the status of the disclosure of information or other factors (hereinafter referred to as the "specified associated corporation" in this paragraph), the matters as specified by Cabinet Office Order, as referred to in Article 38, item (iii) of the Act are as follows:
- (i) the significance of a registration under Article 66-27 of the Act;
  - (ii) the trade name or name and the registration number of the credit rating agency;
  - (iii) the name used by the specified associated corporation as a representation of the credit rating business;
  - (iv) an outline of the policies and means adopted by the specified associated corporation in determining such its credit ratings, or way to obtain information on the outline from the credit rating agency; and
  - (v) the assumptions, significance and limitations of credit ratings.

(Acts Equivalent to Accepting the Entrustment of the Purchase and Sale of Securities Pertaining to High-Speed Trading to Be Conducted by Persons Other Than High-Speed Traders)

Article 116-4 The acts to be specified by Cabinet Office Order as referred to in Article 38, item (viii) of the Act are the following acts:

- (i) an act of a high-speed trader which has received an order for suspension of business pertaining to high-speed trading (including a person provided in Article 16-4-2 of the Order; the same applies in the following item) accepting the entrustment of purchase and sale of securities or market derivatives

- transactions pertaining to the high-speed trading;
- (ii) an act of a high-speed trader which cannot be confirmed to have implemented the measures for securing sufficient management of an electronic data processing system and other facilities for high-speed trading accepting the entrustment of purchase and sale of securities or market derivatives transactions pertaining to the high-speed trading; and
  - (iii) high-speed trading to be conducted by a person other than a high-speed trader provided in Article 38, item (viii) of the Act (limited to those pertaining to the acts specified in Article 2, paragraph (41), item (iii) of the Act; hereinafter the same applies in this item) or the act specified in item (i) of that paragraph pertaining to the high-speed trading under the preceding two items conducted by the high-speed trader provided in these items.

(Prohibited Acts)

Article 117 (1) The acts to be specified by Cabinet Office Order as referred to in Article 38, item (ix) of the Act are as follows:

- (i) an act to conclude a financial instruments transaction contract, without having provided a customer (excluding a professional investor (excluding a person that is deemed to be a customer other than a professional investor pursuant to the provisions of Article 34-2, paragraph (5) of the Act, but including a person deemed to be a professional investor pursuant to the provisions of Article 34-3, paragraph (4) of the Act (including as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act); the same applies hereinafter); hereinafter the same applies in this item) with a prior explanation on the matters specified in Article 37-3, paragraph (1), items (iii) through (vii) of the Act (if the document specified in (d) below is to be delivered, a prior explanation on the matters specified in items (iii) through (vii) of that paragraph as set forth in the relevant document) upon the delivery of the following documents, in a manner and to the extent necessary for ensuring that the customer understands such matters, in light of the customer's knowledge, experience, the status of the customer's properties and in light of the purpose of concluding the financial instruments transaction contract:
  - (a) a document for delivery prior to conclusion of contract;
  - (b) an explanatory document on listed securities, etc.; and
  - (c) in the case referred to in Article 80, paragraph (1), item (iii), the prospectus specified in that item (if there is any document to be delivered as an integral part of such prospectus pursuant to the provisions of that item, such prospectus and such document); and
  - (d) an explanatory document on changes to contract information;
- (ii) an act to make any false representation, or to make any representation

- which would lead to any material information being misunderstood, in concluding a financial instruments transaction contract or in making a solicitation therefor;
- (iii) an act to promise a customer or the customer's designee to provide any special benefit, or to provide any special benefit to a customer or a third party, (including an act to cause any third party to promise to provide, or to provide, any special benefit), in connection with the financial instruments transaction contract;
  - (iv) an act to use fraudulent means, or to commit an assault or intimidation, in connection with the conclusion or cancellation of the financial instruments transaction contract;
  - (v) an act to refuse or unreasonably delay the performance of all or part of the obligations under the financial instruments transaction contract, such as the performance of an act that constitutes a financial instruments transaction thereunder;
  - (vi) an act to acquire any money, securities or any other property, or any customer margin and any other security deposit belonging to the customer's account under the financial instruments transaction contract, through any wrongful means such as use of false quotations;
  - (vii) in connection with the conclusion or cancellation of the financial instruments transaction contract, an act to solicit a customer (limited to an individual customer, if the financial instruments transaction contract is not a contract for the purchase and sale or any other transaction of mortgage securities, etc. or beneficial interest in commodity fund and a contract specified in each item of Article 16-4, paragraphs (1) and (2) of the Order) by telephone or a personal visit timed in such a way that the customer would be disturbed;
  - (viii) an act to assemble customers (excluding professional investors) and solicit for conclusion of a financial instruments transaction contract specified in Article 38, item (iv) of the Act (excluding those pertaining to transactions listed in Article 116, paragraph (1), item (iii), (a) and (b)), without clearly indicating to them in advance that the purpose of such assembly is solicitation for conclusion of such financial instruments transaction contract;
  - (viii)-2 when confirming with a customer that is an individual (excluding a person that has opened an account for the transactions of securities or derivative transactions with the financial instruments business operator, etc. and a person that has concluded a commodity transaction contract provided in Article 40 of the Order for Enforcement of the Financial Futures Trading (Cabinet Order No. 280 of 1950) with the financial instruments business operator, etc.), in advance of solicitation, whether the customer wishes to receive the solicitation for the conclusion of a financial instruments



- transaction contract provided in Article 38, item (v) of the Act (limited to the solicitation pertaining to the transactions specified in Article 16-4, paragraph (2), item (i), sub-item (e) of the Cabinet Order), an act of using a method specified in the following:
- (a) to make a visit or phone call; and
  - (b) to assemble customers without clearly indicating to them in advance that the purpose of such assembly is solicitation;
- (ix) an act to solicit a customer (excluding a professional investor) to conclude a financial instruments transaction contract as specified in Article 38, item (vi) of the Act (excluding those pertaining to transactions listed in Article 116, paragraph (1), item (iii), (a) and (b)), notwithstanding that the customer has, in advance, manifested the intention not to conclude such financial instruments transaction contract (including manifesting the intention that the customer does not wish to accept any solicitation for the conclusion of such financial instruments transaction contract);
- (x) with regard to the cases of acceptance from a customer of any entrustment, etc. (meaning the entrustment, etc. prescribed in Article 44, item (i) of the Act; the same applies hereinafter) of the purchase or sale of securities, or of market transaction of derivatives or foreign market derivatives transaction, an act to effect any purchase or sale of securities, or market transaction of derivatives or foreign market derivatives transaction (including a transaction to be effected under a discretionary transaction contract prescribed in Article 16, paragraph (1), item (viii), (b) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act (limited to a contract pertaining to the purchase and sale of securities, or market transaction of derivatives or foreign market derivatives transaction; hereinafter referred to as the "discretionary transaction contract")) at a price (in the case of a market transaction of derivatives or a foreign market derivatives transaction, the matter equivalent to the price; hereinafter the same applies in this item) equivalent to or more favorable than the price of the purchase or sale of securities, market transaction of derivatives or foreign market derivatives transaction for which such customer's entrustment, etc. was made, in attempt to effect any purchase and sale of securities whose issues are identical to such securities or to effect any transaction identical to such market transaction of derivatives or foreign market derivatives transaction, on its own account before the effectuation of the purchase and sale or any other transaction based on such entrustment, etc.;
- (xi) an act to conduct the purchase and sale or any other transaction of securities or derivative transaction, etc. (excluding brokerage for clearing of securities, etc.) on the customer's account, without obtaining the customer's

- prior consent;
- (xii) an act of an individual-type financial instruments business operator, etc., or of any officer (if the officer is a corporation, including executive members thereof) or employee of a financial instruments business operator, etc. to conduct the purchase and sale or other transaction of securities. by taking advantage of the business position and by the use of information on ordering trends in the customers' purchase and sale or other transaction of securities. and any other special information which may come to such person's knowledge in the course of duties, or solely in pursuit of their speculative profit;
  - (xiii) becoming entrusted, etc. with the purchase and sale or other transaction of securities. from a customer, knowing that such customer's purchase and sale or other transaction of securities. violates or may violate the provisions of Article 166, paragraph (1) or (3) of the Act or Article 167, paragraph (1) or (3) of the Act;
  - (xiv) an act to solicit a customer in regard to a purchase and sale or any other transaction of securities, derivative transaction pertaining to securities, or an intermediation, brokerage, or agency therefor, providing such customer with the corporate information on the issuer of such securities;
  - (xiv)-2 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 item) or an intermediation, brokerage, or agency therefore, an act to solicit a customer to implement the purchase and sale, etc. for the purpose of having the customer gain interest by having the customer implement the purchase and sale, etc. before corporate information on the issuer of the securities comes to be disclosed or to avoid causes loss with the customer (excluding the acts listed in the preceding item); and
  - (xv) if, in connection with public offering prescribed in Article 166, paragraph (2), item (i), (a) or item (ix), (b) of the Act (limited to the public offering pertaining to the securities issued by a listed company, etc. prescribed in Article 163, paragraph (1) of the Act), a pre-hearing is to be carried out to survey the prospective demands of investors for the securities subject to the public offering, an act to provide the corporate information relevant to the public offering to the persons subject to the pre-hearing (hereinafter referred to as the "target" in this item), or to a third party, if that third party has been entrusted with that pre-hearing or furnished with the corporate information pertaining to that public offering to carry out that pre-hearing, without implementing the measures specified in (a) or (b) below in accordance with the categories of the cases set forth respectively therein:
    - (a) if the financial instruments business operator, etc. carries out the pre-

hearing by itself: the following measures:

1. that the section in charge of the affairs related to compliance management (meaning the affairs related to judgment on whether the business of a financial instruments business operator, etc. complies with the laws and regulations (meaning laws and regulations (including the laws and regulations of foreign states), dispositions issued by administrative agencies under the laws and regulations (including dispositions similar thereto issued under the laws and regulations of foreign states), or rules of the financial instruments firms association or financial instruments exchange such as its articles of incorporation (including an association's rules or an exchange's rules equivalent thereto such as its articles of incorporation, which are established under the laws and regulations of the foreign states); hereinafter the same applies in this item, Article 153, paragraph (1), item (vii), (h), and Article 154, item (iv), (h)), and the affairs related to assurance of the compliance of the laws and regulations, etc. by the officers or employees; the same applies in (b), 1.) has given a prior approval for the implementation of such pre-hearing, targets and the contents of the corporate information to be provided to the targets, and has approved in advance that the timing and method of the provision thereof are appropriate;
2. that the financial instruments business operator, etc., in advance of the pre-hearing, has caused the target to promise that the target does not, until the announcement of the relevant corporate information or of the fact that the public offering is to take place, or until the target is informed by the financial instruments business operator, etc. after such pre-hearing that it has decided not to make such public offering, conduct the purchase and sale or any other manner of transfer or acquisition for value or derivative transactions pertaining to specified securities, etc. of the listed companies, etc. as set forth Article 163, paragraph (1) of the Act (hereinafter referred to as the "purchase and sale, etc. of specified securities, etc." in this item) (excluding the cases listed in any of Article 166, paragraph (6), items (i) through (vi) and (viii) of the Act, and also excluding cases in which the purchase and sale, etc. of specified securities, etc. is to be conducted amongst the persons furnished with the relevant corporate information pursuant to the provisions of this item, through means other than a financial instruments exchange market or over-the-counter securities market; hereinafter the same applies in this item), and that the target does not provide the corporate information to any person other than another target (excluding the provision to a third party, if it is essential for the

target to furnish such third party with the corporate information in order to implement the business related to the contents of the investigation and such party is bound by an obligation to refrain from conducting any purchase and sale, etc. of specified securities, etc. and from divulging such corporate information, under a contract with the target; and also excluding the provision of information under the laws and regulations, etc.); and

3. that the financial instruments business operator, etc. has prepared a documents containing the name of the person that was responsible for the affairs related to the pre-hearing and the person that actually handled the affairs related thereto, the targets' name and address, the contents of the corporate information provided to the targets, and the timing and means of the provision thereof, and has taken the necessary measures in order to preserve such document for five years after preparation thereof.
- (b) if any third party is to be entrusted with such pre-hearing, or furnished with the corporate information pertaining to such public offering to carry out such pre-hearing: the following measures:
1. that the section in charge of the affairs related to compliance management has given prior approval for the implementation of such pre-hearing, the third party, the targets and the contents of the corporate information to be provided to the third party or the targets, and has approved in advance that the timing and method of the provision thereof are appropriate;
  2. that the financial instruments business operator, etc., in advance of the pre-hearing, has caused the third party to promise not to conduct the purchase and sale, etc. of specified securities, etc. or provide the corporate information to any person other than the targets (excluding the provision to any other party, if it is essential for such third party to furnish such other party with the corporate information in order to implement the pre-hearing or to conduct the business pertaining to the public offering based on an entrustment from the listed company, etc. or the financial instruments business operator, etc., and such other person is bound by an obligation to refrain from conducting any purchase and sale, etc. of specified securities, etc. and from divulging such corporate information, under a contract with such third party; and also excluding the provision of information under the laws and regulations, etc.); and
  3. that the financial instruments business operator, etc. has prepared the documents containing the name of the person that was responsible for the affairs related to the pre-hearing and the person that actually

handled the affairs related to the entrustment to such third party or the provision of such corporate information to such third party, the third party's name and address, the contents of the corporate information provided to the third party, and the timing and means of the provision thereof, and has implemented the necessary measures in order to preserve such document for five years after the preparation thereof; and

4. that the financial instruments business operator, etc. has implemented necessary measures so as to prevent the third party from conducting the pre-hearing without taking the measures equivalent to those specified in (a), 2. and 3.;
- (xvi) an act to conduct the purchase and sale or other transaction of securities. pertaining to the corporate information (if such purchase and sale or other transaction of securities. is the purchase and sale of securities, it excludes the purchase and sale of securities effected in the case of the exercise of options (including the rights similar to options which are related to the foreign market derivatives transactions similar to the transaction set forth in Article 28, paragraph (8), item (iii), (c), 1. of the Act)), on the own account, based on such corporate information (limited to an act committed by a financial instruments business operator engaged in securities-related business (limited to an operator engaged in type-I financial instruments business) or its officers or employees; and including the act of conducting those transactions under a discretionary transaction contract);
- (xvii) an act of soliciting unspecified and many customers in relation to the purchase or sale of securities or derivative transactions of a specified and small number of issues, or the entrustment, etc. thereof, simultaneously and in an excessively aggressive manner continuously over a certain period, which is likely to prejudice formation of a fair price (in the case of a market transaction of derivatives, the matter equivalent to the price) (including an act to cause the registered financial institution, financial instruments intermediary service provider, or financial service intermediary which accepts entrustment of the financial instruments intermediation operation to conduct such solicitation; the same applies in the following item);
- (xviii) an act of soliciting unspecified and many customers in relation to the purchase or sale of securities, derivatives transactions or the entrustment, etc. therefor, simultaneously and in an excessively aggressive manner continuously over a certain period, with a view to take advantage of any fluctuation in the prices, indicators, figures or amount of consideration based on a customer's transaction and thereby to gain own profit or a profit for third party other than such customer;
- (xix) an act of conducting the purchase, sale or derivative transaction

- pertaining to the listed financial instruments, etc. (meaning the financial instruments, financial indicators or options listed by the financial instruments exchange and excluding Cryptoassets, etc. (meaning the Cryptoassets, etc. prescribed in Article 185-23, paragraph (1) of the Act; the same applies hereinafter) or the over-the-counter traded securities or to make an application or entrustment, etc. therefor, for the purpose of 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 for the purpose of increasing the transaction volumes thereof;
- (xx) 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;
- (xxi) an act to conclude a contract (excluding a contract to be concluded by the means of using an electronic data processing system or by a means that involves employing any other such information communication technology) not in writing, which provides that a customer's consent to the total amount of funds for the purchase and sale of securities or derivative transactions or for the entrustment, etc. therefor are obtained; that if the customer does not consent to judgment on purchase or sale, or issues, numbers and prices (in the case of derivatives transactions, the particulars equivalent to these), such particulars are, subject to a certain event occurring, determined through computer processing or any other process carried out in accordance with the means determined in advance; and that the financial instruments business operator, etc. executes the transaction in accordance with the particulars so determined;
- (xxii) the following acts conducted by any of the financial instruments business operators as listed in the items of Article 20, paragraph (2) of the Order, in connection with the purchase within a period for stabilizing transactions as specified in Article 24, paragraph (1), item (i), (a) of the Order in regard to share certificate (meaning share certificate, or share option certificate representing a share option wherein a share certificate will be issued or transferred at a market value or certain value similar thereto (hereinafter

referred to as "market value share option certificate" in this item, the following item and Article 231, paragraph (1), item (viii)), in the case of a public offering (limited to the solicitation of 50 or more persons; hereinafter the same applies in this item) or a secondary distribution (limited to the solicitation of 50 or more persons; hereinafter the same applies in this item) of market value share option certificate, or a solicitation for acquisition only for professional investors (limited to the solicitation of 50 or more people; hereinafter the same applies in this item) or a solicitation for selling, etc. only for professional investors (limited to the solicitation of 50 or more persons; hereinafter the same applies in this item) pertaining to the market value share option certificate; or, share certificates, or corporate bonds with a share option wherein the aforementioned share options are granted (hereinafter referred to as the "market value corporate bond certificates with share options" in this item, the following item and Article 231, paragraph (1), item (viii)), in the case of a public offering or secondary distribution, or solicitation for acquisition only for professional investors or solicitation for selling, etc. only for professional investors pertaining to the market value corporate bond certificates with share options), preferred equity securities or investment securities (in the case of a public offering or secondary distribution, solicitation for acquisition only for professional investors or solicitation for selling, etc. only for professional investors of certificates of market value investment equity subscription rights, the investment securities or certificates of market value investment equity subscription rights) issued by an issuer of the securities pertaining to the public offering or secondary distribution, or solicitation for acquisition only for professional investors or solicitation for selling, etc. only for professional investors specified in the items of Article 20, paragraph (2) of the Order (excluding the share option certificates or corporate bond certificates other than market value share option certificates or market value corporate bond certificates with share options, and also excluding preferred equity investment certificates other than those issued with a market value or certain value similar thereto and certificates of investment equity subscription rights other than certificates of investment equity subscription rights representing investment equity subscription rights wherein investment securities will be issued at a market value or certain value similar thereto (hereinafter referred to as "certificates of market value investment equity subscription rights" in this item, the following item and Article 231, paragraph (1), item (viii)), which are listed on the financial instruments exchange or which fall under the over-the-counter traded securities:

- (a) to make a purchase on its own account (excluding a purchase based on the purchase and sale transaction of securities which comes into effect upon

the exercise of the right acquired or granted under a transaction of securities-related derivatives (limited to a transaction specified in Article 28, paragraph (8), item (iii), (c) of the Act (limited to a transaction pertaining to (c), 1. of that item) or in Article 28, paragraph (8), item (iv), (c) of the Act (limited to a transaction pertaining to (c), 1. of that item); hereinafter the same applies in this item); the purchase, etc. prescribed in Article 6-2, paragraph (1), item (xv) of the Order (limited to a purchase); the stabilizing transactions prescribed in Article 20, paragraph (1) of the Order to be implemented pursuant to the provisions of Articles 20 through 25 of the Order (hereinafter referred to as the "stabilizing transactions", except in (c)); the purchase provided for in the regulations of a financial instruments exchange (limited to the regulations authorized by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 149, paragraph (1) of the Act), as the purchase which would be necessary for facilitating smooth distribution of securities on the financial instruments exchange market established by such financial instruments exchange and which is regarded not to be based on an investment decision on an individual issue; and the purchase provided for in the regulations of an authorized financial instruments firms association (limited to the regulations authorized by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 67-12 of the Act), as the purchase which would be necessary for facilitating smooth distribution of over-the-counter traded securities registered by such authorized financial instruments firms association and which is regarded not to be based on an investment decision on an individual issue);

- (b) an act to make an entrustment, etc. to any other financial instruments business operator, etc. for purchasing (excluding an entrustment for brokerage for clearing of securities, etc. (excluding an entrustment for brokerage for clearing of securities, etc. pertaining to the purchases conducted on its own account));
- (c) becoming entrusted, etc. with the purchase of share certificates or investment securities on the account of the issuer of the securities subject to stabilizing transactions as set forth in Article 20, paragraph (1) of the Order (excluding the acceptance of entrustment, etc. of brokerage for clearing of securities);
- (d) becoming entrusted, etc. with purchasing on the account of any of the persons listed in the items of Article 20, paragraph (3) of the Order (excluding the acceptance of an entrustment of brokerage for clearing of securities, an acceptance of entrustment, etc. of making a purchase based on the purchase and sale of securities effected upon the exercise of the rights acquired or granted under the transactions of securities-related



- derivatives, and acceptance of entrustment, etc. of the stabilizing transactions); and
- (e) to make a purchase under a discretionary transaction contract (excluding the purchase based on a purchase and sale transaction of securities which comes into effect upon the exercise of the right acquired or granted under a transaction of securities-related derivatives; the purchase provided for in the regulations of a financial instruments exchange (limited to the regulations authorized by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 149, paragraph (1) of the Act), as the purchase which would be necessary for facilitating smooth distribution of securities on the financial instruments exchange market established by such financial instruments exchange and which is regarded not to be based on an investment decision on the respective issues; and the purchase provided for in the regulations of an authorized financial instruments firms association (limited to the regulations authorized by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 67-12 of the Act), as the purchase which would be necessary for facilitating smooth distribution of over-the-counter traded securities registered by such authorized financial instruments firms association and which is regarded not to be based on an investment decision on the respective issues);
- (xxiii) an act of a financial instruments business operator which has implemented stabilizing transactions or has become entrusted, etc. with this (excluding becoming entrusted with brokerage for clearing of securities, etc.), of becoming entrusted, etc. with the purchase of, or to sell the share certificates, market value share option certificates, market value corporate bond certificates with share options, preferred equity securities, investment securities or market value investment equity subscription rights certificates issued by the issuer of the securities subject to a stabilizing transaction (excluding becoming entrusted, etc. with a purchase by a financial instruments business operator, etc., selling to a financial instruments business operator, etc. and brokerage for clearing of securities, etc. pertaining to sale) or becoming entrusted, etc. (excluding becoming entrusted, etc. by a financial instruments business operator, etc.) with conducting transactions of securities-related derivatives, etc. pertaining to the purchase and sale of the securities (limited to a transaction for acquiring calls or granting puts), for the period between the first time the stabilizing transaction was implemented and the last day of the period specified in the preceding item, and without indicating that the stabilizing transaction was implemented for the securities subject to the stabilizing transaction;
- (xxiv) if a matching of the customer's margin transaction with the purchase or

- sale conducted on its own account (including purchase or sale pertaining to a discretionary transaction contract) has been made, and if a transaction was effected by a method not involving the delivery of money or securities, an act to conduct the sale or purchase intended for matching such transactions, for the purpose of the settlement of the unsettled account pertaining to such sale or purchase;
- (xxiv)-2 an act to conduct short selling or to provide a brokerage service for the entrustment thereof, without confirming the name of the party which has provided the securities pertaining to the settlement measures as prescribed in Article 26-2-2, paragraph (1) of the Order (simply referred to as a "settlement measure" in the following item, Article 157, paragraph (1) and Article 158-2);
- (xxiv)-3 an act to make a promise to loan securities as a settlement measure, without having owned or procured such securities in advance, or having taken the measures necessary for the procurement thereof in advance;
- (xxiv)-4 an act to accept an entrustment of the sale of, or to accept an application for brokerage for entrustment of the sale of, the securities (limited to securities designated by the Commissioner of the Financial Services Agency as prescribed in Article 26-2-2, paragraph (1) of the Order (including as applied mutatis mutandis pursuant to paragraphs (6) and (7) of that Article)) pertaining to a negotiable margin transaction (meaning a margin transaction other than that wherein a customer may borrow money or securities necessary for the settlement thereof by utilizing the clearing systems of a financial instruments exchange market established by the financial instruments exchange or the clearing systems of the over-the-counter securities market established by the authorized financial instruments firms association), without owning or procuring such securities, or taking the measures necessary for the procurement thereof;
- (xxiv)-5 an act expressly to inform the financial instruments exchange, the authorized financial instruments firms association, or the financial instruments business operator, etc. that is authorized pursuant to Article 30, paragraph (1) of the Act, or the members, etc. of the financial instruments exchange, the association members of the authorized financial instruments firms association, or the customer of the financial instruments business operator, etc. that is authorized pursuant to that paragraph that sale of securities (limited to securities which have not been deposited; hereinafter the same applies in this item) does not fall under short selling, without making an inquiry to the counterparty to the entrustment of the sale or the counterparty to the application of a brokerage service for the entrustment of sale so as to confirm the management method of the securities pertaining to such sale (if such sale falls under any of the transactions specified in Article

9-3, paragraph (1), items (vi) through (xvi), paragraph (2), items (iii) through (v), or paragraph (3), item (iii) or (iv) of the Cabinet Office Order on Restrictions on Securities Transactions (Cabinet Office Order No. 59 of 2007; referred to as the "Order on Restrictions on Transactions" in Article 123, paragraph (1), items (xxvi) and (xxvii) and Article 158-3), an act to conduct the sale, or to provide the brokerage service for the entrustment of sale, without confirming the management method of securities subject to such transaction);

(xxv) to conduct any act listed in Article 2, paragraph (8), items (i) through (iii) of the Act (excluding the purchase of the Securities and any intermediation, brokerage, or agency service for the sale of the Securities, and, in addition, excluding any intermediation, brokerage, or agency service for the entrustment of the selling of such Securities on a Financial Instruments Exchange Market or a Foreign Financial Instruments Market) and an act specified in item (ix) of that paragraph, without explaining to the customer (excluding a Professional Investor) that the following documents pertaining to the Securities (referred to as the "Foreign Company Statements, etc." in Article 275, paragraph (1), item (xvi)) are to be prepared in English, or without conducting the delivery of a document containing a statement to that effect (including the provision of the matters to be stated in the document by a method equivalent to the method of making them available for customers' inspection prescribed in Article 80, paragraph (1), item (v) or (vi); hereinafter the same applies in this item and Article 275, paragraph (1), item (xvi)) to the customer (excluding the cases where, within one year prior to the day when such act is conducted, the Financial Instruments Business Operator, etc. or its Officers or employees had provided such explanation and delivered the document to the customer, or where the Registered Financial Institution, Financial Instruments Intermediary Service Provider, or financial service intermediary which accepts entrustment of Financial instruments intermediation operation had provided such explanation and delivered the document to the customer):

- (a) foreign company statements prescribed in Article 5, paragraph (8) of the Act (including as applied mutatis mutandis pursuant to Article 27 of the Act);
- (b) a foreign company report as prescribed in Article 24, paragraph (8) of the Act (including as applied mutatis mutandis pursuant to Article 27 of the Act);
- (c) a foreign company quarterly securities report as prescribed in Article 24-4-7, paragraph (6) of the Act (including as applied mutatis mutandis pursuant to Article 27 of the Act);
- (d) a foreign company semiannual securities report as prescribed in Article

- 24-5, paragraph (7) of the Act (including as applied mutatis mutandis pursuant to Article 27 of the Act);
- (e) a foreign company confirmation document as prescribed in Article 1, item (xviii)-4 of the Cabinet Office Order on Disclosure of Corporate Affairs;
  - (f) a foreign company internal control report as prescribed in Article 2, item (iii)-2 of the Cabinet Office Order on the System for Ensuring the Adequacy of Documents on Financial Calculation and Other Information (Cabinet Office Order No. 62 of 2007);
  - (g) foreign company extraordinary report prescribed in Article 24-5, paragraph (15) of the Act (including as applied mutatis mutandis pursuant to Article 27 of the Act);
  - (h) a document for correction any of the documents specified in (a) through (g), which is prepared in English; and
  - (i) a report on status of foreign parent company, etc. as prescribed in Article 19-4, paragraph (2) of the Cabinet Office Order on Disclosure of Corporate Affairs;
- (xxvi) with regard to an over-the-counter derivatives transaction or becoming entrusted, etc. with this (limited to those pertaining to a transaction wherein any security deposit such as a margin is to be deposited), an act to solicit a customer (excluding a professional investor; if the over-the-counter derivatives transactions are other than Over-the-Counter Transactions of Financial Futures and Cryptoasset-related Over-the-Counter Derivatives Transactions, limited to an individual) to effect any transaction for matching a sale or purchase under the over-the-counter transaction of financial futures conducted by the customer or any other transaction equivalent thereto (transaction for matching means the transaction to reduce any loss which may accrue from those transactions), or to conduct any other act similar thereto;
- (xxvii) if the amount of the margin, etc. (meaning a customer margin or any other security deposit; the same applies in the following item and paragraphs (3) through (5)) that a customer (limited to an individual (excluding, if a managing partner, etc. (meaning a managing partner, etc. prescribed in Article 10, paragraph (1), item (xxiii) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; hereinafter the same applies in this item) that falls under the requirements listed in item (xxiv), (b), 1. of that paragraph conducts a currency-related derivatives transaction as a managing partner, etc., such managing partner); hereinafter the same applies in this item, the following item and paragraphs (6) through (9)) has deposited with a depository for margins, etc. (meaning a financial instruments business operator, etc., or financial instruments exchange or financial instruments clearing organization (including a foreign

organization equivalent thereto); hereinafter the same applies in this item and the following item) when concluding a contract pertaining to a currency-related derivatives transaction (meaning a currency-related derivatives transaction prescribed in Article 123, paragraph (1), item (xxi)-2 and excluding such transaction conducted for settlement purposes; hereinafter the same applies in this item, the following item, and paragraphs (4) and (6) through (10)) (if the operational rules (meaning the operational rules prescribed in Article 117, paragraph (1) of the Act; hereinafter the same applies in this item and Article 123, paragraph (1), item (xxi)-2) of a financial instruments exchange operating the financial instruments exchange market if the currency-related derivatives transaction is conducted and the business rules (meaning the business rules prescribed in Article 156-7, paragraph (1) of the Act; hereinafter the same applies in this item and Article 123, paragraph (1), item (xxi)-2) of the financial instruments clearing organization that takes over, novates, or in any other way bears the obligations which would arise from the currency-related derivatives transaction provide that if there is a shortfall in either the margin, etc. pertaining to a currency-related derivatives transaction or the margin, etc. pertaining to a derivatives transaction other than a currency-related derivatives transaction (hereinafter referred to as a "non-currency-related derivatives transaction" in this item and Article 123, paragraph (1), item (xxi)-2) that were deposited by the same customer, that shortfall is to be covered by the other margin (limited to a case in which the customer's consent is obtained for the coverage of a shortfall with a written consent of the customer or by a method equivalent to any of the methods prescribed in the items of Article 57-3, paragraph (1) and in paragraph (2) of that Article (limited to a case in which the customer's consent is obtained in accordance with the provisions of Article 15-23 of the Order; the same applies in the following item and Article 123, paragraph (1), item (xxi)-2)), the amount of the margin, etc. pertaining to the currency-related derivatives transaction plus or minus the amount of the margin, etc. pertaining to a non-currency-related derivatives transaction that the customer deposited with the depository for margins, etc. to which the amount of profits that would arise to the customer from settling a non-currency-related transaction being conducted by the customer is added and from which the amount of losses that would arise to the customer from settling a non-currency-related transaction being conducted by the customer and the amount calculated based on the method prescribed in the operational rules or the business rules as the method of calculating the amount necessary for the customer to continue the contract pertaining to a non-currency-related transaction is subtracted (referred to as the "amount of profits or losses from a non-currency-related

transaction" in the following item)) plus the amount of profits that would arise to the customer from settling such currency-related derivatives transaction or minus the amount of losses that would arise to the customer from settling such currency-related derivatives transaction (the amount thus obtained is referred to as the "actual deposit amount" in the following item, item (xxviii)-2, sub-item (c), and paragraph (6)) is short of the required on-contract deposit amount, an act to continue the contract without having the customer deposit the shortfall amount with the depository for margins, etc. immediately after the conclusion of the contract;

(xxviii) if the actual deposit amount of the margin, etc. pertaining to a currency-related derivatives transaction at a fixed hour each business day (if the customer's consent is obtained for the coverage of a shortfall referred to in the preceding item with a written consent of the customer or by a method equivalent to any of the methods prescribed in the items of Article 57-3, paragraph (1) and in paragraph (2) of that Article, and the amount of profits or losses from a non-currency-related transaction is below zero, the actual deposit amount plus the absolute value of the amount of profits or losses from a non-currency-related transaction) is short of the required amount for maintenance, an act to continue the contract pertaining to the currency-related derivatives transaction without promptly having the customer pertaining to the currency-related derivatives transaction deposit the shortfall amount with the depository for margins, etc. (excluding an act listed in the preceding item);

(xxviii)-2 an act to conclude a financial instruments transaction contract pertaining to specified currency-related over-the-counter derivatives transactions (meaning over-the-counter transactions of derivatives for currencies that are transactions listed in Article 2, paragraph (22), item (i) of the Act (limited to such transactions wherein the parties thereto promise in advance that, when the time limit of the transactions arrives, they will settle the transactions and effect transactions with the same type of currency, price, and number or volume as those that were settled, or they will substantially extend the time limit of the transactions by extending the time limit or by any other method, without settling the transactions) or transactions listed in item (ii) of that paragraph (limited to such transactions wherein the parties thereto promise in advance that, when the time limit of the transactions arrives, they will settle the transactions and effect transactions with the same type of financial indicator, figure, and number or volume as those that were settled, or they will substantially extend the time limit of the transactions by extending the time limit or by any other method, without settling the transactions); hereinafter the same applies in this item) without publicizing, every month, the following matters with regard to the specified

currency-related over-the-counter derivatives transactions as of the base point of time (meaning the point of time designated by the Commissioner of the Financial Services Agency) of that month by no later than the twentieth day of the following month, by the use of the internet or other methods in a way which allows easy access by investors any time:

- (a) the proportion of the amount for which the loss is not reduced by cover deals to the amount obtained by deducting whichever is the lesser amount from whichever is the greater amount between the amounts of specified currency-related over-the-counter derivatives transactions (meaning the amount arrived at as the price of the currency, or the figure of the financial indicator, pertaining to the specified currency-related over-the-counter derivatives transactions multiplied by the number or volume of the transactions; the same applies in sub-item (c)) pertaining to sales, etc. of a currency and those pertaining to purchases, etc. of a currency;
  - (b) the proportion of the amount of cover deals (meaning the amount arrived at as the price of the currency, or the figure of the financial indicator, pertaining to the cover deals multiplied by the number or volume of the deals; hereinafter the same applies in sub-item (b)) conducted on each financial instruments exchange market or foreign financial instruments market or the proportion of the amount of cover deals conducted according to the credit ratings (limited to those determined by a person designated by the Commissioner of the Financial Services Agency) of counterparty business operators, etc., to the amount of cover deals pertaining to the specified currency-related over-the-counter derivatives transactions;
  - (c) the proportion of the actual deposit amount of the margins, etc. pertaining to the specified currency-related over-the-counter derivatives transactions to the amount of the specified currency-related over-the-counter derivatives transactions;
- (xxix) if the amount of the margin, etc. (meaning a customer margin or any other security deposit; the same applies in the following item and paragraphs (17) through (19)) that a customer (limited to an individual (excluding, if a managing partner, etc. (meaning a managing partner, etc. prescribed in Article 10, paragraph (1), item (xxiii) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; hereinafter the same applies in this item) that falls under the requirements listed in item (xxiv), (b), 1. of that paragraph conducts a securities-related over-the-counter transaction of derivatives as a managing partner, etc., such managing partner, etc.); hereinafter the same applies in this item, the following item and paragraphs (20) through (23)) has deposited with a depository for margins, etc. (meaning a financial instruments business operator, etc. or financial instruments clearing organization (including a

foreign organization equivalent thereto); hereinafter the same applies in this item and the following item) when concluding a contract pertaining to a securities-related over-the-counter transaction of derivatives (meaning any of the following transactions, excluding those conducted for settlement purposes; hereinafter the same applies in this item, the following item, and paragraphs (20) through (22)) plus the amount of profits that would arise to the customer from settling such securities-related over-the-counter transaction of derivatives or minus the amount of losses that would arise to the customer from settling such securities-related over-the-counter transaction of derivatives (referred to as the "actual deposit amount" in the following item and paragraph (20)) is short of the required on-contract deposit amount, an act to continue such contract without having the customer deposit such shortfall amount with the depository for margins, etc. immediately after the conclusion of such contract:

- (a) a transaction listed in Article 28, paragraph (8), item (iv), (a) of the Act (excluding such transaction in which the customer promises to sell at a fixed time in the future securities that the customer owns and loans such securities to the financial instruments business operator, etc. to be the counterparty to such sales);
- (b) a transaction listed in Article 28, paragraph (8), item (iv), (b) of the Act;
- (c) a transaction listed in Article 28, paragraph (8), item (iv), (c) of the Act (limited to such transaction for which the transaction effected by exercising the right prescribed in (c) of that item is a transaction listed in (a) or (b) of that item or a transaction listed in (c), 1. of that item (excluding such transaction in which the customer grants a financial instruments business operator, etc. an option to effect the purchase of securities that the customer owns and loans such securities to such financial instruments business operator, etc.)); or
- (d) a transaction listed in Article 28, paragraph (8), item (iv), (d) of the Act;

(xxx) if the actual deposit amount of the margin, etc. pertaining to a securities-related over-the-counter transaction of derivatives at a fixed hour each business day is short of the required amount for maintenance, an act to continue the contract pertaining to such securities-related over-the-counter transaction of derivatives without promptly having the customer pertaining to such securities-related over-the-counter transaction of derivatives deposit such shortfall amount with the depository for margins, etc. (excluding an act listed in the preceding item);

(xxxi) if an entrusting financial instruments business operator is to become an underwriter of securities issued by a person that owes a debt pertaining to a borrowing to such entrusting financial instruments business operator's parent corporation, etc. or subsidiary corporation, etc. (such securities



- exclude the securities specified in Article 33, paragraph (2), item (i) of the Act, and the securities specified in Article 2, paragraph (1), item (xvii) of the Act which have the nature specified in items (i) and (ii) of that paragraph) or an underwriter of the treasury shares to be disposed of, and if the registered financial institution or any of its officers (if the officer is a corporation, including executive members thereof) or employees is aware of the circumstance if the proceeds from these securities (if the entrusting financial instruments business operator performs those listed in paragraph (6), item (iii) of that Article, including securities obtained by execution of the share option prescribed in that item; hereinafter the same applies in this item) will be appropriated for payment of such debt, to conduct the act specified in paragraph (11), item (i) of that Article pertaining to the securities (limited to an act pertaining to a case in which the securities are to be sold within the period between the day when the entrusting financial instruments business operator becomes the underwriter of the securities and the day on which six months have elapsed therefrom) or in item (iii) of that paragraph, without informing the customer of such circumstance (the above does not apply if the customer has been given an explanation on the provisions of Article 150, item (iv) of this Cabinet Office Order (limited to those pertaining to (a) of that item)); and
- (xxxii) an act to conduct the purchase and sale or any other transaction of mortgage securities, etc. by means other than endorsement.
  - (xxxiii) in cases of underwriting securities (limited to acts to implement those listed in Article 2, paragraph (6), item (iii) of the Act), the following acts are implemented:
    - (a) with regard to soliciting of the exercise of share options prescribed in Article 2, paragraph (6), item (iii) of the Act, an act of representing false information to the person acquired the share option certificates prescribed in that item; and
    - (b) an act of soliciting the person that acquired the share option certificates prescribed in Article 2, paragraph (6), item (iii) of the Act to exercise the share option prescribed in that item by providing a conclusive assessment of a matter that is uncertain or by providing information that could mislead the customer into believing that a matter that is uncertain is actually certain.
  - (xxxiv) when entrusted as an intermediary for conclusion of a discretionary investment contract by a financial instruments business operator, etc. that engages in investment management business, performing the following acts without clearly indicating to that effect and the trade name or name of the financial instruments business operator, etc. to the customer in advance:
    - (a) soliciting to conclude an investment advisory contract;

- (b) based on an investment advisory contract with a customer, providing advice pertaining to the subject of a transaction conducted by a financial instrument transaction operator, etc. as management if the customer concludes a discretionary investment contract with the financial instrument transaction operator, etc.;
  - (c) soliciting to conclude a contract to provide intermediary services for conclusion of a discretionary investment contract; and
  - (d) mediate the conclusion of a discretionary investment contract with a financial instrument transaction operator, etc. as a counterparty.
- (xxxv) an act of recommending a customer (excluding a professional investor), in respect of acceptance of entrustment, etc. of commodity-related market transactions of derivatives, to match the volume and maturity in a sale, purchase, or other equivalent trade in commodity-related market transactions of derivatives to be conducted by the customer with a corresponding transaction (meaning a transaction that would reduce the losses arising from such a transaction);
- (xxxvi) with regard to transactions matching the sale or purchase relating to commodity-related market transactions of derivatives and other transactions equivalent thereto (meaning transactions that would reduce the losses arising from these transactions), and which have different volumes and expiration dates from those transactions, becoming entrusted, etc. with those transactions from a customer (excluding a professional investor) that does not understand such transactions;
- (xxxvii) an act of conducting a transaction wherein an entrustment, etc. of commodity-related market transactions of derivatives is accepted, and the transaction for which the entrustment, etc. was made and a transaction at its own account is intentionally matched, resulting in damage to the interest of the customer;
- (xxxviii) in cases of accepting entrustment, etc. of commodity-related market transactions of derivatives from a customer, in relation to a transaction wherein the commodities for which the entrustment, etc., was made or the financial indicators or terms pertaining to the commodities are the same, an act of a financial instruments business operator, etc. to accept the entrustment, etc. without explaining to the customer pertaining to the entrustment, etc. the following matters in advance, in spite of such financial instruments business operator, etc. conducting transactions to intentionally match the customer's transactions with transactions of its own account (hereinafter referred to as "specified transaction" in this item);
- (a) a fact that it is conducting a specified transaction; and
  - (b) a fact that a conflict of interest may arise between the customer which made the entrustment, etc. and the financial instruments business

operator, etc. if a transaction for which the entrustment, etc. was made and a transaction of the financial instruments business operator on its own account are matched as a result of the specified transaction.

- (xxxix) if the amount of the margin, etc. (meaning a customer margin or any other security deposit; the same applies in this item and paragraphs (27) through (29)) that a customer (excluding an individual (excluding, if a managing partner, etc. (meaning a managing partner, etc. prescribed in Article 10, paragraph (1), item (xxiii) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; hereinafter the same applies in this item) that falls under the requirements listed in item (xxiv), (b)1. of that paragraph conducts a specified currency-related over-the-counter derivatives transaction as a managing partner, etc., such managing partner), financial instruments business operator, etc. or a person engaged in over-the-counter derivatives transactions in the course of trade in a foreign state; hereinafter the same applies in this and the following items and paragraphs (30) through (33)) has deposited with a depository for margins, etc. (meaning a financial instruments business operator, etc. or financial instruments clearing organization (including a foreign organization equivalent thereto); hereinafter the same applies in this and the following items) when concluding a contract pertaining to a specified currency-related over-the-counter derivatives transaction (meaning a specified currency-related over-the-counter derivatives transaction prescribed in item (xxviii)-2 and excluding such transaction conducted for settlement purposes; hereinafter the same applies in this and the following items, and paragraphs (30) through (34)) plus the amount of profits that would arise to the customer from settling that specified currency-related over-the-counter derivatives transaction or minus the amount of losses that would arise to the customer from settling that specified currency-related over-the-counter derivatives transaction (the amount thus obtained is referred to as the "actual deposit amount" in this item and paragraph (30)) is short of the required on-contract deposit amount, an act to continue such contract without having the customer deposit the shortfall amount with the depository for margins, etc. immediately after the conclusion of the contract;
- (xl) if the actual deposit amount of the margin, etc. pertaining to a specified currency-related over-the-counter derivatives transaction at a fixed hour each business day is short of the required amount for maintenance, an act to continue the contract pertaining to the specified currency-related over-the-counter derivatives transaction without promptly having the customer pertaining to such specified currency-related over-the-counter derivatives transaction deposit the shortfall amount with the depository for margins, etc. (excluding an act specified in the preceding item).

- (xli) upon concluding or soliciting for conclusion of a Cryptoasset-related Contract (meaning the contract prescribed in Article 43-6, paragraph (2) of the Act; the same applies in the following item), or upon placing an Advertisement, etc. regarding the Financial Instruments Business, etc. that the Financial Instruments Business Operator, etc. conducts (limited to the business pertaining to the Acts of Financial Instruments Transaction for Cryptoassets; the same applies in item (xlvi), Article 123, paragraph (1), items (xxxii), (xxxiii) and (xxxiv), Article 275, paragraph (1), item (xxxviii), and Article 281, item (xiii)), an act to make representation concerning the matters set forth in Article 78, items (v) through (vii) or item (xiii), sub-items (a) through (e) without indicating reasonable grounds that support those matters to customers (excluding Financial Instruments Business Operators, etc. (limited to those conducting the Acts of Financial Instruments Transaction for Cryptoassets in the course of trade) and Cryptoasset Exchange Service Providers, etc. (meaning the Cryptoasset Exchange Service Providers prescribed in Article 2, paragraph (8) of the Payment Services Act and Foreign Cryptoasset Exchange Service Providers prescribed in paragraph (9) of that Article; the same applies hereinafter); the same applies in the following item);
- (xlii) an act to solicit a customer to conclude a Cryptoasset-related Contract without clearly and accurately indicating the matters set forth in Article 76, item (iii), sub-items (a) and (b) (in cases of delivering a document or employing any other method equivalent thereto, including the failure to indicate the letters or numerical characters representing the matters in a size which does not differ substantially from the size of the largest letters or numerical characters representing matters other than such matters);
- (xliii) while knowing that a customer is likely to conduct a Derivative Transaction in violation of Article 185-22, paragraph (1), Article 185-23, paragraph (1) or Article 185-24, paragraph (1) or (2) of the Act (including a transaction conducted in relation to an act violating any of these provisions), becoming entrusted, etc. with doing so;
- (xliv) an act to conduct a Derivative Transaction for Cryptoassets, or file an application therefor or make Entrustment, etc. thereof for the purpose of causing fluctuations in the quotations of Cryptoassets or the figures calculated based on the quotations or transaction volumes thereof or for the purpose of increasing the transaction volumes thereof;
- (xlv) becoming entrusted, etc. with a Derivative Transaction for Cryptoassets (excluding Brokerage for Clearing of Securities, etc.) while knowing that it will result in manipulative quotations not reflecting actual market status through causing fluctuations in the quotations of Cryptoassets or the figures calculated based on the quotations or transaction volumes thereof, or by

- increasing the transaction volumes thereof;
- (xlvi) an act to transmit to a third party or utilize material information concerning Cryptoassets, etc. pertaining to purchase and sale or other transactions of Securities that the Financial Instruments Business Operator, etc. uses or intends to use as the target of its Financial Instruments Business, etc. or concerning said Financial Instruments Business Operator, etc. which is found to have an impact on customers' decision on purchase and sale or other transactions of Securities pertaining to Cryptoassets, etc. (excluding cases where such material information is being made readily accessible to all customers of the Financial Instruments Business, etc. conducted by said Financial Instruments Business Operator, etc.) for the purpose of gaining own profit or for a profit for the third party (excluding such act that is necessary for the proper and secure conduct of the Financial Instruments Business, etc. conducted by said Financial Instruments Business Operator, etc.);
- (xlvii) where the amount of the Margin, etc. (meaning a customer margin or any other security deposit; the same applies in the following item and paragraphs (37) to (39)) that a customer (limited to an individual (in cases where a Managing Partner, etc. (meaning a Managing Partner, etc. prescribed in Article 10, paragraph (1), item (xxiii) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; hereinafter the same applies in this item) who falls under the requirements listed in item (xxiv), sub-item (b), 1. of that paragraph conducts Cryptoasset-related Derivatives Transactions as a Managing Partner, etc., excluding such Managing Partner, etc.); hereinafter the same applies in this item, the following item and paragraphs (40) to (43)) has deposited with a Depository for Margins, etc. (meaning a Financial Instruments Business Operator, etc., or Financial Instruments Exchange, or Financial Instruments Clearing Organization (including a foreign organization equivalent thereto); hereinafter the same applies in this and the following items) when concluding a contract pertaining to a Cryptoasset-related Derivatives Transaction (meaning the Cryptoasset-related Derivatives Transactions prescribed in Article 123, paragraph (1), item (xxxv), excluding those conducted for settlement purposes; hereinafter the same applies in this item, the following item, and paragraphs (38) and (40) to (44)) plus the amount of profits that would arise to the customer from settling such Cryptoasset-related Derivatives Transaction or minus the amount of losses that would arise to the customer from settling such Cryptoasset-related Derivatives Transaction (referred to as the "Actual Deposit Amount" in the following item and paragraph (40)) is short of the Required On-Contract Deposit Amount, an act to continue such contract

without having said customer deposit such shortfall amount with the Depository for Margins, etc. immediately after the conclusion of such contract;

- (xlviii) where the Actual Deposit Amount of the Margin, etc. pertaining to a Cryptoasset-related Derivative Transaction at a fixed hour each business day is short of the Required Amount for Maintenance, an act to continue the contract pertaining to such Cryptoasset-related Derivatives Transaction without promptly having the customer pertaining to such Cryptoasset-related Derivatives Transaction deposit such shortfall amount with the Depository for Margins, etc. (excluding an act listed in the preceding item);
- (xlix) where the amount of the Margin, etc. (meaning a customer margin or any other security deposit; the same applies in the following item and paragraphs (47) to (49)) that a customer (excluding an individual (in cases where a Managing Partner, etc. (meaning a Managing Partner, etc. prescribed in Article 10, paragraph (1), item (xxiii) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; hereinafter the same applies in this item) who falls under the requirements listed in item (xxiv), sub-item (b), 1. of that paragraph conducts Cryptoasset-related Over-the-Counter Derivatives Transactions as a Managing Partner, etc., excluding such Managing Partner, etc.), Financial Instruments Business Operator, etc. or a person engaged in Over-the-Counter Derivatives Transactions in the course of trade in a foreign state; hereinafter the same applies in this item, the following item and paragraphs (50) to (53)) has deposited with a Depository for Margins, etc. (meaning a Financial Instruments Business Operator, etc. or Financial Instruments Clearing Organization (including a foreign organization equivalent thereto); hereinafter the same applies in this and the following items) when concluding a contract pertaining to a Specified Cryptoasset-related Over-the-Counter Derivatives Transaction (meaning Over-the-Counter Derivatives Transactions for Cryptoassets that are transactions listed in Article 2, paragraph (22), item (i) of the Act (limited to such transactions wherein the parties thereto promise in advance that, when the time limit of the transactions arrives, they will settle the transactions and effect transactions with the same type, price, and number or volume of Cryptoassets as those that were settled, or they will substantially extend the time limit of the transactions by extending the time limit or by any other method, without settling the transactions) or transactions listed in item (ii) of that paragraph (limited to such transactions wherein the parties thereto promise in advance that, when the time limit of the transactions arrives, they will settle the transactions and effect transactions with the same type, figure, and number or volume of Financial Indicators as those that were settled, or they will

substantially extend the time limit of the transactions by extending the time limit or by any other method, without settling the transactions), excluding those conducted for settlement purposes; hereinafter the same applies in this item, the following item, and paragraphs (50) to (54)) plus the amount of profits that would arise to the customer from settling such Specified Cryptoasset-related Over-the-Counter Derivatives Transaction or minus the amount of losses that would arise to the customer from settling such Specified Cryptoasset-related Over-the-Counter Derivatives Transaction (referred to as the "Actual Deposit Amount" in the following item and paragraph (50)) is short of the Required On-Contract Deposit Amount, an act to continue such contract without having said customer deposit such shortfall amount with the Depository for Margins, etc. immediately after the conclusion of such contract; and

- (1) where the Actual Deposit Amount of the Margin, etc. pertaining to a Specified Cryptoasset-related Over-the-Counter Derivatives Transaction at a fixed hour each business day is short of the Required Amount for Maintenance, an act to continue the contract pertaining to such Specified Cryptoasset-related Over-the-Counter Derivatives Transaction without promptly having the customer pertaining to such Specified Cryptoasset-related Over-the-Counter Derivatives Transaction deposit such shortfall amount with the Depository for Margins, etc. (excluding an act specified in the preceding item).
- (2) The provisions of items (xix) and (xx) of the preceding paragraph do not apply to the series of purchase and sales of securities, etc. (meaning purchase and sales of securities, etc. prescribed in Article 159, paragraph (2) of the Act; hereinafter the same applies in this paragraph, Article 231, paragraph (2) and Article 275, paragraph (3)) or the entrustment, etc. therefor, if the series of purchase and sales of securities, etc. is to be implemented on a financial instruments exchange market or an over-the-counter securities market so as to facilitate the public offering of securities (limited to a public offering made to 50 or more persons), the solicitation for acquisition only for professional investors (limited to a solicitation made to 50 or more persons), the secondary distribution of securities (limited to a secondary distribution made to 50 or more persons) or the solicitation for selling, etc. only for professional investors (limited to a solicitation made to 50 or more persons).
- (3) The margin, etc. under paragraph (1), items (xxvii) and (xxviii) may be satisfied by securities.
- (4) The collateral value of securities if the whole or part of the deposit of margin, etc. to be received by the financial instruments business operator, etc. is substituted for by securities under the provisions of the preceding paragraph is the amount specified in the following items according to the category of

- currency-related derivatives transaction set forth in the respective items:
- (i) currency-related market derivatives transaction prescribed in Article 123, paragraph (3): an amount prescribed in Article 68, paragraph (2) of the Cabinet Office Order on Financial Instruments Exchanges (Cabinet Office Order No. 54 of 2007); or
  - (ii) currency-related over-the-counter derivatives transaction prescribed in Article 123, paragraph (4) or currency-related foreign market derivatives transaction prescribed in paragraph (5) of that Article: an amount prescribed in Article 68, paragraph (2) of the Cabinet Office Order on Financial Instruments Exchanges in any one financial instruments exchange.
- (5) If the whole or part of the margin, etc. under paragraph (1), item (xxvii) or (xxviii) is, pursuant to the provisions of paragraph (3), substituted for by corporate bonds, etc. prescribed in Article 2, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares that are dealt in by a book-entry transfer institution prescribed in paragraph (2) of that Article (hereinafter referred to as "book-entry bonds, etc." in this paragraph) and if the financial instruments business operator, etc. is to have data pertaining to such book-entry bonds, etc. stated or recorded in the holdings section (meaning the holding section under the same Act)) in the account of such financial instruments business operator, etc., such financial instruments business operator, etc. must have it separated from the section for transactions by such financial instruments business operator, etc.
- (6) The actual deposit amount under paragraph (1), item (xxvii) or (xxviii), the required amount of on-contract deposit under item (xxvii) of that paragraph and the required amount for maintenance under item (xxviii) of that paragraph may be calculated in the aggregate per customer for multiple currency-related derivatives transactions. With regard to the application of the provisions of item (xxvii) of that paragraph in this case, the term "such currency-related derivatives transaction" in that item is deemed to be replaced with "currency-related derivatives transaction being conducted by such customer" and the term "or minus" is deemed to be replaced with "and minus".
- (7) The required on-contract deposit amount under paragraph (1), item (xxvii) and the preceding paragraph means the amount arrived at as the amount specified in the following items according to the category of cases set forth in the respective items multiplied by 4/100 or the amount so arrived at adjusted so as to reflect foreign exchange rate fluctuations; provided, however, that if the currency-related derivatives transaction set forth in that item is to pay the specified amount if an option pertaining to these transactions is exercised, when calculating for the transaction, it means the amount of the money:
- (i) when calculating only for a currency-related derivatives transaction that the customer intends to conduct: the amount of such currency-related derivatives



- transaction (if such currency-related derivatives transaction is a transaction listed as follows, zero; the same applies in item (i) of the following paragraph):
- (a) a transaction listed in Article 2, paragraph (21), item (iii) of the Act (limited to such transaction wherein the customer will become the party acquiring the option);
  - (b) a transaction listed in Article 2, paragraph (22), item (iii) or (iv) of the Act (limited to such transaction wherein the customer will become the party acquiring the option); and
  - (c) a foreign market derivatives transaction that is similar to a transaction set forth in (a); and
- (ii) when calculating in the aggregate for a currency-related derivatives transaction that the customer intends to conduct and any other currency-related derivatives transactions being conducted at the time of concluding the contract pertaining to such currency-related derivatives transaction: the amount arrived at as the total amount of those currency-related derivatives transactions minus the amount of any currency-related derivatives transactions pertaining to transactions listed in (a) through (c) of the preceding item.
- (8) The required amount for maintenance under paragraph (1), item (xxviii) and paragraph (6) means the amount arrived at as the amount specified in the following items according to the category of cases set forth in the respective items multiplied by 4/100 or the amount so arrived at adjusted so as to appropriately reflect foreign exchange rate fluctuations (if such amount exceeds the amount of money required for the performance of the obligation owed by the customer in relation to the currency-related transactions of derivatives under the respective items, the amount of such money); provided, however, that if the currency-related derivatives transaction set forth in that item is to pay the specified amount if an option pertaining to these transactions is exercised, when calculating for the transaction, it means the amount of the money:
- (i) when calculating for each currency-related derivatives transaction conducted by the customer: the amount of each such currency-related derivatives transaction; and
  - (ii) when calculating in the aggregate for multiple currency-related derivatives transactions: the amount arrived at as the total amount of such multiple currency-related derivatives transactions minus the amount of any currency-related derivatives transactions pertaining to transactions listed in item (i), (a) through (c) of the preceding paragraph.
- (9) If, in the cases listed in paragraph (7), item (ii), or item (ii) of the preceding paragraph, the customer has conducted a purchase, etc. of one currency

- through a sale, etc. of another currency and a purchase, etc. of such other currency through conducting a sale, etc. of such one currency, the lesser amount of the amounts of the currency-related derivatives transactions pertaining thereto may be used as the amount of the currency-related derivatives transactions pertaining to such one currency or such other currency.
- (10) An "amount of a currency-related derivatives transaction" in the preceding three paragraphs means the amount specified in the following items according to the category of currency-related derivatives transaction set forth in the respective items:
- (i) currency-related derivatives transaction other than the following currency-related derivatives transactions: the amount arrived at as the price of the currency, or the figure of the financial indicator, pertaining to such currency-related derivatives transaction multiplied by the number or volume of that transaction:
    - (a) a transaction listed in Article 2, paragraph (21), item (iii) of the Act;
    - (b) a transaction listed in Article 2, paragraph (22) item (iii) or (iv) of the Act; and
    - (c) a foreign market derivatives transaction that is similar to a transaction set forth in (a); and
  - (ii) the following currency-related derivatives transactions: the amount arrived at as the price of the currency, or the figure of the financial indicator, pertaining to a transaction specified as follows according to the category of such currency-related derivatives transaction set forth respectively as follows multiplied by the number or volume of that transaction:
    - (a) a transaction listed in Article 2, paragraph (21), item (iii) of the Act: the transaction listed in (a) or (b) of that item effected by exercising the right prescribed in that item;
    - (b) a transaction listed in Article 2, paragraph (22) item (iii) or (iv) of the Act: the transaction listed in item (iii), (a) or (b) as prescribed in item (iii) or (iv) of that paragraph, or the transaction prescribed in item (iv) of that paragraph; and
    - (c) a foreign market derivatives transaction that is similar to a transaction set forth in (a): the transaction similar to the transaction specified in (a).
- (11) A "sale, etc. of a currency" under paragraph (9) means the following transaction:
- (i) a sale of a currency;
  - (ii) a transaction listed in Article 2, paragraph (21), item (ii) of the Act (limited to such transaction wherein the customer will become the party paying money if the actual figure exceeds the agreed figure);
  - (iii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to such transaction wherein the customer will become the party

- paying money if the actual figure exceeds the agreed figure); or
- (iv) a foreign market derivatives transaction (limited to such transaction that is similar to a transaction set forth in item (ii)).
- (12) A "purchase, etc. of a currency" as referred to in paragraph (9) means one of the following transactions:
- (i) a purchase of a currency;
  - (ii) a transaction listed in Article 2, paragraph (21), item (ii) of the Act (limited to such transaction wherein the customer will become the party receiving money if the actual figure exceeds the agreed figure);
  - (iii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to such transaction wherein the customer will become the party receiving money if the actual figure exceeds the agreed figure); or
  - (iv) a foreign market derivatives transaction (limited to such transaction that is similar to a transaction set forth in item (ii)).
- (13) A "sale, etc. of currency" as referred to in paragraph (1), item (xxviii)-2, (a) means one of the following transactions:
- (i) a sale of a currency; or
  - (ii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to a transaction wherein the customer will become the party paying money if the actual figure exceeds the agreed figure).
- (14) A "purchase, etc. of a currency" as referred to in paragraph (1), item (xxviii)-2, (a) means one of the following transactions:
- (i) a purchase of a currency; or
  - (ii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to a transaction wherein the customer will become the party receiving money if the actual figure exceeds the agreed figure).
- (15) The margin, etc. referred to in paragraph (1), item (xxviii)-2, (c) may be satisfied by securities.
- (16) The collateral value of securities if the whole or part of the deposit of margin, etc. to be received by the financial instruments business operator, etc. is substituted for by securities under the provisions of the preceding paragraph is an amount prescribed in Article 68, paragraph (2) of the Cabinet Office Order on Financial Instruments Exchanges in any one financial instruments exchange.
- (17) The margin, etc. referred to in paragraph (1), items (xxix) and (xxx) may be satisfied by securities.
- (18) The collateral value of securities if the whole or part of the deposit of margin, etc. to be received by the financial instruments business operator, etc. is substituted for by securities under the provisions of the preceding paragraph is the amount prescribed in Article 68, paragraph (2) of the Cabinet Office Order on Financial Instruments Exchanges in any one financial instruments

exchange.

- (19) If the whole or part of the margin, etc. under paragraph (1), item (xxix) or (xxx) is, pursuant to the provisions of paragraph (17), substituted for by corporate bonds, etc. prescribed in Article 2, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares that are dealt in by a book-entry transfer institution prescribed in paragraph (2) of that Article (hereinafter referred to as "book-entry bonds, etc." in this paragraph) and if the financial instruments business operator, etc. is to have data pertaining to such book-entry bonds, etc. stated or recorded in the holdings section (meaning a holdings section prescribed in that Act) in the account of such financial instruments business operator, etc., such financial instruments business operator, etc. must have it separated from the section for transactions by such financial instruments business operator, etc.
- (20) The actual deposit amount under paragraph (1), item (xxix) or (xxx), the required amount of on-contract deposit under item (xxix) of that paragraph and the required amount for maintenance under item (xxx) of that paragraph may be calculated in the aggregate per customer for securities-related over-the-counter transactions of derivatives specified in the following items according to the category of securities-related over-the-counter transaction of derivatives set forth in the respective items. With regard to the application of the provisions of item (xxix) of that paragraph in this case, the term "such securities-related over-the-counter transaction of derivatives" in that item is deemed to be replaced with "securities-related over-the-counter transaction of derivatives being conducted by such customer" and the term "or minus" is deemed to be replaced with "and minus":
- (i) individual stock-related over-the-counter derivatives transaction (meaning a securities-related over-the-counter transaction of derivatives of which subject is share certificates (including securities listed in Article 2, paragraph (1), item (xvii) of the Act which have the nature of share certificates; the same applies in the following item) or any transaction similar thereto; hereinafter the same applies in this Article): multiple individual stock-related over-the-counter derivatives transactions;
  - (ii) stock price index-related over-the-counter derivatives transaction (meaning a securities-related over-the-counter transaction of derivatives of which subject is the following or any transaction similar thereto; hereinafter the same applies in this Article): multiple stock price index-related over-the-counter derivatives transactions:
    - (a) a stock price index (meaning a figure calculated based on the prices of share certificates listed on a financial instruments exchange (including an equivalent to a financial instruments exchange that was established pursuant to the laws and regulations of a foreign country; the same applies

- in (b)) (limited to such figure that generally indicates the price level of a large number of shares); the same applies in (b)); or
- (b) a beneficiary certificate of investment trust (limited to an investment trust for which an investment trust contract (meaning an investment trust contract prescribed in Article 4, paragraph (1) of the Act on Investment Trusts and Investment Corporations) provides that it is managed so that the volatility in the net assets per share of its investment trust property (meaning an investment trust property prescribed in Article 3, item (ii) of that Act) should match a stock price index) listed on a financial instruments exchange or any foreign investment trust similar thereto;
- (iii) bond certificate-related over-the-counter derivatives transaction (meaning a securities-related over-the-counter transaction of derivatives of which subject is securities listed in Article 2, paragraph (1), items (i) through (v) of the Act (including securities listed in item (xvii) of that paragraph which have the nature of securities listed in items (i) through (v) of that paragraph), or investment corporation bond certificates or foreign investment securities similar to investment corporation bond certificates, or any transaction similar thereto; hereinafter the same applies in this Article): multiple bond certificate-related over-the-counter derivatives transactions; and
- (iv) other securities-related over-the-counter transaction of derivatives (meaning securities-related over-the-counter transaction of derivatives other than securities-related over-the-counter transactions of derivatives listed in the preceding three items; hereinafter the same applies in this Article): multiple other securities-related over-the-counter transactions of derivatives.
- (21) The required on-contract deposit amount under paragraph (1), item (xxix) and the preceding paragraph means the amount specified in the following items according to the category of cases set forth in the respective items; provided, however, that if the currency-related derivatives transaction set forth in that item is to pay the specified amount if an option pertaining to these transactions is exercised, when calculating for the transaction, it means the amount of the money:
- (i) when calculating only for an individual stock-related over-the-counter derivatives transaction that the customer intends to conduct: the amount arrived at as the amount of such individual stock-related over-the-counter derivatives transaction (if such individual stock-related over-the-counter derivatives transaction is a transaction listed in Article 28, paragraph (8), item (iv), (c) of the Act (limited to such transaction wherein the customer will become the party acquiring the option), zero; the same applies in item (i) of the following paragraph) multiplied by 20/100;
- (ii) when calculating only for a stock price index-related over-the-counter derivatives transaction that the customer intends to conduct: the amount

- arrived at as the amount of such stock price index-related over-the-counter derivatives transaction (if such stock price index-related over-the-counter derivatives transaction is a transaction listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act (limited to such transaction wherein the customer will become the party acquiring the option), zero; the same applies in item (ii) of the following paragraph) multiplied by 10/100;
- (iii) when calculating only for a bond certificate-related over-the-counter derivatives transaction that the customer intends to conduct: the amount arrived at as the amount of such bond certificate-related over-the-counter derivatives transaction (if such bond certificate-related over-the-counter derivatives transaction is a transaction listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act (limited to such transaction wherein the customer will become the party acquiring the option), zero; the same applies in item (iii) of the following paragraph) multiplied by 2/100;
- (iv) when calculating only for another securities-related over-the-counter transaction of derivatives that the customer intends to conduct: the amount arrived at as the amount of such other securities-related over-the-counter transaction of derivatives (if such other securities-related over-the-counter transaction of derivatives is a transaction listed in Article 28, paragraph (8), item (iv), (c) of the Act (limited to such transaction wherein the customer will become the party acquiring the option), zero; the same applies in item (iv) of the following paragraph) multiplied by 20/100;
- (v) when calculating in the aggregate for an individual stock-related over-the-counter derivatives transaction that the customer intends to conduct and any other individual stock-related over-the-counter derivatives transactions being conducted at the time of concluding the contract pertaining to such individual stock-related over-the-counter derivatives transaction: the amount arrived at as the total amount of those individual stock-related over-the-counter derivatives transactions minus the amount of any individual stock-related over-the-counter derivatives transactions pertaining to transactions listed in Article 28, paragraph (8), item (iv), (c) of the Act (limited to such transactions wherein the customer will become the party acquiring the option) multiplied by 20/100;
- (vi) when calculating in the aggregate for a stock price index-related over-the-counter derivatives transaction that the customer intends to conduct and any other stock price index-related over-the-counter derivatives transactions being conducted at the time of concluding the contract pertaining to such stock price index-related over-the-counter derivatives transaction: the amount arrived at as the total amount of those stock price index-related over-the-counter derivatives transactions minus the amount of any stock price index-related over-the-counter derivatives transactions pertaining to

- transactions listed in Article 28, paragraph (8), item (iv), (c) of the Act (limited to such transactions wherein the customer will become the party acquiring the option) multiplied by 10/100;
- (vii) when calculating the aggregate for a bond certificate-related over-the-counter derivatives transaction that the customer intends to conduct and any other bond certificate-related over-the-counter derivatives transactions being conducted at the time of concluding the contract pertaining to such bond certificate-related over-the-counter derivatives transaction: the amount arrived at as the total amount of those bond certificate-related over-the-counter derivatives transactions minus the amount of any bond certificate-related over-the-counter derivatives transactions pertaining to transactions listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act (limited to such transactions wherein the customer will become the party acquiring the option) multiplied by 2/100; and
- (viii) when calculating in the aggregate for another securities-related over-the-counter transaction of derivatives that the customer intends to conduct and any other securities-related over-the-counter transactions of derivatives being conducted at the time of concluding the contract pertaining to such other securities-related over-the-counter transaction of derivatives: the amount arrived at as the total amount of those other securities-related over-the-counter transactions of derivatives minus the amount of any other securities-related over-the-counter transactions of derivatives pertaining to transactions listed in Article 28, paragraph (8), item (iv), (c) of the Act (limited to such transactions wherein the customer will become the party acquiring the option) multiplied by 20/100.
- (22) The required amount for maintenance under paragraph (1), item (xxx) and paragraph (20) means the amount specified in the following items according to the category of cases set forth in the respective items (if such amount exceeds the amount of money required for the performance of the obligation owed by the customer in relation to the securities-related over-the-counter transactions of derivatives under the respective items, the amount of that money); provided, however, that if the currency-related derivatives transaction set forth in that item is to pay the specified amount if an option pertaining to these transactions is exercised, when calculating for the transaction, it means the amount of that money:
- (i) when calculating for each individual stock-related over-the-counter derivatives transaction conducted by the customer: the amount arrived at as the amount of each such individual stock-related over-the-counter derivatives transaction multiplied by 20/100;
- (ii) when calculating for each stock price index-related over-the-counter derivatives transaction conducted by the customer: the amount arrived at as

- the amount of each such stock price index-related over-the-counter derivatives transaction multiplied by 10/100;
- (iii) when calculating for each bond certificate-related over-the-counter derivatives transaction conducted by the customer: the amount arrived at as the amount of each such bond certificate-related over-the-counter derivatives transaction multiplied by 2/100;
- (iv) when calculating for each other securities-related over-the-counter transaction of derivatives conducted by the customer: the amount arrived at as the amount of each such other securities-related over-the-counter transaction of derivatives multiplied by 20/100;
- (v) when calculating in the aggregate for multiple individual stock-related over-the-counter derivatives transactions: the amount arrived at as the total amount of such multiple individual stock-related over-the-counter derivatives transactions minus the amount of any individual stock-related over-the-counter derivatives transactions pertaining to transactions listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act (limited to such transactions wherein the customer will become the party acquiring the option) multiplied by 20/100;
- (vi) when calculating in the aggregate for multiple stock price index-related over-the-counter derivatives transactions: the amount arrived at as the total amount of such multiple stock price index-related over-the-counter derivatives transactions minus the amount of any stock price index-related over-the-counter derivatives transactions pertaining to transactions listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act (limited to such transactions wherein the customer will become the party acquiring the option) multiplied by 10/100;
- (vii) when calculating in the aggregate for multiple bond certificate-related over-the-counter derivatives transactions: the amount arrived at as the total amount of such multiple bond certificate-related over-the-counter derivatives transactions minus the amount of any bond certificate-related over-the-counter derivatives transactions pertaining to transactions listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act (limited to such transactions wherein the customer will become the party acquiring the option) multiplied by 2/100; and
- (viii) when calculating in the aggregate for multiple other securities-related over-the-counter transactions of derivatives: the amount arrived at as the total amount of such multiple other securities-related over-the-counter transactions of derivatives minus the amount of any other securities-related over-the-counter transactions of derivatives pertaining to transactions listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act (limited to such transactions wherein the customer will become the party acquiring the



option) multiplied by 20/100.

(23) If, in the cases listed in paragraph (21), items (v) through (viii), or items (v) through (viii) of the preceding paragraph, the customer has conducted the sales, etc. of securities and the purchase, etc. of securities for the same securities or securities indicator (meaning a securities indicator prescribed in Article 2, paragraph (8), item (xi), (a) of the Act; hereinafter the same applies in this paragraph and the following paragraph), the lesser amount of the amounts of the individual stock-related over-the-counter derivatives transactions, the amounts of the stock price index-related over-the-counter derivatives transactions, the amounts of the bond certificate-related over-the-counter derivatives transactions or the amounts of the other securities-related over-the-counter transactions of derivatives pertaining thereto may be used as the amount of the individual stock-related over-the-counter derivatives transactions, the amount of the stock price index-related over-the-counter derivatives transactions, the amount of the bond certificate-related over-the-counter derivatives transactions or the amount of the other securities-related over-the-counter transactions of derivatives pertaining to such same securities or securities indicator.

(24) An "amount of an individual stock-related over-the-counter derivatives transaction", "amount of a stock price index-related over-the-counter derivatives transaction", "amount of a bond certificate-related over-the-counter derivatives transaction" or "amount of another securities-related over-the-counter transaction of derivatives" in the preceding three paragraphs means the amount specified in the following items according to the category of individual stock-related over-the-counter derivatives transaction, stock price index-related over-the-counter derivatives transaction, bond certificate-related over-the-counter derivatives transaction or other securities-related over-the-counter transaction of derivatives set forth in the respective items:

- (i) individual stock-related over-the-counter derivatives transaction, stock price index-related over-the-counter derivatives transaction, bond certificate-related over-the-counter derivatives transaction or other securities-related over-the-counter transaction of derivatives other than transactions listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act: an amount arrived at as the price of the securities, or the figure of the securities indicator, pertaining to such individual stock-related over-the-counter derivatives transaction, stock price index-related over-the-counter derivatives transaction, bond certificate-related over-the-counter derivatives transaction or other securities-related over-the-counter transaction of derivatives multiplied by the number or volume of those transactions; and
- (ii) transaction listed in Article 28, paragraph (8), item (iv), (c) or (d) of the Act: the amount arrived at as the price of the securities, or the figure of the

securities indicator, pertaining to the transaction listed in (c), 1. or (c), 2. of that item or the transaction prescribed in (d) of that item effected by exercising the right prescribed in (c) or (d) of that item multiplied by the number or volume of that transaction.

(25) "sales, etc. of securities" under paragraph (23) mean the following transaction:

(i) a sales of securities; or

(ii) a transaction listed in Article 28, paragraph (8), item (iv), (b) of the Act (limited to a such transaction wherein the customer will become the party paying money when the actual figure for securities (meaning an actual figure for securities prescribed in item (iii), (b) of that paragraph; the same applies in item (ii) of the following paragraph) exceeds the agreed figure for securities (meaning an agreed figure for securities prescribed in paragraph (8), item (iii), (b) of that Article; the same applies in item (ii) of the following paragraph)).

(26) A "purchase, etc. of securities" as referred to in paragraph (23) means one of the following transaction:

(i) a purchase of securities; or

(ii) a transaction listed in Article 28, paragraph (8), item (iv), (b) of the Act (limited to such transaction wherein the customer will become the party receiving money when the actual figure for securities exceeds the agreed figure for securities).

(27) The margin, etc. under items (xxxix) and (xl) of paragraph (1) may be satisfied by securities.

(28) The collateral value of securities if the whole or part of the deposit of margin, etc. to be received by the financial instruments business operator, etc. is substituted for by securities under the provisions of the preceding paragraph is an amount prescribed in Article 68, paragraph (2) of the Cabinet Office Order on Financial Instruments Exchanges in any one financial instruments exchange.

(29) If the whole or part of the margin, etc. under item (xxxix) or (xl) of paragraph (1) is, pursuant to the provisions of paragraph (27), substituted for by corporate bonds, etc. prescribed in Article 2, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares that are dealt in by a book-entry transfer institution prescribed in paragraph (2) of that Article (hereinafter referred to as "book-entry bonds, etc." in this paragraph) and if the financial instruments business operator, etc. is to have data pertaining to those book-entry bonds, etc. stated or recorded in the holdings section (meaning the holdings section under that Act) in the account of the financial instruments business operator, etc., the financial instruments business operator, etc. must have it separated from the section for transactions by that

financial instruments business operator, etc.

- (30) The actual deposit amount under item (xxxix) or (xl) of paragraph (1), the required amount of on-contract deposit under item (xxxix) of that paragraph and the required amount for maintenance under item (xl) of that paragraph may be calculated in the aggregate per customer for multiple specified currency-related over-the-counter derivatives transactions. With regard to the application of the provisions of item (xxxix) of that paragraph in this case, the term "that specified currency-related over-the-counter derivatives transaction" in that item is deemed to be replaced with "the specified currency-related over-the-counter derivatives transaction being conducted by that customer" and the term "or minus" is deemed to be replaced with "and minus."
- (31) The required on-contract deposit amount under item (xxxix) of paragraph (1) and the preceding paragraph means the amount specified in the following items according to the category of cases set forth in the respective items:
- (i) when calculating only for a specified currency-related over-the-counter derivatives transaction that the customer intends to conduct: the amount obtained by multiplying the amount of the specified currency-related over-the-counter derivatives transaction by the assumed exchange risk ratio for the combination of currencies for the transaction (meaning the ratio calculated in accordance with the method designated by the Commissioner of the Financial Services Agency as the ratio of the amount equivalent to a risk that may arise due to exchange rate fluctuations of such currencies against the amount of principal; the same applies in the following item and the following paragraph) or the amount properly reflecting foreign exchange rate fluctuations in the former amount thus obtained; or
  - (ii) when calculating in the aggregate for a specified currency-related over-the-counter derivatives transaction that the customer intends to conduct and any other specified currency-related over-the-counter derivatives transactions being conducted at the time of concluding the contract pertaining to that specified currency-related over-the-counter derivatives transaction: the amount arrived at as the total amount of the sum of the amounts obtained by multiplying the amount of the specified currency-related over-the-counter derivatives transaction for each category of the combination of currencies for the transaction by the relevant assumed exchange risk ratio, respectively, or the amount properly reflecting foreign exchange rate fluctuations in that sum.
- (32) The required amount for maintenance under item (xl) of paragraph (1) and paragraph (30) means the amount specified in the following items according to the category of cases set forth in the respective items:
- (i) when calculating for each specified currency-related over-the-counter derivatives transaction conducted by the customer: the amount obtained by

- multiplying the amount of the specified currency-related over-the-counter derivatives transaction by the assumed exchange risk ratio for the combination of currencies for each such transaction or the amount properly reflecting foreign exchange rate fluctuations in the former amount thus obtained; or
- (ii) when calculating in the aggregate for multiple specified currency-related over-the-counter derivatives transactions: the amount arrived at as the total amount of the sum of the amounts obtained by multiplying the amount of the specified currency-related over-the-counter derivatives transaction for each category of the combination of currencies for the transaction by the relevant assumed exchange risk ratio, respectively, or the amount properly reflecting foreign exchange rate fluctuations in that sum.
- (33) If, in the cases listed in item (ii) of paragraph (31) or item (ii) of the preceding paragraph, the customer has conducted a purchase, etc. of a first currency through a sale, etc. of a second currency and a purchase, etc. of that second currency through conducting a sale, etc. of that first currency, the lesser amount of the amounts of the specified currency-related over-the-counter derivatives transactions pertaining thereto may be used as the amount of the specified currency-related over-the-counter derivatives transactions pertaining to that first currency or that second currency.
- (34) The "amount of a specified currency-related over-the-counter derivatives transaction" referred to in the preceding three paragraphs means the amount arrived at as the price of the currency, or the figure of the financial indicator, pertaining to such specified currency-related over-the-counter derivatives transaction multiplied by the number or volume of that transaction.
- (35) A "sale, etc. of a currency" as referred to in paragraph (33) means one of the following transaction:
- (i) a sale of a currency; or
  - (ii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to a transaction wherein the customer will become the party paying money if the actual figure exceeds the agreed figure).
- (36) A "purchase, etc. of a currency" as referred to in paragraph (33) means one of the following transaction:
- (i) a purchase of a currency; or
  - (ii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to a transaction wherein the customer will become the party receiving money if the actual figure exceeds the agreed figure).
- (37) The Margin, etc. under paragraph (1), items (xlvii) and (xlviii) may be satisfied by Securities or Cryptoassets.
- (38) The collateral value of Securities or Cryptoassets where the whole or part of the deposit of Margin, etc. to be received by the Financial Instruments

Business Operator, etc. is substituted for by Securities or Cryptoassets under the provisions of the preceding paragraph is the amount specified in the following items according to the category of or Cryptoasset-related Derivatives Transaction set forth in the respective items:

- (i) Cryptoasset-related Market Derivatives Transaction prescribed in Article 123, paragraph (14): an amount prescribed in Article 68, paragraph (2) of the Cabinet Office Order on Financial Instruments Exchanges, etc.; or
  - (ii) Cryptoasset-related Over-the-Counter Derivatives Transaction prescribed in Article 123, paragraph (15) or Cryptoasset-related Foreign Market Derivatives Transaction prescribed in paragraph (16) of that Article: an amount prescribed in Article 68, paragraph (2) of the Cabinet Office Order on Financial Instruments Exchanges, etc. in any one Financial Instruments Exchange (in cases where the whole or part of the deposit of Margin, etc. is substituted for by Cryptoassets, and there is no such amount, the amount specified by the rules of the Financial Instruments Firms Association (limited to the rules designated by the Commissioner of the Financial Services Agency)).
- (39) Where the whole or part of the Margin, etc. under paragraph (1), item (xlvii) or (xlviii) is substituted for by corporate bonds, etc. prescribed in Article 2, paragraph (1) of the Act on Transfer of Corporate Bonds, Shares, etc. that are dealt in by a Book-Entry Transfer Institution prescribed in paragraph (2) of that Article (hereinafter referred to as "Book-Entry Bonds, etc." in this paragraph) pursuant to the provisions of paragraph (37) and if the Financial Instruments Business Operator, etc. is to have data pertaining to such Book-Entry Bonds, etc. stated or recorded in the holdings section (meaning the holdings section under that Act) in the account of such Financial Instruments Business Operator, etc., such Financial Instruments Business Operator, etc. must have it separated from the section for transactions by such Financial Instruments Business Operator, etc.
- (40) The Actual Deposit Amount under paragraph (1), item (xlvii) or (xlviii), the Required On-Contract Deposit Amount under item (xlvii) of that paragraph and the Required Amount for Maintenance under item (xlviii) of that paragraph may be calculated in the aggregate per customer for multiple Cryptoasset-related Derivatives Transactions. With regard to the application of the provisions of item (xlvii) of that paragraph in this case, the term "such Cryptoasset-related Derivatives Transaction" in that item is deemed to be replaced with "Cryptoasset-related Derivatives Transaction being conducted by such customer" and the term "or minus" is deemed to be replaced with "and minus."
- (41) The "Required On-Contract Deposit Amount" under paragraph (1), item (xlvii) and the preceding paragraph means the amount arrived at as the

amount specified in the following items according to the category of cases set forth in the respective items multiplied by 50/100; provided, however, that in cases where the Cryptoasset-related Derivatives Transactions set forth in those items are to cause customers to pay a specified amount of money in cases where an Option pertaining to these transactions is exercised, and when making calculations for those transactions, this means the amount of said money:

- (i) when making a calculation only for a Cryptoasset-related Derivatives Transaction that the customer intends to conduct: the amount of such Cryptoasset-related Derivatives Transaction (if such Cryptoasset-related Derivatives Transaction is a transaction listed as follows, zero; the same applies in item (i) of the following paragraph):
    - (a) a transaction listed in Article 2, paragraph (21), item (iii) of the Act (limited to such transaction wherein the customer will become the party acquiring the Option);
    - (b) a transaction listed in Article 2, paragraph (22), item (iii) or (iv) of the Act (limited to such transaction wherein the customer will become the party acquiring the Option); and
    - (c) a Foreign Market Derivatives Transaction that is similar to a transaction set forth in sub-item (a); and
  - (ii) when making a calculation in the aggregate for a Cryptoasset-related Derivatives Transaction that the customer intends to conduct and any other Cryptoasset-related Derivatives Transactions being conducted at the time of concluding the contract pertaining to such Cryptoasset-related Derivatives Transaction: the amount arrived at as the total amount of those Cryptoasset-related Derivatives Transactions minus the amount of any Cryptoasset-related Derivatives Transactions pertaining to transactions listed in sub-items (a) through (c) of the preceding item.
- (42) The "Required Amount for Maintenance" under paragraph (1), item (xlviii) and paragraph (40) means the amount arrived at as the amount specified in the following items according to the category of cases set forth in the respective items multiplied by 50/100; provided, however, that in cases where the Cryptoasset-related Derivatives Transactions set forth in those items are to cause customers to pay a specified amount of money in cases where an Option pertaining to these transactions is exercised, and when making calculations for those transactions, this means the amount of said money:
- (i) when making a calculation for each Cryptoasset-related Derivatives Transaction conducted by the customer: the amount of each such Cryptoasset-related Derivatives Transaction; and
  - (ii) when making a calculation in the aggregate for multiple Cryptoasset-related Derivatives Transactions: the amount arrived at as the total amount

of such multiple Cryptoasset-related Derivatives Transactions minus the amount of any Cryptoasset-related Derivatives Transactions pertaining to transactions listed in item (i), sub-items (a) through (c) of the preceding paragraph.

(43) In the cases listed in paragraph (41), item (ii) or item (ii) of the preceding paragraph, if a customer has conducted the sale, etc. of Cryptoassets and the purchase, etc. of Cryptoassets for the same Cryptoassets or Financial Indicators, any of the amounts of Cryptoasset-related Derivatives Transactions pertaining to these (limited to the amounts indicated in the same currency) that is not smaller may be used as the amount of a Cryptoasset-related Derivatives Transaction pertaining to the same Cryptoassets or Financial Indicators, and if a customer has conducted the sale, etc. of one Cryptoasset and thereby conducted the purchase, etc. of another Cryptoasset and has conducted the sale, etc. of said other Cryptoasset and thereby conducted the purchase, etc. of said one Cryptoasset, any of the amounts of Cryptoasset-related Derivatives Transactions pertaining to these that is not smaller may be used as the amount of a Cryptoasset-related Derivatives Transaction pertaining to said one Cryptoasset or other Cryptoasset.

(44) An "amount of a Cryptoasset-related Derivatives Transaction" in the preceding three paragraphs means the amount specified in the following items according to the category of Cryptoasset-related Derivatives Transactions set forth in the respective items:

(i) Cryptoasset-related Derivatives Transactions other than the following Cryptoasset-related Derivatives Transactions: the amount arrived at as the price of the Cryptoassets or the figure of the Financial Indicators pertaining to such Cryptoasset-related Derivatives Transaction multiplied by the number or volume of the transactions:

(a) a transaction listed in Article 2, paragraph (21), item (iii) of the Act;

(b) a transaction listed in Article 2, paragraph (22), item (iii) or (iv) of the Act; and

(c) a Foreign Market Derivatives Transaction that is similar to a transaction set forth in sub-item (a); and

(ii) the following Cryptoasset-related Derivatives Transactions: the amount arrived at as the price of the Cryptoassets or the figure of the Financial Indicators pertaining to a transaction specified in the following sub-items according to the category of such Cryptoasset-related Derivatives Transaction set forth in the respective sub-items multiplied by the number or volume of the transactions:

(a) a transaction listed in Article 2, paragraph (21), item (iii) of the Act: the transaction listed in sub-item (a) or (b) of that item effected by exercising the right prescribed in that item;

- (b) a transaction listed in Article 2, paragraph (22) item (iii) or (iv) of the Act: the transaction listed in item (iii), sub-item (a) or (b) or the transaction prescribed in item (iv) of that paragraph effected by exercising the right prescribed in item (iii) or (iv) of that paragraph; and
  - (c) a Foreign Market Derivatives Transaction that is similar to a transaction set forth in sub-item (a): the transaction similar to the transaction specified in sub-item (a).
- (45) A "sale, etc. of a Cryptoasset" under paragraph (43) means the following transaction:
- (i) a sale of a Cryptoasset;
  - (ii) a transaction listed in Article 2, paragraph (21), item (ii) of the Act (limited to such transaction wherein the customer will become the party paying money when the Actual Figure exceeds the Agreed Figure);
  - (iii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to such transaction wherein the customer will become the party paying money when the Actual Figure exceeds the Agreed Figure); or
  - (iv) a Foreign Market Derivatives Transaction (limited to such transaction that is similar to a transaction set forth in item (ii)).
- (46) A "purchase, etc. of a Cryptoasset" under paragraph (43) means the following transaction:
- (i) a purchase of a Cryptoasset;
  - (ii) a transaction listed in Article 2, paragraph (21), item (ii) of the Act (limited to such transaction wherein the customer will become the party paying money when the Actual Figure exceeds the Agreed Figure);
  - (iii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to such transaction wherein the customer will become the party paying money when the Actual Figure exceeds the Agreed Figure); or
  - (iv) a Foreign Market Derivatives Transaction (limited to such transaction that is similar to a transaction set forth in item (ii)).
- (47) The Margin, etc. under paragraph (1), items (xlix) and (l) may be satisfied by Securities or Cryptoassets.
- (48) The collateral value of Securities or Cryptoassets where the whole or part of the deposit of Margin, etc. to be received by the Financial Instruments Business Operator, etc. is substituted for by Securities or Cryptoassets under the provisions of the preceding paragraph is an amount prescribed in Article 68, paragraph (2) of the Cabinet Office Order on Financial Instruments Exchanges, etc. in any one Financial Instruments Exchange (in cases where the whole or part of the deposit of Margin, etc. is substituted for by Cryptoassets, and there is no such amount, the amount specified by the rules of the Financial Instruments Firms Association (limited to the rules designated by the Commissioner of the Financial Services Agency)).



- (49) Where the whole or part of the Margin, etc. under paragraph (1), item (xlix) or (l) is substituted for by corporate bonds, etc. prescribed in Article 2, paragraph (1) of the Act on Transfer of Corporate Bonds, Shares, etc. that are dealt in by a Book-Entry Transfer Institution prescribed in paragraph (2) of that Article (hereinafter referred to as "Book-Entry Bonds, etc." in this paragraph) pursuant to the provisions of paragraph (47) and if the Financial Instruments Business Operator, etc. is to have data pertaining to such Book-Entry Bonds, etc. stated or recorded in the holdings section (meaning the holdings section under that Act) in the account of such Financial Instruments Business Operator, etc., said Financial Instruments Business Operator, etc. must have it separated from the section for transactions by said Financial Instruments Business Operator, etc.
- (50) The Actual Deposit Amount under paragraph (1), item (xlix) or (l), the Required On-Contract Deposit Amount under item (xlix) of that paragraph and the Required Amount for Maintenance under item (l) of that paragraph may be calculated in the aggregate per customer for multiple Specified Cryptoasset-related Over-the-Counter Derivatives Transactions. With regard to the application of the provisions of item (xlix) of that paragraph in this case, the term "such Specified Cryptoasset-related Over-the-Counter Derivatives Transaction" in that item is deemed to be replaced with "Specified Cryptoasset-related Over-the-Counter Derivatives Transaction being conducted by such customer" and the term "or minus" is deemed to be replaced with "and minus."
- (51) The "Required On-Contract Deposit Amount" under paragraph (1), item (xlix) and the preceding paragraph means the amount specified in the following items according to the category of cases set forth in the respective items:
- (i) when making a calculation only for a Specified Cryptoasset-related Over-the-Counter Derivatives Transaction that the customer intends to conduct: the amount obtained by multiplying the amount of the Specified Cryptoasset-related Over-the-Counter Derivatives Transaction by the assumed cryptoassets risk ratio for the Cryptoassets or Financial Indicators or the combination of Cryptoassets for such transaction (meaning the ratio calculated in accordance with the method designated by the Commissioner of the Financial Services Agency as the ratio of the amount equivalent to a risk that may arise due to fluctuations in the quotations of such Cryptoassets or Financial Indicators against the amount of principal; the same applies in this and the following paragraphs) (for Financial Instruments Business Operators, etc. that do not use the assumed cryptoassets risk ratio, the amount obtained by multiplying the amount of the Specified Cryptoasset-related Over-the-Counter Derivatives Transaction by 50/100); or
  - (ii) when making a calculation in the aggregate for a Specified Cryptoasset-related Over-the-Counter Derivatives Transaction that the customer intends

- to conduct and any other Specified Cryptoasset-related Over-the-Counter Derivatives Transactions being conducted at the time of concluding the contract pertaining to such Specified Cryptoasset-related Over-the-Counter Derivatives Transaction: in accordance with the category of the Cryptoassets or Financial Indicators or the combination of Cryptoassets for such Specified Cryptoasset-related Over-the-Counter Derivatives Transactions, the amount arrived at as the total amount of those Specified Cryptoasset-related Over-the-Counter Derivatives Transactions for each category multiplied by the assumed cryptoassets risk ratio for each category (for Financial Instruments Business Operators, etc. that do not use the assumed cryptoassets risk ratio, the amount obtained by multiplying the total amount of these Specified Cryptoasset-related Over-the-Counter Derivatives Transactions by 50/100).
- (52) The "Required Amount for Maintenance" under paragraph (1), item (l) and paragraph (50) means the amount specified in the following items according to the category of cases set forth in the respective items:
- (i) when making a calculation for each Specified Cryptoasset-related Over-the-Counter Derivatives Transaction that the customer intends to conduct: the amount obtained by multiplying the amount of each Specified Cryptoasset-related Over-the-Counter Derivatives Transaction by the assumed cryptoassets risk ratio for the Cryptoassets or Financial Indicators or the combination of Cryptoassets for such transaction (for Financial Instruments Business Operators, etc. that do not use the assumed cryptoassets risk ratio, the amount obtained by multiplying the amount of each Specified Cryptoasset-related Over-the-Counter Derivatives Transaction by 50/100); or
  - (ii) when making a calculation in the aggregate for multiple Specified Cryptoasset-related Over-the-Counter Derivatives Transactions: in accordance with the category of the Cryptoassets or Financial Indicators or the combination of Cryptoassets for such multiple Specified Cryptoasset-related Over-the-Counter Derivatives Transactions, the amount arrived at as the total amount of those Specified Cryptoasset-related Over-the-Counter Derivatives Transactions for each category multiplied by the assumed cryptoassets risk ratio for each category (for Financial Instruments Business Operators, etc. that do not use the assumed cryptoassets risk ratio, the amount obtained by multiplying the total amount of such multiple Specified Cryptoasset-related Over-the-Counter Derivatives Transactions by 50/100).
- (53) In the cases listed in paragraph (51), item (i) or item (ii) of the preceding paragraph, if a customer has conducted the sale, etc. of Cryptoassets and the purchase, etc. of Cryptoassets for the same Cryptoassets or Financial Indicators, any of the amounts of Specified Cryptoasset-related Over-the-Counter Derivatives Transactions pertaining to these (limited to the amounts indicated in the same currency) that is not smaller may be used as the amount

of a Specified Cryptoasset-related Over-the-Counter Derivatives Transaction pertaining to the same Cryptoassets or Financial Indicators, and if a customer has conducted the sale, etc. of one Cryptoasset and thereby conducted the purchase, etc. of another Cryptoasset and has conducted the sale, etc. of said other Cryptoasset and thereby conducted the purchase, etc. of said one Cryptoasset, any of the amounts of Specified Cryptoasset-related Over-the-Counter Derivatives Transactions pertaining to these that is not smaller may be used as the amount of a Specified Cryptoasset-related Over-the-Counter Derivatives Transaction pertaining to said one Cryptoasset or other Cryptoasset.

(54) An "amount of a Specified Cryptoasset-related Over-the-Counter Derivatives Transaction" in the preceding three paragraphs means the amount arrived at as the price of the Cryptoassets or the figure of the Financial Indicators pertaining to a Specified Cryptoasset-related Over-the-Counter Derivatives Transaction multiplied by the number or volume of the transactions.

(55) A "sale, etc. of a Cryptoasset" under paragraph (53) means the following transaction:

- (i) a sale of a Cryptoasset; or
- (ii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to such transaction wherein the customer will become the party paying money when the Actual Figure exceeds the Agreed Figure).

(56) A "purchase, etc. of a Cryptoasset" under paragraph (53) means the following transaction:

- (i) a purchase of a Cryptoasset; or
- (ii) a transaction listed in Article 2, paragraph (22), item (ii) of the Act (limited to such transaction wherein the customer will become the party paying money when the Actual Figure exceeds the Agreed Figure).

#### (Problematic Conduct)

Article 118 The cases specified by Cabinet Office Order as provided in Article 39, paragraph (3) of the Act are as follows:

- (i) if a representative, agent, employee or any other worker of a financial instruments business operator, etc. (hereinafter referred to as the "representative, etc."), in connection with the purchase and sale or other transaction of securities, etc. (meaning the purchase and sale or other transaction of securities, etc. prescribed in Article 39, paragraph (1), item (i) of the Act, and excluding the brokerage for clearing of securities; the same applies in (a)), has conducted any of the following acts in relation to the business of the financial instruments business operator, etc., and thereby has caused any loss to a customer:
  - (a) an act of conducting a purchase and sale or other transaction of securities,

- etc. on the customer's account, without confirming the contents of the customer's order;
- (b) an act of soliciting a customer in a manner which would lead the customer to misunderstand any of the following matters:
    1. the nature of the securities, etc. (meaning the securities, etc. prescribed in Article 39, paragraph (1), item (i) of the Act);
    2. the conditions of the transaction;
    3. information as to whether there occurred any appreciation or decline in the price of financial instruments or the amount of consideration of options; information as to whether there occurred any increase or decrease in the agreed figure or the actual figure under a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including foreign market derivatives transactions similar thereto) or a transaction specified in Article 2, paragraph (22), item (ii) of the Act; information as to whether there occurred any increase or decrease in financial indicators or any appreciation or decline in prices of financial instruments, in regard to the transactions specified in Article 2, paragraph (21), item (iv) or (iv)-2 or Article 2, paragraph (22), item (v) of the Act; or, information as to whether there occurred any event specified in Article 2, paragraph (21), item (v), (a) or (b) or Article 2, paragraph (22), item (vi), (a) or (b) of the Act, in regard to the transaction specified in Article 2, paragraph (21), item (v) or Article 2, paragraph (22), item (vi) of the Act;
  - (c) to erroneously handle its affairs in the course of executing the customer's orders due to any negligence;
  - (d) to erroneously execute the customer's orders, due to any disorder in the electronic data processing system; or
  - (e) to commit any other act in violation of the laws and regulations.
  - (ii) the cases of conducting any of the following acts in connection with the investment advisory business or the investment management business, and thereby causing any loss to a customer or a right holder:
    - (a) to erroneously handle its affairs due to negligence or any disorder in the electronic data processing system;
    - (b) to neglect performance of its duties; or
    - (c) to commit any other act in violation of the laws and regulations, or in violation of an investment advisory contract, a contract specified in the items of Article 42-3, paragraph (1) of the Act or any other a juridical act.

(Cases Exempted from Requirement of Confirmation of Problematic Conduct)  
 Article 119 (1) The cases specified by Cabinet Office Order as provided in Article 39, paragraph (3) of the Act are as follows:

- (i) if a final and binding judgment has been issued by the court;
- (ii) if a judicial settlement (excluding the judicial settlement under Article 275, paragraph (1) of the Code of Civil Procedures (Act No. 109 of 1996)) has been reached;
- (iii) if a conciliation as prescribed in Article 16 of the Civil Conciliation Act (Act No. 222 of 1951) has been reached; or if a court order has been issued pursuant to the provisions of Article 17 of that Act, in which case no objection was filed within the period specified in Article 18, paragraph (1) of that Act;
- (iv) if a settlement has been reached through mediation (meaning a mediation as prescribed in Article 77-2, paragraph (1) of the Act (including as applied mutatis mutandis pursuant to Article 78-7 and Article 79-13 of the Act); the same applies in Article 277, paragraph (1), item (iv)) by a financial instruments firms association or a certified investor protection organization, or dispute resolution procedures by a designated dispute resolution organization (including a person holding a designation listed in the items of Article 19-7 of the Order; the same applies in Article 277, paragraph (1), item (iv));
- (v) if a settlement has been reached through mediation before an organization as prescribed in the bar association rules under Article 33, paragraph (1) of the Attorney Act or in any other rules specified under such bar association rules, or if an arbitral award under arbitration procedure conducted before such organization has been issued;
- (vi) if a settlement has been reached through mediation as prescribed in Article 19, paragraph (1) or Article 25 of the Consumer Basic Act, or if a resolution based on an agreement prescribed in that Article has been conducted;
- (vii) if a settlement has been reached through a certified dispute resolution procedure (meaning the certified dispute resolution procedure prescribed in Article 2, item (iii) of the Act on Promotion of Use of Alternative Dispute Resolution (Act No. 151 of 2004); the same applies in Article 277, paragraph (1), item (vii)) carried out by a certified dispute resolution business operator (meaning a certified dispute resolution business operator as prescribed in Article 2, item (iv) of that Act, and limited to a case in which the dispute pertaining to the purchase and sale or other transaction of securities, etc. (meaning the purchase and sale or other transaction of securities, etc. prescribed in Article 39, paragraph (1), item (i) of the Act) falls within the scope of the disputes as referred to in Article 6, item (i) of the Act on Promotion of Use of Alternative Dispute Resolution);
- (viii) if a settlement has been reached, and such settlement fulfills all of the following requirements:
  - (a) that an attorney or a judicial scrivener (limited to such person that

provides the services specified in Article 3, paragraph (1), item (vii) of the Judicial Scriveners Act (Act No. 197 of 1950); the same applies in the following item) has acted as the customer's counsel in connection with the relevant settlement procedures;

- (b) that the amount payable by the financial instruments business operator, etc. to the customer due to effectuation of such settlement does not exceed ten million yen (if the judicial scrivener set forth in (a) acted as the counsel, the amount specified in Article 3, paragraph (1), item (vii) of the Judicial Scriveners Act); and
- (c) that a document or electronic or magnetic record evidencing that the attorney or judicial scrivener set forth in (a) has verified and confirmed that the purpose of the payment under (b) was compensation for all or part of the losses arising from problematic conduct (meaning problematic conduct as prescribed in Article 39, paragraph (3) of the Act; hereinafter the same applies in this Article through Article 121) has been delivered or provided to the financial instruments business operator, etc.
- (ix) if the amount payable to the customer with respect to losses arising from a problematic conduct has been specified by and between the financial instruments business operator and the customer, and if all of the following requirements are met (excluding the cases listed in the foregoing items):
  - (a) that the amount payable by the financial instruments business operator, etc. to the customer does not exceed ten million yen (if the committee prescribed in (b) consists only of members that are judicial scriveners, the amount specified in Article 3, paragraph (1), item (vii) of the Judicial Scriveners Act); and
  - (b) that the fact that the payment under (a) is made for the purpose of compensating for losses arising from a problematic conduct has been investigated and confirmed by a committee set up within a financial instruments firms association (meaning such committee that consists of multiple members appointed by the financial instruments firms association (limited to such persons that are attorneys or judicial scriveners that have no special interest in the financial instruments business operator, etc. and the customer pertaining to the problematic conduct));
- (x) if the representative, etc. of the financial instruments business operator, etc. has caused any loss to its customer due to any act specified in item (i), (a) through (e) of the preceding Article, and if the amount of the property benefit offered, promised or provided to a customer in relation to the loss suffered by the customer in a daily trading does not exceed the amount equivalent to 100 thousand yen (excluding the cases listed in the foregoing items); and
- (xi) if the representative, etc. of the financial instruments business operator, etc. has caused any loss to its customers due to any act specified in item (i),

(c) or (d) of the preceding Article (but only if it is obvious from the description of books and documents set forth in Article 46-2, Article 47 or Article 48 of the Act or the record of the contents of the customer's orders that the act falls under problematic conduct and excluding the cases listed in items (i) through (ix)).

- (2) The benefit set forth in item (x) of the preceding paragraph is to be calculated by the categories of the acts specified in paragraph (1), item (i), (a) through (e) of the preceding Article. In this case, in calculating the amount of benefit pertaining to the categories of the acts specified in (c) or (d) of that item, the amount of property benefit offered, promised or provided in the case referred to in item (xi) of the preceding paragraph is to be deducted.
- (3) In the case referred to in paragraph (1), items (ix) through (xi), and if a financial instruments business operator, etc. has offered or promised to provide, or has provided any property benefit to the customer, without obtaining confirmation as set forth in the proviso to Article 39, paragraph (3) of the Act, it must, no later than the last day of the month immediately after the month containing the day of such offer, promise or provision, report the matters specified in the items of Article 121 to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, or any other business office or office if the problematic conduct pertaining to such offer, promise or provision took place (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if such business operator has no business office or any other office in Japan, to the Director-General of the Kanto Finance Bureau; the same applies in Article 120).

(Exemption of Prohibition of Compensation of Losses)

Article 119-2 The investment trust to be specified by Cabinet Office Order as referred to in Article 39, paragraph (4) of the Act is a bond investment trust provided in Article 25, item (ii) of Regulation for Enforcement of Act on Investment Trusts and Investment Corporations (limited to the bond investment trust of which accounting period is one day), for which beneficial interest is acquired or held for the purpose of providing it for paying or receiving money in the purchase and sale of securities or any other transactions between a customer and a financial instruments business operator, etc.

(Applying for Confirmation of Problematic Conduct)

Article 120 A person that intends to obtain the confirmation set forth in the proviso to Article 39, paragraph (3) of the Act must submit to the Director-General of a Local Finance Bureau with jurisdiction over the location of the

head office, or any other business office or office if the problematic conduct pertaining to such confirmation took place one original of the written application set forth in paragraph (7) of that Article and the documents attached thereto, as well as one copy thereof.

(Matters to Be Stated in Applications for Confirmation)

Article 121 The matters to be specified by Cabinet Office Order as referred to in Article 39, paragraph (7) of the Act are as follows:

- (i) the trade name or name, and the registration number of the financial instruments business operator, etc.;
- (ii) the name and location of the head office, or any other business office or office if the problematic conduct took place;
- (iii) the following matters in relation to the fact for which confirmation is sought:
  - (a) the name the representative, etc. or the section which was involved in the act which falls under the problematic conduct;
  - (b) the name and address of the customer (if the customer is a corporation, its trade name or name, the location of its principal business office or principal office, and the name of the representative thereof);
  - (c) an outline of the problematic conduct;
  - (d) details of the reasons which prove that the customer's loss which is to be compensated for results from the problematic conduct; and
  - (e) the amount of property benefit to be offered, promised or provided;
- (iv) any other matters which would serve as reference information.

(Documents to Be Attached to Applications for Confirmation)

Article 122 (1) The documents to be specified by Cabinet Office Order as referred to in Article 39, paragraph (7) of the Act are the documents evidencing that the customer has confirmed the details of the matters listed in the items of the preceding Article, and any other material which would serve as reference information.

(2) The provisions of the preceding paragraph do not apply if the written application under Article 39, paragraph (7) of the Act pertains to the application set forth in item (ii), paragraph (1) of that Article.

(Circumstances Where the State of the Operation of Business Is Likely to Go Against Public Interest or Compromise the Protection of Investors)

Article 123 (1) The circumstances to be specified by Cabinet Office Order as referred to in Article 40, item (ii) of the Act are as follows:

- (i) if the financial instruments business operator, etc. frequently conducts the purchase and sale or any other transaction of securities or derivative



- transactions, etc. (excluding brokerage for clearing of securities, etc.) on the customer's account, without confirming the contents of the customer's order in advance;
- (ii) if the financial instruments business operator, etc. has become entrusted, etc. with the purchase and sale of securities or derivative transactions from a person having been entrusted with the purchase and sale of the securities or derivative transactions through the solicitation of unspecified and many investors (excluding a person conducting acts that constitute financial instruments transactions in compliance with the laws and regulations), knowing that such transactions are to be conducted on such investors' accounts, and without confirming such investors' intentions in advance;
  - (iii) if the financial instruments business operator, etc. conducts the underwriting of securities under the conditions such as quantity, price and others, which are deemed to be extremely inappropriate;
  - (iv) if the financial instruments business operator, etc. conducts the wholesale underwriting of securities, and it is found that that such financial instruments business operator, etc. has not carried out an appropriate examination of the issuer's financial status, business performance or any other information which would facilitate a judgment on the appropriateness of the underwriting;
  - (v) if it is found that the financial instruments business operator, etc., in connection with the management of the corporate information it handles or the management of the customer's purchase and sale or other transaction of securities., has not implemented the measures necessary and appropriate for the prevention of unfair transactions based on the corporate information;
  - (vi) if it is found that the financial instruments business operator, etc., in connection with the security management and supervision of workers in regard to information on the individual customers it handles, and the supervision of the entrusted party if the handling of the information is to be entrusted, has not taken the measures necessary and appropriate for the prevention of the leaking, destruction or loss of such information;
  - (vi)-2 if it is found that the financial instruments business operator, etc. has not made a report to the Commissioner of the Financial Services Agency or other competent official or has not taken other appropriate measures when any leaking, destruction or loss of information on the individual customers it handles (limited to information falling under the personal data prescribed in Article 16, paragraph (3) of the Act on the Protection of Personal Information (Act No. 57 of 2003)) occurs or any other situation arises in which any leaking, destruction or loss is likely to have occurred;
  - (vii) if it is found that the financial instruments business operator, etc. has not implemented measures to ensure that the information it handles regarding

the individual customer's race, creed, family origin, registered domicile, health and medical care or criminal records, or any other undisclosed and special information which may come to its knowledge in the course of the business, will not be used for any purpose other than the assurance of the proper operation of the business or any other purpose as may be deemed necessary;

- (viii) if, in connection with the customer's purchase and sale or other transaction of securities., it is found that the financial instruments business operator, etc. has not properly informed the customer of the information necessary for such customer, such as delivery status and other matters;
- (ix) if, in connection with the solicitation for a rollover (meaning the acquisition or purchase of investment trust beneficiary certificates, etc. or entrustment, etc. therefor, which accompanies the partial cancellation of or refund of investment equity under an investment trust agreement for the investment trust beneficiary certificates, etc. currently held, or which accompanies the sale of investment trust beneficiary certificates, etc. currently held or entrustment, etc. therefor; hereinafter the same applies in this item and Article 281, item (vi)) of the investment trust beneficiary certificates, etc. (meaning the beneficiary certificates of investment trust or foreign investment trust prescribed in the Act on investment trust and investment corporations (excluding the beneficiary certificates specified in Article 65, item (ii), (a) through (c) of this Cabinet Office Order and those of a similar nature), investment securities, or foreign investment securities similar to the investment securities, and excluding those which have been listed on the financial instruments exchange or which fall under the category of the over-the-counter traded securities; hereinafter the same applies in this item and Article 281, item (vi)), the financial instruments business operator, etc. has not provided a customer (excluding a professional investor; hereinafter the same applies in the following item) with an explanation on the important matters with regard to such rollover;
- (x) if, when the financial instruments business operator conducts any act specified in Article 2, paragraph (8), item (vii) of the Act in relation to the securities specified in (a) of that item (including the rights to be indicated on the securities which are regarded as the securities pursuant to the provisions of paragraph (2) of that Article), the purchase of the securities if there is no intention to resell or any other acts similar thereto, and if, in connection with any of the aforementioned acts, it receives from the customer a deposit for the subscription payment or sales value pertaining to the securities, or of the cancellation payment, earnings or redemption under the investment trust pertaining to such securities, it has not entrusted the money so deposited with a trust company or a financial institution engaged in trust

- business in Japan, by the means equivalent to that specified in Article 43-2, paragraph (2) of the Act, for purpose of the management of money in an amount equivalent to the amount to be refunded to the customer in the case of discontinuation by the financial instruments business operator of its financial instruments business or in any other case of the discontinuation of its business;
- (xi) if the financial instruments business operator, etc. intends to have others acquire, or to sell the securities specified in Article 2, paragraph (1), item (v) of the Act or item (xvii) of that paragraph (limited to those which have the nature of the securities specified in any of Article 2, paragraph (1), items (i) through (v) of the Act) through an act specified in Article 2, paragraph (8), item (viii) or (ix) of the Act, and it has not provided an individual customer (excluding a professional investor) with an explanation on any material circumstances affecting the customer's investment decision which took place during the period for making an application for the acquisition or purchase of such securities;
  - (xii) if it is found that the financial instruments business operator, etc. has not established the trading management sufficient for prevention of making an application, entrustment, etc. or becoming entrusted, etc. with conducting sales, purchases or derivative transactions pertaining to the listed financial instruments, etc. traded on a financial instruments exchange market or the over-the-counter traded securities traded on an over-the-counter securities market, which may result in the formation of a manipulative quotation not reflecting actual market status through causing fluctuation, pegging, fixing or stabilizing the quotation thereof or a figure calculated based on a quotation or the transaction volumes thereof, or by increasing the transaction volumes thereof;
  - (xiii) if the financial instruments business operator, etc. conducts any of the following acts as type I financial instruments business or type II financial instruments business, and it has not established in advance an internal management system sufficient to ensure that the act would not result in insufficient protection for investors, harm to the fairness of transactions or cause a loss of confidence in the financial instruments business, etc.:
    - (a) an act specified in Article 16, paragraph (1), item (viii), (a) or (b) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act;
    - (b) the purchase and sale of securities or derivative transactions conducted under a contract which provides that the financial instruments business operator, etc. obtains the customer's consent as to whether the type of transaction is purchase or sale, and the issues and the volumes (in the case of derivatives transactions, terms equivalent to these), and that the

- financial instruments business operator, etc. may determine the price (in the case of derivatives transactions, a term equivalent to the price), within such consented price with an appropriate range determined by taking into account the quotation at the time of such consent (if there was no quotation at the time of the consent, the quotation as of the time immediately prior to such consent) (such consent is hereinafter referred to as the "specific consent" in (c));
- (c) the purchase and sale of securities or derivative transactions conducted under the contract which provides that the financial instruments business operator, etc. obtains the customer's consent as to whether the type of transaction is purchase or sale, the issues and the aggregate amount of respective transactions (in the case of derivatives transactions, the terms equivalent to these), and the consent (with regard to the price, including the specific consent) on either of the volumes or price (in the case of derivatives transactions, the terms equivalent to these), and that the financial instruments business operator, etc. may determine either of the volume or price not having been consented to by the customer;
  - (d) the purchase and sale of securities or derivative transactions to be conducted under the contract specified in Article 117, paragraph (1), item (xxi);
  - (e) the purchase and sale of securities or derivative transactions conducted under the contract which provides that the financial instruments business operator, etc. obtains consent from a relative (limited to a spouse, and relative by blood and relative through marriage within the second degree of kinship) of its officer (if the officer is a corporation, including executive members thereof) or an employee as to whether the type of transaction is purchase or sale, the issues, and the volumes (in the case of derivatives transactions, the terms equivalent to these), and that the financial instruments business operator, etc. may determine the price (in the case of derivatives transactions, the term equivalent to the price);
- (xiii)-2 if the financial instruments business operator engages in investment management business for qualified investors, and it is found that necessary and appropriate measures to prevent a person other than a qualified investor from becoming the right holder are not taken by confirming the category of the right holder (including an investor (meaning the investor prescribed in Article 2, paragraph (16) of the Act on Investment Trust and Investment Corporations) of a registered investment corporation that is a counterparty of the contract listed in Article 2, paragraph (8), item (xii) of the Act (meaning the registered investment corporation prescribed in Article 2, paragraph (13) of that Act) and the person listed in each item of Article 15-10-4 of the Order; hereinafter the same applies in this item) or a person that intends to be the

- right holder, understanding the trend of purchase and sale or other transactions of securities of the right holder or other means;
- (xiv) if the management of the electronic data processing system to be used for the financial instruments business, etc. is found to be insufficient (for a financial instruments business operator, etc. engaged in high-speed trading as part of the financial instruments business, etc., including the situations provided in Article 66-57, item (i) of the Act);
  - (xv) if the measures implemented for the prevention of any act in violation of laws and regulations pertaining to the financial instruments intermediary service of the entrusted financial instruments intermediary service providers are found to be insufficient;
  - (xvi) if, in connection with problematic conduct (meaning problematic conduct as prescribed in Article 258, item (iii)) of the entrusted financial instruments intermediary service provider, it is found that the financial instruments business operator, etc. has not implemented the appropriate measures for the compensation of losses;
  - (xvii) if the financial instruments business operator, etc. causes the entrusted financial instruments intermediary service provider to deliver money, securities or commodities (including instruments or certificates issued in relation to the deposited commodities) to the customer;
  - (xviii) if the financial instruments business operator, etc. has provided to the registered financial institution, financial instruments intermediary service provider or financial service intermediary to which it entrusts services any unpublished information on a customer's property or any other special information (information specified in the following is excluded) which it has obtained, without obtaining a prior written consent from the customer; or if the financial instruments business operator, etc. solicits the purchase and sale or other transaction of securities, by the use of any unpublished information on a customer's property or any other special information acquired from the registered financial institution, financial instruments intermediary service provider or financial service intermediary to which it has entrusted services (limited to information other than those listed in (f) that is provided by the registered financial institution, financial instruments intermediary service provider or financial service intermediary without obtaining the customer's written consent):
    - (a) information on the intermediation for financial instruments performed by the registered financial institution, the financial instruments intermediary service provider or the financial service intermediary;
    - (b) information which is deemed necessary to be provided so as to ensure compliance by the registered financial institution, the financial instruments intermediary service provider or the financial service

intermediary of the laws and regulations applicable to the financial instruments intermediary service or the securities, etc. intermediary business operations;

- (c) in the case referred to in Article 150, item (iv), information to the effect that the proceeds from the securities will be appropriated for payment of the debt pertaining to borrowing;
- (d) information deemed necessary to provide to the registered financial institution for the registered financial institution or entrusting financial instruments business operator to comply with the applicable provisions (meaning the provisions of Article 36, paragraph (2) of the Act, Article 13-3-2, paragraph (1) of the Banking Act (including as applied mutatis mutandis pursuant to Article 17 of the Long-Term Credit Bank Act, Article 6, paragraph (1) of the Act on Financial Businesses by Cooperative, Article 89, paragraph (1) of the Shinkin Bank Act and Article 94, paragraph (1) of the Labor Bank Act), Article 59-2-2, paragraph (1) of the Norinchukin Bank Act, Article 58-5-2, paragraph (1) of the Small and Medium-Sized Enterprise Cooperatives Act, Article 11-5-2, paragraph (1) or Article 11-12-3, paragraph (1) of the Agricultural Cooperatives Act, Article 11-16, paragraph (1) of the Fishery Cooperatives Act (including as applied mutatis mutandis pursuant to Article 92, paragraph (1), Article 96, paragraph (1) and Article 100, paragraph (1) of that Act) or Article 15-16, paragraph (1) of that Act (including as applied mutatis mutandis pursuant to Article 96, paragraph (1) and Article 105, paragraph (1) of that Act), Article 28-2, paragraph (1) of the Shoko Chukin Bank Limited Act, or Article 100-2-2, paragraph (1) or Article 193-2, paragraph (1) of the Insurance Business Act; the same applies in item (xxiv), (c));
- (e) if the entrusting financial instruments business operator is the parent corporation, etc. or a subsidiary corporation, etc. of the registered financial institution to which it entrusts services or if the registered financial institution to which the entrusting financial instruments business operator entrusts services is the parent corporation, etc. or a subsidiary corporation, etc. of the entrusting financial instruments business operator (in cases of providing information necessary for conducting the whole or part of the business specified in Article 153, paragraph (3), item (vii), limited to a case in which the entrusting financial instruments business operator is a subsidiary corporation, etc. of the registered financial institution which makes entrustment, or if the registered financial institution to which the entrusting financial instruments business operator makes entrustment is a parent corporation, etc. of the entrusting financial instruments business operator), and information necessary for such entrusting financial instruments business operator to handle all or part of the internal

management and operation affairs, etc. (meaning affairs related to the maintenance and management of electronic data processing systems and internal management and operation affairs prescribed in Article 153, paragraph (3); hereinafter the same applies in (e) and item (xxiv), (d)) is provided to such registered financial institution (but only if measures have been precisely taken by the such entrusting financial instruments business operator and such registered financial instrument, in order to prevent the leaking of such information from the sections in charge of the internal management and operation affairs, etc. and such entrusting financial instruments business operator provides the information to any person other than officers (if an officer is a corporation, including executive members thereof) and employees engaged in the financial instruments intermediation operation of such registered financial institution), such information; and

(f) if the financial instruments business operator, etc. is the parent corporation, etc. or a subsidiary corporation, etc. of the registered financial institution, financial instruments intermediary service provider or financial service intermediary or if the registered financial institution, financial instruments intermediary service provider or financial service intermediary is the parent corporation, etc. or a subsidiary corporation, etc. of the financial instruments business operator, etc., information related to a foreign corporation (including a foreign organization without juridical personality for which a representative person or administrator has been designated);

(xix) if the officer (if the officer is a corporation, including executive members thereof; hereinafter the same applies in this item) or employee supervising the business of the section in charge of implementing the financial instruments business or financial instruments intermediation operation (limited to the section in charge of the additional implementation of the loan business or financial institution agency service operation) has personally acquired the undisclosed loan information, etc. on the customer which is the issuer of the securities (excluding the securities specified in Article 33, paragraph (2), item (i) of the Act and the securities specified in Article 2, paragraph (1), item (xvii) of the Act which have natures specified in items (i) and (ii) of that paragraph; hereinafter the same applies in this item), or has received such information from an officer or employee engaged in the loan business or financial institution agency service operation, and thereby makes solicitations for acts as listed in the items of Article 2, paragraph (8) of the Act pertaining to the securities (including in the circumstances if the officer or employee supervising the business provides an officer or employee engaged in the financial instruments business or financial instruments

- intermediation operation with the customer's undisclosed loan information, etc. (excluding corporate information), without obtaining the customer's prior written consent for the provision of such information);
- (xx) if, with regard to an over-the-counter derivatives transactions, there are both the prices for purchase and sale, and the matter equivalent to the price, the financial instruments business operator, etc. has not presented both of such price or the matter equivalent to the price simultaneously (in cases where said Over-the-Counter Derivatives Transaction is other than an Over-the-Counter Transaction of Financial Futures and Cryptoasset-related Over-the-Counter Derivatives Transaction, where said price or matters equivalent to the price are not presented to a customer who is an individual, at the same time);
- (xxi) if, with regard to an over-the-counter derivatives transactions, the financial instruments business operator, etc. has not presented the price or any matter equivalent thereto indicated by such business operator at the time of the customer's transaction (in cases where the Over-the-Counter Derivatives Transactions are other than an Over-the-Counter Transactions of Financial Futures and Cryptoasset-related Over-the-Counter Derivatives Transaction , the customer is limited to an individual) to the customer that has requested the presentation of such price or any matter equivalent thereto;
- (xxi)-2 if a sufficient management system has not been established for conducting settlement procedures for a currency-related derivatives transaction (meaning a currency-related market derivatives transaction, currency-related over-the-counter derivatives transaction, or currency-related foreign market derivatives transaction; hereinafter the same applies in this item and the following item), to be performed when the amount of losses that would arise to a customer (limited to an individual (excluding, if a managing partner, etc. (meaning a managing partner, etc. prescribed in Article 10, paragraph (1), item (xxiii) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; hereinafter the same applies in this item) that falls under the requirements listed in item (xxiv), (b), 1. of that paragraph conducts, as a managing partner, etc., a currency-related derivatives transaction, that managing partner, etc.); hereinafter the same applies in this item) if the settlement of a currency-related derivatives transaction conducted on the customer's own account results in an amount of loss to the customer that reaches the amount calculated by the method of calculation agreed on with the customer in advance (if the operational rules of a financial instruments exchange operating the financial instruments exchange market where the currency-related derivatives transaction is conducted and the business rules of the



financial instruments clearing organization that takes over, novates, or in any other way bears the obligations which would arise from the currency-related derivatives transaction provide that if there is a shortfall in either the margin, etc. (meaning a customer margin or any other security deposit; hereinafter the same applies in this item) pertaining to a currency-related derivatives transaction or the margin, etc. pertaining to a non-currency-related derivatives transaction that was deposited by the same customer, that shortfall is to be covered by the other margin (limited to a case in which the customer's consent is obtained for the coverage of a shortfall with a written consent of the customer or by a method equivalent to any of the methods prescribed in the items of Article 57-3, paragraph (1) and in paragraph (2) of that Article), the method of calculation that conforms to such provisions) (such procedures are referred to as a "loss-cutting transaction" in the following item);

(xxi)-3 if it is found that no loss-cutting transaction has been conducted with regard to a currency-related derivatives transaction;

(xxi)-4 if it is found that the financial instruments business operator (excluding the special financial instruments business operator whose parent company (meaning a parent company provided in Article 57-2, paragraph (8) of the Act) is a designated parent company; hereinafter the same applies in this item to item (xxi)-6 and paragraph (6)) does not conduct a stress test (meaning to calculate losses that may arise to the financial instruments business operator on the assumption of the existence of foreign exchange rate fluctuations or other changes and to analyze the impact on its soundness of management; the same applies in the following item and item (xxi)-6 and paragraph (6)) with regard to specified currency-related over-the-counter derivatives transactions (meaning the specified currency-related over-the-counter derivatives transactions prescribed in Article 117, paragraph (1), item (xxviii)-2; the same applies in the following item and item (xxi)-6) in accordance with the rules established by a financial instruments firms association to which it belongs (limited to the rules designated by the Commissioner of the Financial Services Agency (hereinafter referred to as "association rules" in this item to item (xxi)-6 and paragraph (6)) (with regard to a financial instruments business operator not belonging to a financial instruments firms association which has association rules, the rules to be specified by the Commissioner of the Financial Services Agency; the same applies in the following item and item (xxi)-6));

(xxi)-5 if it is found that the financial instruments business operator does not take any measures to secure the soundness of management with regard to specified currency-related over-the-counter derivatives transactions in accordance with association rules, although it is found necessary based on

- the results of the stress test;
- (xxi)-6 if it is found that the financial instruments business operator does not report the results of the stress test in accordance with the association rules to the financial instruments firms association to which it belongs (with regard to a financial instruments business operator not belonging to a financial instruments firms association which has association rules, to the Director-General of a Local Finance Bureau having jurisdiction over the location of the head office of the financial instruments business operator (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof));
- (xxi)-7 where it is found that the Financial Instruments Business Operator, etc. is not preserving the information on Specified Currency-Related Over-the-Counter Derivatives Transactions in accordance with the rules of the Financial Instruments Firms Association to which it belongs (limited to the rules designated by the Commissioner of the Financial Services Agency (hereinafter referred to as the "Association Rules" in this and the following items, and paragraph (7) (with regard to a Financial Instruments Business Operator, etc. not belonging to a Financial Instruments Firms Association which has the Association Rules, the rules designated by the Commissioner of the Financial Services Agency; the same applies in the following item));
- (xxi)-8 where it is found that the Financial Instruments Business Operator, etc. does not report the information on Specified Currency-Related Over-the-Counter Derivatives Transactions in accordance with the Association Rules to the Financial Instruments Firms Association to which it belongs (with regard to a Financial Instruments Business Operator, etc. not belonging to a Financial Instruments Firms Association which has the Association Rules, to the Director-General of a Local Finance Bureau having jurisdiction over the location of the Head Office of the Financial Instruments Business Operator, etc. (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof));
- (xxi)-9 if it is found that the following measures are not taken with regard to specified over-the-counter transactions of options:
- (a) when intending to conclude a contract pertaining to a specified over-the-counter transaction of options, to present the exercise price pertaining to the specified over-the-counter transaction of options (if the price is specified by a specified means, the calculation means) to the customer (limited to an individual (excluding a managing partner, etc. corresponding to the requirements listed in Article 10, paragraph (1), item (xxiv), (b), 1. of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act (meaning the managing partner, etc. prescribed in item (xxiii) of that paragraph; hereinafter the same applies in

- (a) below) if a managing partner, etc. performs specified over-the-counter transaction of options as a managing partner, etc.); the same applies in (b)) in advance; and
- (b) to specify necessary and appropriate transaction period and due date of a specified over-the-counter transaction of options in order to enable a customer to acquire and grant options or to conduct other transactions, based on the amount of the value that is calculated by a fair means based on the exercise period, exercise price and interest rate, price of currency, quotations in the financial instrument market, or other actual conditions of indicators and also based on the investment decisions made based on analysis of value, etc. of financial instruments;
- (xxi)-10 if it is found that the measures to ensure the following acts have not been taken in relation to the variation margin (meaning the margin to be loaned or deposited or delivered by a method equivalent to these (hereinafter referred to as "deposit, etc." in this item and the following item) with a counterparty to the non-cleared over-the-counter derivatives transaction depending on the fluctuation of the market value of the non-cleared over-the-counter derivatives transaction; hereinafter the same applies in this item, the following item and paragraphs (9) and (10)) for non-cleared over-the-counter derivatives transactions (meaning over-the-counter derivatives transactions other than those for which obligations are assumed by a financial instruments clearing organization (if the financial instruments clearing organization conducts collaborative financial instruments obligation assumption service, including the collaborating clearing organization, etc.); the same applies in paragraph (12), item (i), (c), 1.) or a foreign financial instruments clearing organization or those designated by the Commissioner of the Financial Services Agency provided in Article 1-18-2 of the Order; hereinafter the same applies in this item, the following item and paragraphs (8), (10) and (12)):
- (a) to calculate every day the total market value of the non-cleared over-the-counter derivatives transactions, and the total market value of the variation margin for which deposit, etc. is made by the counterparty (if the variation margin is to be appropriated by the assets provided in paragraph (9), meaning the collateral price of the asset calculated in accordance with the means provided in paragraph (10); hereinafter the same applies in (a)) and the total market value of the variation margin for which a deposit, etc. was made to the counterparty;
- (b) to immediately request the counterparty to make a deposit, etc. of the variation margin equivalent to the calculated amount or to return the variation margin for which a deposit, etc. was made to the counterparty, if the amount calculated in accordance with the means designated by the

- Commissioner of the Financial Services Agency based on the amount calculated pursuant to (a) exceeds the amount determined in advance by the parties as the amount not subject to the request for a deposit, etc. or refund of the variation margin (limited to the amount not exceeding 70 million yen after adding up the amount determined in advance by the parties as the amount not subject to the request for deposit, etc. of the initial margin provided in (b) of the following item);
- (c) to receive a deposit, etc. or refund of the variation margin (if the amount of the variation margin and the amount calculated by the counterparty as the amount equivalent to the variation margin differ, the variation margin equivalent to the amount calculated in accordance with the means determined in advance by the parties) without delay after making a request for the deposit, etc. or refund of the variation margin pursuant to (b);
  - (d) to respond to the request for a deposit, etc. or refund of the variation margin from the counterparty to the non-cleared over-the-counter derivatives transaction made based on the acts specified in (a) through (c) or an act similar thereto (including if these acts are conducted pursuant to (e));
  - (e) for non-cleared over-the-counter derivatives transactions to be accounted for as belonging to a trust account, to conduct the acts specified in (a) through (d) for the respective trust assets;
- (xxi)-11 if it is found that the measures to ensure the following acts have not been taken in relation to the initial margin (meaning a margin for which a deposit, etc. is to be made depending on the reasonably estimated amount of costs and losses that may arise in relation to non-cleared over-the-counter derivatives transactions in the future (hereinafter referred to as "estimated amount of potential losses, etc." in this item); hereinafter the same applies in this item and paragraphs (9) and (10), and Article 177, paragraph (1), item (iii), (a) for non-cleared over-the-counter derivatives transactions (limited to the parts relating to the promise for payment or receipt of money or financial instruments (limited to those specified in Article 2, paragraph (24), item (iii) of the Act) equivalent to the amount determined as a principal for a transaction specified in Article 2, paragraph (22), item (v) of the Act (limited to a transaction pertaining to currencies); hereinafter the same applies in this item):
- (a) if any of the following events occurs in relation to a counterparty to a non-cleared over-the-counter derivatives transaction, to calculate the total amount of the estimated amount of potential losses, etc. (limited to the amount calculated by means of using a quantitative calculation model reported to the Commissioner of the Financial Services Agency in advance

or any other means provided by the Commissioner of the Financial Services Agency) for the non-cleared over-the-counter derivatives transaction with the counterparty and the market value (if the initial margin is to be appropriated by the assets provided in paragraph (9), meaning the collateral price for the asset calculated in accordance with the means provided in paragraph (10); hereinafter the same applies in (a)) of the initial margin for which a deposit, etc. was made by the counterparty and the total amount of market value of the initial margin for which a deposit, etc. has been made for the counterparty:

1. if a non-cleared over-the-counter derivatives transaction is conducted or terminated or in other cases in which there is a change in relationship of rights relating to non-cleared over-the-counter derivatives transactions;
  2. when a one-month period has elapsed from the last day when an estimated amount of potential losses, etc. was calculated;
  3. if it is found to be necessary to request the other party to make a deposit, etc. of the initial margin due to fluctuation in quotation or other reasons (excluding the cases specified in 1. and 2.);
- (b) to immediately request the counterparty to make a deposit, etc. of the initial margin equivalent to the calculated amount, if the amount calculated in accordance with the method designated by the Commissioner of the Financial Services Agency based on the amount calculated pursuant to (a) exceeds the amount determined in advance by the parties as the amount not subject to the request for a deposit, etc. of the initial margin (limited to the amount not exceeding 70 million yen after adding up the amount determined in advance by the parties as the amount not subject to the request for deposit, etc. or refund of variation margin provided in (b) of the preceding item);
- (c) to receive a deposit, etc. of the initial margin without delay after making a request for the deposit, etc. of the initial margin pursuant to (b) (if the amount of the initial margin and the amount calculated by the counterparty as the amount equivalent to the initial margin differ, having the counterparty make a deposit, etc. of the amount calculated in accordance with the method determined in advance by the parties without delay, and having the counterparty make a deposit, etc. of the amount of the initial margin after deducting the amount for which the deposit, etc. was made and taking other measures for eliminating the difference, promptly after receiving the deposit, etc.);
- (d) to manage the initial margin for which the deposit, etc. was made pursuant to (c) by way of the creation of a trust or any other similar means so that such margin is made available for use without delay in the case of

- non-performance of the obligations relating to non-cleared over-the-counter derivatives transactions and the initial margin is returned to the counterparty in the case of occurrence of any close-out netting event (meaning a close-out netting event provided in Article 2, paragraph (4) of the Act Concerning Close-out Netting of Specified Financial Transactions Conducted by Financial Institutions (Act No. 108 of 1998); the same applied in Article 140-3, paragraph (2) and Article 143-2, paragraph (3)) to the financial instruments business operator, etc. which has accepted the deposit, etc. of the initial margin or any other similar event;
- (e) not to provide for security or loan the initial margin for which the deposit, etc. was made pursuant to (c) (excluding the case of providing for security or loaning by the use of a secure means associated with the management of the initial margin (limited to those appropriated using money) provided in (d));
  - (f) to respond to the request for a deposit, etc. of the initial margin from the counterparty to the non-cleared over-the-counter derivatives transaction (limited to a party for which the measures to ensure the acts specified in (d) and (e) are taken) made based on the acts specified in (a) through (c) or an act similar thereto (including if these acts are conducted pursuant to (g)); and
  - (g) for non-cleared over-the-counter derivatives transactions to be accounted for as belonging to a trust account, to conduct the acts specified in (a) through (d) for the respective trust assets;
- (xxii) if the financial instruments business operator establishes its head office or any other business offices or offices in the same building as that of the head office, any other business offices or offices, or agency office (including the business offices or any other office of a bank agent prescribed in Article 2, paragraph (15) of the Banking Act, a long-term credit bank agent as prescribed in Article 16-5, paragraph (3) of the Long-Term Credit Bank Act, a Shinkin Bank agent as prescribed in Article 85-2, paragraph (3) of the Shinkin Bank Act, a credit cooperative agent as prescribed in Article 6-3, paragraph (3) of the Act on Financial Businesses by Cooperative, a Labor Bank agent as prescribed in Article 89-3, paragraph (3) of the Labor Bank Act, a specific credit business agent as prescribed in Article 92-2, paragraph (3) of the Agricultural Cooperatives Act, a specific credit business agent as prescribed in Article 106, paragraph (3) of the Fishery Cooperatives Act and a Norinchukin Bank agent as prescribed in Article 95-2, paragraph (3) of the Norinchukin Bank Act, and agricultural cooperatives, fisheries cooperatives and fishery processing cooperatives engaged in agency service for the business relating to the authorization under Article 42, paragraph (3) of the Act on Enhancement and Restructuring of Credit Business Conducted by The

- Norinchukin Bank and Specified Agricultural and Fishery Cooperative Savings Insurance Cooperation (Act No. 118 of 1996; referred to as "Enhancement and Restructuring Act" in Article 275, paragraph (1), items (xxiv) and (xxv) and Article 281, item (x)) of a financial institution (meaning a bank, cooperative financial institution, trust company or any other financial institution specified in the items of Article 1-9 of the Order) and carries out its business therein, and if it is found that that the financial instruments business operator has not implemented the appropriate measures to prevent the customer from confusing the financial instruments business operator with such financial institution;
- (xxiii) if the financial instruments business operator carries out its businesses by the use of a computer connected via telecommunications line, and it is found that it has not taken the appropriate measures for preventing the customer from confusing the financial instruments business operator with another party;
- (xxiv) if the registered financial institution has provided to its entrusting financial instruments business operator any unpublished information on a customer's property or any other special information which it has acquired (information specified in the following is excluded), without obtaining a prior written consent from the customers; or if the registered financial institution solicits the purchase and sale or other transaction of securities. by the use of any unpublished information on a customer's property or any other special information acquired from the entrusting financial instruments business operator (limited to information other than those listed in (e) that is provided by the entrusting financial instruments business operator without obtaining the customer's written consent):
- (a) information which is deemed necessary to be provided to the entrusting financial instruments business operator, in order for the registered financial institution to conduct intermediation for financial instruments;
- (b) information which may come to knowledge of the registered financial institution in the course of its financial instruments intermediation operation entrusted by the entrusting financial instruments business operator, which is deemed necessary to be provided to the entrusting financial instruments business operator in order for the registered financial institution to ensure its compliance with the laws and regulations;
- (c) information deemed necessary to provide to the entrusting financial instruments business operator for the registered financial institution or entrusting financial instruments business operator to comply with the Applicable Provisions; and
- (d) the information if the registered financial institution is the parent

- corporation, etc. or a subsidiary corporation, etc. of the entrusting financial instruments business operator or if the entrusting financial instruments business operator is the parent corporation, etc. or a subsidiary corporation, etc. of the registered financial institution (in cases of providing information necessary for conducting the whole or part of the business specified in Article 153, paragraph (3), item (vii), limited to cases in which the registered financial institution is a subsidiary corporation, etc. of the entrusting financial instruments business operator, or cases in which the entrusting financial instruments business operator is a parent corporation, etc. of the registered financial institution), and information necessary for such registered financial institution to handle all or part of the internal management and operation affairs, etc. is provided to such entrusting financial instruments business operator (but only if measures have been precisely taken by such registered financial institution and such entrusting financial instruments business operator, in order to prevent the leaking of such information from the sections in charge of the internal management and operation affairs, etc. and if any person other than officers (if an officer is a corporation, including executive members thereof) and employees engaged in the financial instruments intermediation operation of such registered financial institution provides such information to such entrusting financial instruments business operator);
- (e) if the registered financial institution is the parent corporation, etc. or a subsidiary corporation, etc. of the entrusting financial instruments business operator or if the entrusting financial instruments business operator is the parent corporation, etc. or a subsidiary corporation, etc. of the registered financial institution, information related to a foreign corporation (including a foreign organization without juridical personality for which a representative person or administrator has been designated);
- (xxv) if the registered financial institution has not expressly informed the customer of the following matters, in advance of conducting intermediation for financial instruments:
- (a) if the registered financial institution has two or more entrusting financial instruments business operators, and if the money or the fees, etc. payable by the customer in regard to the transactions to be conducted by the customer varies depending on the entrusting financial instruments business operator, to that effect;
- (b) the trade name of the entrusting financial instruments business operator which is the counterparty to the customer's transaction; and
- (c) if the registered financial institution carries out an investment advisory and agency business (excluding any act specified in Article 28, paragraph (3), item (ii) of the Act; hereinafter the same applies in (c)) and conducts



intermediation for financial instruments for the customer of the investment advisory and agency business (other than if the amount of the fees, etc. for intermediation for financial instruments to be performed in a certain period has been fixed without regard to the number of occasions of the relevant intermediation for financial instruments, and if the registered financial institution has clearly indicated to the customer of the types or amount of the fees, etc. in advance), the amount of the fees, etc. receivable due to the relevant intermediation for financial instruments (if the amount of the fees, etc. has not been fixed in advance, the means of calculation thereof);

(xxvi) if, in cases of handling a public offering or secondary distribution of the same issue of securities as the securities listed on a financial instruments exchange market or over-the-counter traded securities (excluding the securities listed in Article 15-7, item (ii), (a) through (j) of the Order on Restrictions on Transactions) (but only if these are implemented before deciding the issue price or selling price of the securities and excluding cases in which there is no period specified in Article 15-5 of the Order on Restrictions on Transactions), it is found that that the customer is not informed of the following matters in advance in writing or by electronic or magnetic means when intending to have the customer acquire the securities:

(a) the fact that a person that requests short selling (excluding the transactions listed in the items of Article 15-7 or the items of Article 15-8 of the Order on Restrictions on Transactions) of the same issue as the securities at the financial instruments exchange market, over-the-counter securities market, or proprietary trading system (meaning the proprietary trading system prescribed in Article 26-2-2, paragraph (7) of the Order) for the period specified in Article 15-5 of the Order on Restrictions on Transactions, or entrustment thereof or brokerage service for the entrustment thereof, cannot settle the borrowing of securities pertaining to the short selling (including those specified in Article 15-6 of the Order on Restrictions on Transactions, etc.; the same applies in (b)) with securities acquired by responding to the public offering or secondary distribution, pursuant to the provisions of Article 26-6 of the Order; and

(b) the fact that if the person prescribed in (a) responds to the public offering or secondary distribution in order to settle the borrowing of securities pertaining to the short selling that the person implemented, the financial instruments business operator, etc. may not allow the person to acquire securities by handling the public offering or secondary distribution;

(xxvii) if, in cases of implementing an act of buying-up prescribed in Article 31 of the Order pertaining to the standard specified in Article 62 of the Order on Restrictions on Transactions (limited to those pertaining to item (ii) of that

Article), it is found that that the following measures are not taken:

- (a) when implementing the buying-up, to promise with the counterparty that the buying-up aims to resell share certificates, etc. that are bought-up by the buying-up (meaning share certificates, etc. prescribed in Article 31 of the Order; the same applies in (b) below) immediately after the buying up; and
  - (b) if there is a possibility that the share certificates, etc. that are bought-up by the buying-up cannot be resold immediately after the buying-up, to disclose the following matters in accordance with the measures of disclosure prescribed in Article 30 of the Order:
    - 1. the fact that the buying-up is implemented;
    - 2. issues of share certificates, etc. bought up by the buying-up;
    - 3. total number of voting rights (meaning the number of voting rights prescribed in Article 31 of the Order) pertaining to share certificates, etc. bought up by the buying-up; and
    - 4. the fact that there is a possibility that share certificates, etc. bought up by the buying-up may not be resold immediately after the buying-up;
- (xxviii) in cases of concluding a discretionary investment contract pursuant to the provisions of Article 130-2, paragraph (1) of the Employees' Pensions Act (Act No. 115 of 1954; hereinafter referred to as the "Former Employees' Pensions Act" in this item and Article 233-2, paragraph (4) item (ii)) before the revision pursuant to Article 1 of the Act for Partial Revision to the Employees' Pension Insurance Act to Ensure the Integrity and Reliability of the Public Pension System (Act No. 63 of 2013; hereinafter referred to as "2013 Employees' Pensions Revision Act" in this item and Article 233-2, paragraph (4), item (ii)) which remains in force pursuant to Article 5, paragraph (1) of the Supplementary Provisions of the 2013 Employees' Pensions Revision Act) and managing pension benefit funds prescribed in paragraph (2) of that Article based on the discretionary investment contract (hereinafter referred to as "fund management" in this item and Article 130, paragraph (1), item (xiv)), if the surviving employee's pension fund (meaning a surviving employee's pension fund provided in Article 3, item (xi) of the Supplementary Provisions to the 2013 Employees' Pensions Revision Act; the same applies hereinafter) which is not a professional investor, a counterparty of the discretionary investment contract, presents the matters prescribed in Article 136-4, paragraph (2) of the Former Employees' Pension Insurance Act which remains in force pursuant to pursuant to Article 5, paragraph (1) of the Supplementary Provisions of the 2013 Employees' Pensions Revision Act by the provisions of that paragraph, if a sufficient system has not been developed in order to give an explanation to the surviving employee's pension fund appropriately on the prospect of profiting and possibility of loss from

- the fund management in accordance with the presented matters based on the knowledge, experience, and property conditions of the employees' pension fund and the purpose of concluding a discretionary investment contract;
- (xxix) if, in the cases prescribed in Article 130, paragraph (1), item (xv), it is found that the financial instrument transactions operator, etc. that invests the invested properties set forth in that item, has not been informed of the matters listed in Article 134, paragraph (1), item (ii), (b) pertaining to the subject securities set forth in that item indicated on the management report set forth in Article 42-7, paragraph (1) of the Act that have been issued to the right holder pertaining to the invested properties, to the trust company, etc. set forth in Article 130, paragraph (1), item (xv) without delay after the delivery;
- (xxx) if, in connection with specially-permitted business for qualified institutional investors, etc., it is found that the acts specified in the items of Article 63, paragraph (1) of the Act are not implemented in an appropriate way considering the situation that the qualified institutional investor investing in a business subject to investment is only a qualified institutional investor which is a subsidiary company, etc. of the notifier of specially-permitted business or other situations.
- (xxxii) where it is found that the Financial Instruments Business Operator, etc. has not taken measures as required in order to ensure that the purchase and sale or other transactions of Securities pertaining to Cryptoassets that are found to be likely to hinder the protection of investors or the proper and secure conduct of the Financial Instruments Business, etc. in light of the characteristics of Cryptoassets and its own operational system are excluded from the coverage of the Financial Instruments Business, etc. it conducts;
- (xxxii) where it is found that the Financial Instruments Business Operator, etc. has not taken measures, with regard to the Cryptoasset-related Derivatives Transactions, etc. (meaning the Cryptoasset-related Derivatives Transactions, etc. prescribed in Article 185-22, paragraph (1), item (i) of the Act; hereinafter the same applies in this item and Article 232, item (iv)) that it conducts, to examine whether a customer is not in violation of the provisions of Article 185-22, paragraph (1), Article 185-23, paragraph (1), or Article 185-24, paragraph (1) or (2) of the Act, in accordance with the trends and content of orders pertaining to Cryptoasset-related Derivatives Transactions, etc. placed by the customer of Financial Instruments Business, etc., the situations of Cryptoasset-related Derivatives Transactions, etc. or other circumstances, and if the customer is suspected to violate these provisions, to suspend transactions pertaining to Financial Instruments Business, etc. with said customer, or other measures necessary for preventing unfair acts in relation to Cryptoasset-related Derivatives

- Transactions, etc.;
- (xxxiii) where it is found that the Financial Instruments Business Operator, etc. has not established the trading management sufficient for preventing Derivative Transactions for Cryptoassets, etc. or acts to make an application, Entrustment, etc. or Acceptance for Entrustment, etc., which may result in the formation of manipulative quotations not reflecting actual market status through causing fluctuations in the quotations of the Cryptoassets or figures calculated based on quotations or the transaction volumes thereof, or by increasing the transaction volumes thereof;
- (xxxiv) where it is found that the Financial Instruments Business Operator, etc. has not taken measures necessary for appropriately managing material information concerning Cryptoassets, etc. pertaining to purchase and sale or other transactions of Securities that the Financial Instruments Business Operator, etc. uses or intends to use as the target of its Financial Instruments Business or concerning the Financial Instruments Business Operator, etc. which is found to have an impact on customers' decision on purchase and sale or other transactions of Securities pertaining to Cryptoassets, etc. (excluding cases where such material information is being made readily accessible to all customers of the Financial Instruments Business, etc. conducted by said Financial Instruments Business Operator, etc.);
- (xxxv) where a sufficient management system has not been established for conducting settlement procedures for a Cryptoasset-related Derivatives Transaction (meaning a Cryptoasset-related Market Derivatives Transaction, Cryptoasset-related Over-the-Counter Derivatives Transaction, or Cryptoasset-related Foreign Market Derivatives Transaction; hereinafter the same applies in this and the following items) to be performed when the amount of losses that would arise to a customer (limited to an individual (in cases where a Managing Partner, etc. (meaning a Managing Partner, etc. prescribed in Article 10, paragraph (1), item (xxiii) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; hereinafter the same applies in this item) who falls under the requirements listed in item (xxiv), sub-item (b), 1. of that paragraph conducts, as a Managing Partner, etc., a Cryptoasset-related Derivatives Transaction, excluding such Managing Partner, etc.); hereinafter the same applies in this item) if the customer settled a Cryptoasset-related Derivatives Transaction conducted on the customer's own account reaches the amount calculated by the method of calculation agreed on with said customer in advance (such procedures are referred to as a "Loss-Cutting Transaction" in the following item); and
- (xxxvi) where it is found that no Loss-Cutting Transaction has been conducted

with regard to a Cryptoasset-related Derivatives Transaction.

- (2) With regard to the application of the provisions of items (xviii) and (xxiv) of the preceding paragraph, if the registered financial institution is the parent corporation, etc. or a subsidiary corporation, etc. of the entrusting financial instruments business operator, or if the entrusting financial business operator is the parent corporation, etc. or a subsidiary corporation, etc. of the registered financial institution, in cases where the registered financial institution or the entrusting financial instruments business operator appropriately provided to a customer (limited to corporations; the same applies hereinafter in this paragraph) the opportunity to seek suspension of the provision of any unpublished information on the customer's property or any other special information (hereinafter collectively referred to as "special information" in this paragraph) to the entrusting financial instruments business operator or the registered financial institution (hereinafter the provision is referred to as the "provision of special information" in this paragraph), a written consent from the customer for the provision of special information is deemed to have been obtained until the customer requests the suspension; provided, however, that this does not apply if an officer (if an officer is a corporation, including executive members thereof) or employee engaged in the financial instruments intermediation operation of the registered financial institution provides special information to the entrusting financial instruments business operator or receives special information from the entrusting financial instruments business operator:
- (3) A "currency-related market derivatives transaction" under paragraph (1), item (xxi)-2 means a market transaction of derivatives for currencies that is a transaction listed in Article 2, paragraph (21), item (i) or (ii) of the Act, or a transaction listed in item (iii) of that paragraph (limited to such transaction for which a transaction effected by exercising the right prescribed in that item is a transaction listed in (a) of that item or a transaction listed in (b) of that item (limited to such transaction concerning a transaction listed in item (i) or (ii) of that paragraph, or transactions equivalent thereto that are related to those specified by the financial instruments exchange)).
- (4) A "currency-related over-the-counter derivatives transaction" under paragraph (1), item (xxi)-2 means an over-the-counter transaction of derivatives for currencies that is a transaction listed in Article 2, paragraph (22), item (i) or (ii) of the Act, a transaction listed in item (iii) of that paragraph (limited to such transaction for which a transaction effected by exercising the right prescribed in that item is a transaction listed in item (i), item (ii) or item (iii), (a) of that paragraph), or transactions listed in item (iv) of that paragraph.
- (5) A "currency-related foreign market derivatives transaction" under paragraph

- (1), item (xxi)-2 means a foreign market derivatives transaction that is similar to a currency-related market derivatives transaction prescribed in paragraph (3).
- (6) The following matters must be specified by the association rules provided in paragraph (1), items (xxi)-4 through (xxi)-6:
- (i) matters related to financial instruments business operators that conduct a stress test in accordance with the association rules;
  - (ii) matters related to foreign exchange rate fluctuations and other changes to be assumed in a stress test that the financial instruments business operator conducts in accordance with the association rules;
  - (iii) matters related to the frequency at which the financial instruments business operator should conduct a stress test in accordance with the association rules;
  - (iv) matters related to the method of calculating losses that may arise to the financial instruments business operator and the analysis of the impact of those losses on the soundness of management of the financial instruments business operator in a stress test that the financial instruments business operator conducts in accordance with the association rules;
  - (v) matters related to the measures to secure the soundness of management provided in item (xxi)-5 of paragraph (1);
  - (vi) matters related to a report pertaining to the results of a stress test conducted in accordance with the association rules; and
  - (vii) in cases of changing the association rules, the fact of informing the Commissioner of the Financial Services Agency of the content in advance.
- (7) The following matters must be specified by the Association Rules provided in paragraph (1), items (xxi)-7 to (xxi)-8:
- (i) the following matters pertaining to the information on Specified Currency-Related Over-the-Counter Derivatives Transactions preserved by the Financial Instruments Business Operator, etc.:
    - (a) the content of the information; and
    - (b) the method and period for preserving the information; and
  - (ii) the following matters pertaining to the information on Specified Currency-Related Over-the-Counter Derivatives Transactions reported by the Financial Instruments Business Operator, etc.:
    - (a) the content of the information;
    - (b) the method and frequency for reporting the information; and
    - (c) the method for analyzing the information and the results thereof; and
  - (iii) in cases of changing the Association Rules, the fact of informing the Commissioner of the Financial Services Agency of the content in advance.
- (8) The "specified over-the-counter transactions of options" as used in paragraph (1), item (xxi)-7 means over-the-counter transactions of derivatives and

transactions listed in Article 2, paragraph (22), item (iii) of the Act (limited to transactions if the transaction effected by the exercise of the right prescribed in that item is the transaction listed in item (ii) of that paragraph) or transactions listed in item (iv) of that paragraph with which a specified amount of money will be received if an option pertaining these transactions is exercised.

- (9) If a financial instruments business operator, etc. implements the measures specified in the following items, it may include one or more transactions specified in the relevant items, according to the categories of the measures respectively set forth therein, in the non-cleared over-the-counter derivatives transaction for which the measures are taken (but only if the one or more transactions are included in relation to the counterparties to the non-cleared over-the-counter derivatives transactions in a continuous way):
- (i) the measure specified in paragraph (1), item (xxi)-8: the following transactions:
    - (a) over-the-counter commodity derivatives transactions (excluding transactions for which the obligations are assumed by a commodity clearing organization (meaning a commodity clearing organization provided in Article 2, paragraph (18) of the Commodity Derivatives Act or a corporation incorporated under the laws and regulations of a foreign state which is engaged in the same type of business as commodity transaction obligation assumption service, etc. (meaning the commodity transaction obligation assumption service, etc. provided in paragraph (17) of that Article) or the same type of business as the business provided in Article 170, paragraph (1) of the Act; the same applies in the following item and paragraph (12));
    - (b) foreign exchange futures transaction;
    - (c) a transaction which falls under the category specified in the items of paragraph (11) at the time when a non-cleared over-the-counter derivatives transaction was conducted (hereinafter referred to as a "base time" in this paragraph and paragraphs (11) and (12));
    - (d) a transaction conducted under a master agreement (meaning a master agreement provided in Article 2, paragraph (5) of the Act Concerning Close-out Netting of Specified Financial Transactions Conducted by Financial Institutions; hereinafter the same applies in this paragraph, Article 140-3, paragraph (2) and Article 143-2, paragraph (3)) containing an agreement on a close-out netting (meaning a close-out netting event provided in Article 2, paragraph (6) of that Act; hereinafter the same applies in this paragraph and paragraphs (11) and (12), Article 140-3, paragraph (2) and Article 143-2, paragraph (3)) (but only if the financial instruments business operator, etc. conducts non-cleared over-the-counter

- derivatives transactions pertaining to the measures under paragraph (1), item (xxi)-8 pursuant to the master agreement, and excluding the transactions specified in (a) through (c));
- (ii) the measure specified in paragraph (1), item (xxi)-9: the following transactions:
- (a) a portion of the transaction specified in Article 2, paragraph (22), item (v) of the Act (limited to a transaction pertaining to currencies) relating to the promise for the payment or receipt of money or financial instruments (limited to those specified in paragraph (24), item (iii) of that Article) equivalent to the amount determined as principal;
  - (b) over-the-counter commodity derivatives transactions;
  - (c) foreign exchange futures transaction;
  - (d) a transaction which falls under the category specified in the items of paragraph (12) as of the base time;
  - (e) a transaction conducted under a master agreement containing an agreement on a close-out netting (but only if the financial instruments business operator, etc. conducts non-cleared over-the-counter derivatives transactions pertaining to the measures under paragraph (1), item (xxi)-9 pursuant to the master agreement, and excluding the transactions specified in (a) through (d)).
- (10) A variation margin and initial margin are to be appropriated using money or any other assets designated the Commissioner of the Financial Services Agency.
- (11) If all or part of the variation margin and initial margin is to be appropriated using the assets provided in the preceding paragraph, the collateral price is the amount provided in the following items or the amount to be calculated by the methods set forth therein, according to the categories respectively set forth therein:
- (i) if the variation margin is to be appropriated using money: the amount of money;
  - (ii) if the type of currency for the asset and the type of currency determined in advance by the parties to the non-cleared over-the-counter derivatives transaction for one or more non-cleared over-the-counter derivatives transactions are the same (excluding the cases specified in the preceding item): the amount obtained by deducting from the market value of the asset the amount obtained by multiplying the market value of the asset by the ratio provided by the Commissioner of the Financial Services Agency as the ratio for the multiplication with the market value of the asset;
  - (iii) if the type of currency for the asset and the type of currency determined in advance by the parties to the non-cleared over-the-counter derivatives transaction for one or more non-cleared over-the-counter derivatives transactions differ (excluding the cases specified in item (i)): the amount



obtained by deducting from the market value of the asset the amount obtained by multiplying the market value of the asset by the ratio specified in the following (a) and the amount obtained by multiplying the market value of the asset by the ratio specified in the following (b):

- (a) the ratio provided in the preceding item; and
- (b) the ratio provided by the Commissioner of the Financial Services Agency as the ratio for the multiplication if the type of currency for the asset and the type of currency determined in advance by the parties to the non-cleared over-the-counter derivatives transaction for one or more non-cleared over-the-counter derivatives transactions differ.

(12) The provisions of paragraph (1), item (xxi)-8 do not apply to a transaction which falls under any of the following items as of the base time:

(i) a transaction wherein one of the parties is a person other than a financial instruments business operator, etc. (excluding a person that falls under all of the following):

(a) a person engaged in over-the-counter derivatives transactions in the course of trade in a foreign state (limited to a state if the agreement on a close-out netting or any agreement similar thereto is confirmed to be effective, judging from the laws and regulations of the foreign state in an appropriate way) (excluding the government of the foreign state, a foreign central bank, the Multilateral Development Bank and the Bank for International Settlements (referred to as "foreign government, etc." in item (i), (a) of the following paragraph);

(b) a person for which the average total amount of notional principal for the over-the-counter derivatives transactions as of the end of each month during the period from April which is two years before the year in which the base time falls to March of the year preceding the year in which the base time falls (if the base time falls in December, the period from April of the preceding year to March of the relevant year) is expected to be 300 billion yen or more, judging reasonably from the status of transaction or other circumstances;

(ii) a transaction accounted for as belonging to a trust account which relates to a trust property with the average total amount of notional principal of over-the-counter derivatives transactions (limited to the transactions subject to trade data (meaning the trade data provided in Article 156-63, paragraph (3) of the Act; the same applies in item (iv), (b), the following paragraph and Article 125-7, paragraph (2), item (iii), (b))) as of the end of each month during the period from April which is two years before the year in which the base time falls to March of the year preceding the year in which the base time falls (if the base time falls in December, the period from April of the preceding year to March of the relevant year) is expected to be less than 300

- billion yen;
- (iii) a transaction wherein the counterparty is a parent company, etc., a subsidiary company, etc. or a subsidiary company, etc. of the parent company, etc. (excluding the financial instruments business operator, etc.) of the financial instruments business operator, etc. that conducts the transaction;
  - (iv) a transaction wherein one or both parties fall under any of the following (for a person specified in (b), excluding a transaction accounted for as belonging to a trust account):
    - (a) a financial instruments business operator, etc. which is not a bank which is a financial instruments business operator or registered financial institution engaged in type-I financial instruments business, The Shoko Chukin Bank, Ltd., the Development Bank of Japan, a federation of Shinkin banks whose district is the entire nation, Norinchukin Bank or an insurance company;
    - (b) a financial instruments business operator, etc. with the average total amount of notional principal for the over-the-counter derivatives transactions (limited to the transactions subject to trade data, and excluding those accounted for as belonging to a trust account) as of the end of each month during the period from April which is two years before the year in which the base time falls to March of the year preceding the year in which the base time falls (if the base time falls in December, the period from April of the preceding year to March of the relevant year) is expected to be less than 300 billion yen (excluding a person specified in (a)); and
  - (v) a transaction designated by the Commissioner of the Financial Services Agency as the case considered to involve no risk of conflicting with the public interest or compromising the protection of investors even without taking the measures provided in paragraph (1), item (xxi)-8, on the ground of the financial instruments business operator, etc. having complied with the laws and regulations considered to be equivalent to the measures specified in that item or other reasons.
- (13) The provisions of paragraph (1), item (xxi)-9 do not apply to a transaction which falls under any of the following items as of the base time:
- (i) a transaction wherein one of the parties is a person other than a financial instruments business operator, etc. (excluding a person that falls under all of the following):
    - (a) a person engaged in over-the-counter derivatives transactions in the course of trade in a foreign state (limited to a state if the agreement on a close-out netting or any agreement similar thereto is confirmed to be effective, judging from the laws and regulations of the foreign state in an appropriate way) (excluding the foreign government, etc.);
    - (b) a person for which the average total amount of notional principal for the

over-the-counter derivatives transactions as of the end of each month during the period from April which is two years before the year in which the base time falls to March of the year preceding the year in which the base time falls (if the base time falls in December, the period from April of the preceding year to March of the relevant year) is expected to be 300 billion yen or more, judging reasonably from the status of transaction or other circumstances;

(c) a person for which the average total amount of notional principal for the following transactions (limited to the transactions wherein both parties are not the person provided in (a) or item (iv), (a)) (if the parties to the transaction have a parent company, etc., a subsidiary company, etc. or a subsidiary company, etc. of a parent company, etc. (excluding the parties to the transactions), including the total of the notional principal of these transactions conducted by these persons (excluding the total amount of notional principal of the transactions among these persons)) as of the end of each month during the period from March to May of the year preceding the year in which the base time falls (if the base time falls in the period from September to December, the period from March to May of the relevant year) is expected to exceed 110 billion yen, judging reasonably from the status of transaction or other circumstances:

1. over-the-counter commodity derivatives transactions (excluding transactions for which the obligations are assumed by a financial instruments clearing organization, foreign financial instruments clearing organization or a corporation incorporated under the laws and regulations of a foreign state which is engaged in the same type of business as financial instruments debt assumption service in the foreign state);
2. over-the-counter commodity derivatives transactions;
3. foreign exchange futures transaction;

(ii) a transaction for which the accounting is to be settled as a transaction belonging to a trust account, which relates to a trust property which falls under any of the following;

- (a) a trust property with the average total amount of notional principal for the over-the-counter derivatives transactions (limited to the transactions subject to trade data) as of the end of each month during the period from April which is two years before the year in which the base time falls to March of the year preceding the year in which the base time falls (if the base time falls in December, the period from April of the preceding year to March of the relevant year) is expected to be less than 300 billion yen;
- (b) a trust property with the average total amount of notional principal for the following transactions (limited to the transactions wherein both parties

are not the person provided in (a) of the preceding item or item (iv), (a) as of the end of each month during the period from March to May of the year preceding the year in which the base time falls (if the base time falls in the period from September to December, the period from March to May of the relevant year) is 1,100 billion yen or less:

1. non-cleared over-the-counter derivatives transactions;
2. over-the-counter commodity derivatives transactions;
3. foreign exchange futures transaction;

(iii) a transaction wherein the counterparty is a parent company, etc., a subsidiary company, etc. or a subsidiary company, etc. of the parent company, etc. (excluding the financial instruments business operator, etc.) of the financial instruments business operator, etc. that conducts the transaction;

(iv) a transaction wherein one or both parties fall under any of the following (for persons specified in (b) and (c), excluding a transaction accounted for as belonging to a trust account):

(a) a financial instruments business operator, etc. which is not a bank which is a financial instruments business operator or registered financial institution engaged in type I financial instruments business, The Shoko Chukin Bank, Ltd., the Development Bank of Japan, a federation of Shinkin banks whose district is the entire nation, Norinchukin Bank or an insurance company;

(b) a financial instruments business operator, etc. with the average total amount of notional principal for the over-the-counter derivatives transactions (limited to the transactions subject to trade data, and excluding those accounted for as belonging to a trust account) as of the end of each month during the period from April which is two years before the year in which the base time falls to March of the year preceding the year in which the base time falls (if the base time falls in December, the period from April of the preceding year to March of the relevant year) is expected to be less than 300 billion yen (excluding a person specified in (a));

(c) a financial instruments business operator, etc. whose average total amount of notional principal for the following transactions (limited to the transactions wherein both parties are not the person provided in item (i), (a) or (a) of this item) (if the financial instruments business operator, etc. has a parent company, etc., a subsidiary company, etc. or a subsidiary company, etc. of a parent company, etc. (excluding the financial instruments business operator, etc.), including the total of the notional principal of these transactions conducted by these persons (excluding the total amount of notional principal of the transactions among these persons)) as of the end of each month during the period from March to May of the year preceding the year in which the base time falls (if the base time

falls in the period from September to December, the period from March to May of the relevant year) is expected to be 110 billion yen or less (excluding persons specified in (a) and (b)):

1. non-cleared over-the-counter derivatives transactions (for the transactions to be conducted by a person other than a business counterparty to financial instruments debt assumption services provided in Article 2, paragraph (28) of the Act, excluding transactions for which the obligations are assumed by a corporation incorporated under the laws and regulations of a foreign state which is engaged in the same type of business as financial instruments debt assumption service in the foreign state);
2. over-the-counter commodity derivatives transactions;
3. foreign exchange futures transaction; and

(v) a transaction designated by the Commissioner of the Financial Services Agency as the case considered to involve no risk of conflicting with the public interest or compromising the protection of investors even without taking the measures provided in paragraph (1), item (xxi)-9, on the ground of the financial instruments business operator, etc. having complied with the laws and regulations considered to be equivalent to the measures specified in that item or other reasons.

(14) A "Cryptoasset-related Market Derivatives Transaction" under paragraph (1), item (xxxv) means a Market Derivatives Transaction for Cryptoassets that is a transaction listed in Article 2, paragraph (21), item (i) or (ii) of the Act, or a transaction listed in item (iii) of that paragraph (limited to such transaction for which a transaction effected by exercising the right prescribed in that item is a transaction listed in sub-item (a) of that item or a transaction listed in sub-item (b) of that item (limited to such transaction concerning a transaction listed in item (i) or (ii) of that paragraph, or transactions equivalent thereto that are related to those specified by the Financial Instruments Exchange)).

(15) A "Cryptoasset-related Over-the-Counter Derivatives Transaction" under paragraph (1), item (xxxv) means an Over-the-Counter Transaction of Derivatives for Cryptoassets that is a transaction listed in Article 2, paragraph (22), item (i) or (ii) of the Act, a transaction listed in item (iii) of that paragraph (limited to such transaction for which a transaction effected by exercising the right prescribed in that item is a transaction listed in item (i), item (ii) or item (iii), sub-item (a) of that paragraph), or transactions listed in item (iv) of that paragraph.

(16) A "Cryptoasset-related Foreign Market Derivatives Transaction" under paragraph (1), item (xxxv) means a Foreign Market Derivatives Transaction that is similar to a Cryptoasset-related Market Derivatives Transaction prescribed in paragraph (14).

(Best Execution Policy)

Article 124 (1) The securities to be specified by Cabinet Office Order as referred to in Article 16-6, paragraph (1), item (i) of the Order are as follows:

- (i) share certificates;
- (ii) corporate bond certificates with share options;
- (iii) share option certificates;
- (iv) securities as specified in Article 2, paragraph (1), item (vi) of the Act;
- (v) preferred equity securities;
- (vi) beneficiary certificates of investment trusts or foreign investment trusts;
- (vii) investment securities, or foreign investment securities similar thereto;
- (viii) certificates of investment equity subscription rights, or foreign investment securities similar thereto;
- (ix) securities as specified in Article 2, paragraph (1), item (xiv) of the Act; and
- (x) securities specified in Article 2, paragraph (1), item (xvii) of the Act which have a similar nature to the securities specified in any of the items (i) through (v) or in the preceding item.

(2) A financial instruments business operator, etc. must, pursuant to the provisions of Article 40-2, paragraph (2) of the Act, publicize at its head office, etc. the best execution policy, etc. (meaning the best execution policy, etc. prescribed in paragraph (1) of that Article; hereinafter the same applies in this Article) through posting it in a legible manner or making it available for public inspection, or, in the cases falling under any of the following items, by the means set forth respectively in the relevant item:

- (i) if a financial instruments business operator, etc. receives customers' orders (hereinafter referred to as "customers' orders" in this paragraph) related to the transactions of securities, etc. (meaning the transactions of securities, etc. prescribed in Article 40-2, paragraph (1) of the Act; the same applies in paragraph (5), item (i)) at its business office, other office or any other place (excluding its head office, etc.; hereinafter referred to as the "business office, etc." in this item): posting the best execution policy, etc. in a legible manner or making it available for public inspection, at each business office, etc. receiving customers' orders; or
- (ii) if a financial instruments business operator, etc. receives customers' orders by automatically transmitting messages at the request of the public and to be received directly by the public, by means of wireless or cable transmission servers (hereinafter referred to as "automatic public transmission" in this item) (excluding the cases falling under the preceding item applies): to transmit the best execution policy, etc. automatically, or to transmit it by postal mail or a facsimile transmission device at the customers' request.

(3) A financial instruments business operator, etc. must include the best

execution policy, etc. in the document which it delivers pursuant to the provisions of Article 40-2, paragraph (4) of the Act.

- (4) The term to be specified by Cabinet Office Order as referred to in Article 40-2, paragraph (5) of the Act is three months.
- (5) The following matters must be stated in a document explaining that the order has been executed in accordance with its best execution policy, etc. as referred to in Article 40-2, paragraph (5) of the Act (hereinafter referred to as the "best execution report" in the following paragraph):
- (i) the issues and volumes of the transactions of securities, etc. pertaining to the orders, and information as to whether it was a sale or purchase transaction;
  - (ii) the date and time of the receipt of orders; and
  - (iii) the date and time of the contract, the financial instruments exchange market which has executed the order, and any other execution methods which have been implemented.
- (6) A financial instruments business operator, etc. which intends to deliver a best execution report pursuant to the provisions of Article 40-2, paragraph (5) of the Act must deliver it to the customer, within 20 days (if the financial instruments business operator, etc. has obtained consent from a customer that is a professional investor, within the consented period (limited to a period of 20 days or longer)) from the day when the customer requested the delivery thereof.

(Cases When Separate Management Is Ensured)

Article 125 The cases specified by Cabinet Office Order as provided in Article 40-3 of the Act are those in which the person conducting a business by the use of the money invested or contributed in the rights or securities specified in that Article (including the person executing the operation of such business; hereinafter referred to as the "business operator" in this Article) is required to fulfill the following requirements under the articles of incorporation (including the rules for such business, or any other contract or juridical act pertaining to the right or securities), and thereby it is ensured that such money is to be managed separately from the business operator's own property, or from the properties pertaining to any other business conducted by such business operator:

- (i) that the subject of the business to be conducted by the business operator using such money, as well as the method of the business operation thereof have been clarified, that the accounting of the properties pertaining to the business is handled separately for each property, and that the substance of the aforementioned particulars is appropriate in light of the protection of investors;
- (ii) that the money is managed in an appropriate manner, in accordance with

any of the following methods:

- (a) by making a deposit with another financial instruments business operator, etc. (but only if such other financial instruments business operator, etc. accepts the money as the securities, etc. management business), or with a person engaged in a securities, etc. management business in a foreign state in compliance with the laws and regulations of the foreign state;
- (b) by setting up a deposit or savings account at a bank, cooperative financial institution or the Shoko Chukin Bank Limited or with a person engaged in a business as specified in Article 10, paragraph (1), item (i) of the Banking Act in a foreign state in compliance with the laws and regulations of the foreign state (but only if it is obvious from the holder's name that such deposit or saving comprises such money);
- (c) by creating a money trust with a contractual agreement on the compensation of principal, with a financial institution engaged in a trust business or with a person engaged in a trust business in a foreign state in compliance with the laws and regulations of the foreign state (but only if it is obvious from the right holder's name that such money trust comprises such money); and
- (d) by entrusting the management to a Cryptoasset Exchange Service Provider, etc. (including the entrustment of the management to a person governed by special provisions of any Act other than the Payment Services Act for managing Cryptoassets for another person in the course of trade and limited to the case where it is obvious from the holder's name that the Cryptoasset comprises such money).

(Persons Excluded from as General Investors)

Article 125-2 (1) The persons to be specified by Cabinet Office Order as referred to in Article 40-4 of the Act are as follows:

- (i) a person that holds the position of a director, etc. (meaning a director, company auditor, executive officer, board member, auditor or any other person holding a position equivalent thereto) of the issuer of the securities for professional investors, and that, under the person's own name or another person's name, holds the voting rights exceeding 50 percent of the voting rights held by all the shareholders, etc. in the issuer (including the voting rights pertaining to a share or contribution which may not be duly asserted against the issuer pursuant to the provisions of Article 147, paragraph (1) or Article 148, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares (including if these provisions are applied mutatis mutandis pursuant to Article 228, paragraph (1), Article 235, paragraph (1), Article 239, paragraph (1) and Article 276 (limited to the parts pertaining to item (ii))); hereinafter referred to as the "subject voting rights" in this



- Article) (such person is hereinafter referred to as the "specified officer" in this Article), or the corporation, etc. under control of such specified officer (such corporation excludes the issuer);
- (ii) a company which, under its name or another person's name, holds the subject voting rights exceeding 50 percent of the voting rights held by all the shareholders, etc. in the issuer of the securities for professional investors (excluding the person specified in the preceding item);
  - (iii) an officer, etc. of the issuer of the securities for professional investors (such securities are limited to those specified in the following) (such officer, etc. is limited to one that conducts the purchase of the securities for professional investors (limited to a purchase made under a contract whereby the officer, etc., jointly with other officers, etc. of such issuer, conducts purchases continually in accordance with a certain plan, but not based on the respective investment decisions, and by the amount to be contributed by each of such officers, etc. on each occasion is less than one million yen), and excludes the person specified in item (i)):
    - (a) securities specified in Article 2, paragraph (1), item (ix) of the Act;
    - (b) securities specified in Article 2, paragraph (1), item (xi) of the Act, which are investment securities, investment equity subscription rights certificates or foreign investment securities similar to the investment securities or investment equity subscription rights certificates;
    - (c) securities specified in Article 2, paragraph (1), item (xvii) of the Act, which have nature of the securities specified in item (ix) of that paragraph;
    - (d) certificates of a beneficial interest in a securities trust (meaning the certificates of a beneficial interest in a securities trust prescribed in Article 2-3, item (iii) of the Order; the same applies hereinafter) of which entrusted securities (meaning the entrusted securities prescribed in that item; the same applies hereinafter) are the securities specified in (a) through (c); and
    - (e) securities specified in Article 2, paragraph (1), item (xx) of the Act which indicate the right pertaining to the securities specified in (a) through (c).
- (2) If the total of the subject voting rights held by the specified officer and those held by the corporation, etc. under control of specified officer, under their respective names or under the names of any other persons, constitutes the voting rights exceeding 50 percent of the voting rights held by all the shareholders, etc. in any other corporation, etc. (meaning a corporation or any other organization; hereinafter the same applies in this Article), such other corporation, etc. is deemed to be the corporation, etc. under control of such specified officer, and the provisions of item (i) of the preceding paragraph and this paragraph apply.
- (3) The "corporation, etc. under control" as used in paragraph (1), item (i) and the

preceding paragraph means the corporation, etc., whose subject voting rights exceeding 50 percent of the voting rights held by all the shareholders, etc. are held by a specified officer under the name of the specified officer or under the name of any other person.

- (4) The "officer, etc." as used in paragraph (1), item (iii) means the officer, etc. prescribed in Article 1-3-3, item (v) of the Order.

(Exception to Limitations on Purchase and Sale of Securities for Professional Investors)

Article 125-3 The cases to be specified by Cabinet Office Order as referred to in Article 40-4 of the Act are as follows:

- (i) if the financial instruments business operator, etc. conducts any of the following acts not through the solicitation of general investors (meaning the general investors prescribed in Article 40-4 of the Act; hereinafter the same applies in this Article and Article 125-6, paragraph (2), item (iv)):
- (a) purchasing from a general investor as the counterparty;
  - (b) providing a brokerage or agency service for general investors, in relation to a sale (excluding a sale to a general investor as the counterparty);
  - (c) providing an intermediation, brokerage, or agency service in relation to purchasing, to be provided to a person (excluding a general investor) that makes purchases from a general investor;
  - (d) providing an intermediation, brokerage, or agency service for general investors, in relation to an entrustment of sale on the financial instruments exchange market or the foreign financial instruments exchange market; and
  - (e) providing an intermediation, brokerage, or agency service for entrustment, which is to be provided to a person accepting from a general investor an entrustment of sale on the financial instruments exchange market or the foreign financial instruments exchange market.
- (ii) if the financial instruments business operator, etc. conducts the sale of share certificates, etc. (meaning the share certificates, etc. prescribed in Article 27-2, paragraph (1) of the Act; the same applies in the following item) pertaining to the tender offer prescribed in that paragraph (but only if the provisions of the main text of Article 27-2, paragraph (1) of the Act is applicable; the same applies in the following item);
- (iii) if the financial instruments business operator, etc. provides to a person implementing the tender offer prescribed in Article 27-2, paragraph (1) of the Act an intermediary or agency service for the purchase of share certificates, etc. pertaining to such tender offer (excluding the cases specified in item (i)); and
- (iv) if the financial instruments business operator, etc. provides to a person

implementing the tender offer prescribed in Article 27-22-2, paragraph (1) of the Act (but only if the provisions of the main text of that paragraph is applicable) an intermediary or agency service for the purchase of the listed share certificates, etc. prescribed in Article 24-6, paragraph (1) of the Act pertaining to such tender offer (excluding the cases specified in item (i)).

(Sales Not Requiring Notification Related to Securities for Professional Investors)

Article 125-4 (1) The sales to be specified by Cabinet Office Order as referred to in Article 16-7-2, item (i), (f) of the Order are as follows:

- (i) the sale of securities under a contract for cumulative investment (meaning a contract wherein a financial instruments business operator, etc. receives a money deposit from a counterparty and sells securities to that counterparty continuously on dates designated in advance while receiving a consideration payable out of such money deposit; hereinafter the same applies in item (i) of the following paragraph) (other than if the counterparty has neither acquired nor held in the past any securities whose were identical to such securities);
  - (ii) the sale of securities whose issues are identical to the securities specified in Article 2, paragraph (1), item (x) of the Act owned by the counterparty, by using the earnings generated from such securities; and
  - (iii) the sale of the securities specified in Article 2, paragraph (1), item (x) of the Act (limited to the beneficiary certificates of the bond investment trust prescribed in Article 25, item (ii) of the Regulation for Enforcement of the Act on Investment Trust and Investment Corporations, the accounting period of which is one day; referred to as the "specified beneficiary certificates of bond investment trust" in item (iii) of the following paragraph) (other than if the counterparty has neither acquired nor held in the past any securities whose issues were identical to such securities).
- (2) The services to be specified by Cabinet Office Order as referred to in Article 16-7-2, item (ii), (d) of the Order are as follows:
- (i) an intermediation, brokerage, or agency service for the purchase of securities conducted on a regular basis under a contract for cumulative investment (other than if the counterparty has neither acquired nor held in the past any securities whose issues were identical to such securities);
  - (ii) an intermediation, brokerage, or agency service for the purchase of securities whose issues are identical to the securities specified in Article 2, paragraph (1), item (x) of the Act owned by the counterparty, by using the earnings generated from such securities; and
  - (iii) an intermediation, brokerage, or agency service for the purchase of the specified beneficiary certificates of bond investment trust (other than if the counterparty has neither acquired nor held in the past any securities whose

issues were identical to such specified beneficiary certificates of bond investment trust).

(Means of Notification with Regard to Securities for Professional Investors)

Article 125-5 (1) A financial instruments business operator, etc. which intends to notify the counterparty pursuant to the provisions of Article 40-5, paragraph (1) of the Act must make a notice, before it conducts the act specified in Article 16-7-2 of the Cabinet Order (hereinafter referred to as an "act requiring notice" in this Article) (in the case of an act requiring notice specified in Article 16-7-2, item (i) of the Cabinet Order, before it concludes a contract for the performance of an act requiring notice) without making any solicitation for acquisition as specified in Article 2, paragraph (3) of the Act or solicitation for selling, etc. as specified in paragraph (4) of that Article.

(2) The matters to be specified by Cabinet Office Order as referred to in Article 40-5, paragraph (1) of the Act are as follows:

(i) that the securities for professional investors fall within the category of the securities for professional investors;

(ii) that the securities for professional investors do not fall under cases when disclosures have been made (meaning cases when disclosures have been made prescribed in Article 4, paragraph (7) of the Act);

(iii) that the provisions of Article 4, paragraphs (3), (5) and (6) of the Act are applicable to the solicitation for delivery of existing securities, etc. (meaning the solicitation for delivery of existing securities, etc. prescribed in Article 4, paragraph (2) of the Act; the same applies hereinafter) related to the securities for professional investors;

(iv) if, pursuant to the provisions of Article 27-31, paragraph (2) or (4) of the Act, specified information on securities, etc. (meaning the specified information on securities, etc. prescribed in Article 27-33 of the Act; the same applies hereinafter) pertaining to the solicitation for acquisition only for professional investors or the solicitation for selling, etc. only for professional investors conducted in relation to the securities in the past has been publicized, or where, pursuant to the provisions of Article 27-32, paragraphs (1) through (3) of the Act, the issuer's information, etc. (meaning the issuer's information, etc. prescribed in Article 27-34 of the Act; the same applies hereinafter) has been publicized, the fact of such publication and the means thereof (if such publication has been made through the internet, including information on a website address for such publication (the "website address" means the characters, numbers, marks or any other types of symbols or a combination thereof created for the purpose of the internet identification of the portion of the automatic public transmission server (meaning the automatic public transmission server prescribed in Article 2,

paragraph (1), item (ix)-5, (a) of the Copyright Act (Act No. 48 of 1970); the same applies hereinafter) to be made available, which enables recipients of the information to browse the contents of such information by inputting it into the computers they use));

(v) that the issuer's information, etc. will be published, or provided to the owner of the securities for professional investors, pursuant to the provisions of Article 27-32 of the Act.

(3) Notwithstanding the provisions of Article 40-5, paragraph (1) of the Act, if two or more financial instruments business operators, etc. are required to make a notification pursuant to that paragraph with regard to the same Act Requiring Notice, if one of such financial instruments business operators, etc. has made a notification of the matters listed in the items of the preceding paragraph, the other financial instruments business operator, etc. need not notify the matters listed in the items of that paragraph.

(Contracts for the Transaction of Securities for Professional Investors)

Article 125-6 (1) The matters to be specified by Cabinet Office Order as referred to in Article 40-5, paragraph (2) of the Act are as follows:

(i) a contract prescribing that purchase and sale of securities for professional investors through an act listed in Article 2, paragraph (8), item (x) of the Act (limited to such purchase and sale made through the intermediation, brokerage, or agency service of the financial instruments business operator that conducts that act) will be conducted;

(ii) a contract prescribing that purchase and sale of securities for professional investors with an authorized on-exchange transaction operator (limited to such purchase and sale made in an on-exchange financial instruments market) will be conducted; and

(iii) a contract prescribing that purchase and sale of securities for professional investors with an financial instruments clearing organization (if the financial instruments clearing organization engages in collaborative financial instruments obligation assumption services, including a collaborating clearing organization, etc.; hereinafter the same applies in this item) or foreign financial instruments clearing organization (limited to such purchase and sale pertaining to financial instruments obligation assumption service conducted by such financial instruments clearing organization or foreign financial instruments clearing organization (if the financial instruments clearing organization engages in collaborative financial instruments obligation assumption services, including collaborative financial instruments obligation assumption services)) will be conducted.

(2) The matters to be specified by Cabinet Office Order as referred to in Article 40-5, paragraph (2), item (i) of the Act are as follows:

- (i) that, unless otherwise provided for in the Act, the issuer of the securities for professional investors is not required to submit the documents listed in Article 25, paragraph (1), items (iv) through (x) of the Act;
- (ii) that the provisions of Article 4, paragraph (3), (5) and (6) of the Act apply to the solicitation for delivery of existing securities, etc. related to securities for professional investors;
- (iii) that the issuer's information, etc. will be published, or provided to the owner of the securities for professional investors, pursuant to the provisions of Article 27-32, paragraphs (1) through (3) of the Act; and
- (iv) that the financial instruments business operator, etc. may not, unless otherwise provided for by the Act, conduct an intermediation, brokerage, or agency service for the purchase and sale or any other acts listed in Article 2, paragraph (8), items (i) through (iv) and (x) of the Act in regard to the securities for professional investors, vis-a-vis a general investor, or for a general investor.

(Specified Over-the-Counter Derivatives Transactions)

- Article 125-7 (1) The transactions to be specified by Cabinet Office Order as referred to in Article 40-7, paragraph (1) of the Act are the transactions specified in Article 2, paragraph (22), item (v) of the Act wherein the parties mutually promise to pay money (limited to yen-denominated amount; hereinafter the same applies in this paragraph) based on an interest rate determined by one of the parties and the counterparty in relation to the amount fixed as principal (limited to the yen-denominated principal) or a variation rate of the market interest rate for the agreed period (hereinafter referred to as "interest rate, etc." in this paragraph) and the other party pays money based on the interest rate, etc. determined by one of the parties and the counterparty, which are to be designated by the Commissioner of the Financial Services Agency.
- (2) Notwithstanding the provisions of the preceding paragraph, if the transaction provided in that paragraph is a transaction which falls under any of the following items at the time of the conclusion of the contract for transaction, the transaction does not fall under the transaction to be specified by Cabinet Office Order as referred to in Article 40-7, paragraph (1) of the Act.
- (i) a transaction for which the accounting is to be settled as a transaction belonging to a trust account;
  - (ii) a transaction wherein the counterparty is a parent company, etc., a subsidiary company, etc. or a subsidiary company, etc. of the parent company, etc. (excluding the financial instruments business operator, etc.) of the financial instruments business operator, etc. that conducts the transaction;
  - (iii) a transaction wherein one or both of the parties is a person specified in any

of the following:

- (a) a person which is not a financial instruments business operator, etc. (limited to a bank which is a financial instruments business operator or registered financial institution engaged in type I financial instruments business, The Shoko Chukin Bank, Ltd., the Development Bank of Japan, a federation of Shinkin banks whose district is the entire nation or Norinchukin Bank);
- (b) a financial instruments business operator, etc. with the average total amount of notional principal for the over-the-counter derivatives transactions (limited to the transactions subject to trade data, and excluding those accounted for as belonging to a trust account) as of the end of each month during the period from April which is two years before the year in which the time of conclusion of the contract pertaining to the transaction falls to March of the preceding such year (if the time falls in December, the period from April of the preceding year to March of the relevant year) is expected to be less than 6 trillion yen (excluding a person specified in (a)); and
- (iv) transactions conducted by the financial instruments business operator, etc. if any failure occurs which requires the suspension of use of an electronic data processing system to be used for the business of over-the-counter derivatives transactions, etc. or any other case in special circumstances in which it is deemed inappropriate to conduct transactions, etc. of the financial instruments business operator, etc. using the electronic data processing system to be used for the business of over-the-counter derivatives transactions, etc. as designated by the Commissioner of the Financial Services Agency.

(Means of Public Announcement)

Article 125-8 (1) A person that intends to make a public announcement pursuant to Article 40-7, paragraph (2) of the Act (including as applied mutandis pursuant to Article 60-14, paragraph (2) of the Act; the same applies in the following paragraph) must publicize the matters specified in the upper column of the Appended Table immediately after the implementation of specified over-the-counter derivatives transactions using the electronic data processing system.

(2) Notwithstanding the provisions of the preceding paragraph, if the amount of notional principal determined by the parties in a specified over-the-counter derivatives transaction exceeds the amount specified in the following items according to the categories of the period between the day when the over-the-counter derivatives transaction takes effect and the day of expiration of the effect as set forth therein, respectively, a person that intends to make a public

announcement pursuant to Article 40-7, paragraph (2) of the Act must publicize the matters specified in the upper column of Appended Table no later than the business day immediately following the day when the over-the-counter derivatives transaction was implemented using the electronic data processing system:

- (i) a period not exceeding three months: 300 billion yen;
- (ii) a period exceeding three months but not exceeding six months: 60 billion yen;
- (iii) a period exceeding six months but not exceeding one year: 55 billion yen;
- (iv) a period exceeding one year but not exceeding two years: 50 billion yen;
- (v) a period exceeding two years but not exceeding five years: 20 billion yen;
- (vi) a period exceeding five years but not exceeding ten years: 10 billion yen;
- (vii) a period exceeding ten years but not exceeding thirty years: 5 billion yen;
- (viii) a period exceeding thirty years: 2 billion yen.

#### **Subsection 2 Special Provisions on Investment Advisory Business and Investment Management Business**

(Prohibited Acts in Relation to Investment Advisory Business)

Article 126 The acts to be specified by Cabinet Office Order as referred to in Article 41-2, item (vi) of the Act are as follows:

- (i) to advise to conduct any transaction which prejudice the customer's interests, in an attempt to gain a profit for itself or any third party;
- (ii) to advise to conduct any transaction which may result in an unjust increase in transaction volumes or creation of manipulative prices, in regard to the purchase and sale or other transaction of securities.; and
- (iii) if the related foreign corporation, etc. (meaning the party specified in Article 32, item (iii), which falls under any of the items of Article 15-16, paragraph (1) of the Order or the items of paragraph (2) of that Article; hereinafter the same applies in this item, Article 130, paragraph (1), item (ix), (a), and item (xv), (c), 2.) of the financial instruments business operator conducts a public offering or private placement of securities, and if the amount pertaining to applications for the acquisition or purchase of the securities made to such related foreign corporation, etc. is likely to become less than the amount scheduled by such related foreign corporation, etc., to advise, upon the request of such related foreign corporation, etc., to acquire or purchase of such securities.

(Exemption of Prohibition of Acceptance, etc. of Deposit of Money or Securities)

Article 126-2 The cases to be specified by Cabinet Office Order as referred to in Article 16-9, item (iii) of the Cabinet Order are where a person governed by



special provisions of any Act manages Cryptoassets for another person in the course of trade.

(Persons Excluded from as Persons Closely-Related to a Financial Instruments Business Operator)

Article 127 The persons to be specified by Cabinet Office Order as referred to in the non-itemized part of Article 16-10 of the Order are as follows:

- (i) a financial instruments business operator (limited to an operator engaged in a securities, etc. management business);
- (ii) a bank;
- (iii) a cooperative financial institution;
- (iv) an insurance company;
- (v) a trust company; and
- (vi) The Shoko Chukin Bank Limited.

(Exclusion from Prohibition of Self-Dealing)

Article 128 The acts set forth in Article 42-2, item (i) of the Act which are specified by Cabinet Office Order as referred to in that Article are as follows:

- (i) to make an investment whose purpose is providing a brokerage service for the purchase and sale of securities or derivative transactions in connection with the invested properties, as type I financial instruments business, type II financial instruments business or registered financial institution business; and
- (ii) to make an investment whose purpose is to conduct a transaction which satisfies all of the following requirements:
  - (a) that, with regard to each transaction, all right holders (if the right holder is a registered investment corporation as prescribed in Article 2, paragraph (13) of the Act on Investment Trust and Investment Corporations, it means an investor as prescribed in paragraph (16) of that Article; the same applies in (a), Article 129, paragraph (1), item (ii), (a) and item (v), (b) and (c), and Article 130, paragraph (1), item (vi)) have been given an explanation on, and have consented to, the details of the transaction and the reason for conducting such transaction (such explanation is referred to as an "explanation on transaction" in 2. below) (in cases of any transaction to be conducted if any contract or any other juridical act pertaining to the rights listed in Article 2, paragraph (8), item (xv), (a) through (c) of the Act provides all of the following matters, the consent includes the consent specified in 1. below):
    1. that the act specified in Article 42-2, item (i) of the Act may be conducted subject to the consent of at least a half of all right holders (or, if a larger proportion has been prescribed, at least such proportion),

- and at least three-fourths of the rights listed in Article 2, paragraph (8), item (xv), (a) through (c) of the Act held by all right holders (or, if a larger proportion has been prescribed, at least such proportion);
2. that, if any right holder refuses to consent to the act specified in Article 42-2, item (i) of the Act, and if such right holder requests within 20 days (or, if a longer period has been prescribed, within such period) after the right holder was given an explanation on the transaction, such right holder's rights as listed in Article 2, paragraph (8), item (xv), (a) through (c) of the Act are purchased at a fair value using the investment property, before the day on which 60 days (or, if a shorter period has been prescribed, before such period) have elapsed from the day when that act was conducted (including the fact that the contract pertaining such right is cancelled);
- (b) that the transaction falls under any of the following:
1. a purchase and sale of securities on the financial instruments exchange market or the over-the-counter securities market;
  2. market transactions of derivatives or foreign market derivatives transactions; and
  3. a transaction conducted at a value calculated based on the closing price published on the immediately preceding day, or at a price equivalent thereto calculated in accordance with a reasonable formula.
- (iii) to make any other investment whose purpose is to conduct any transaction approved by the Commissioner of the Financial Services Agency or other competent official as being unlikely to result in insufficient protection for investors, harm to the fairness of transactions or cause a loss of confidence in the financial instruments business.

(Exclusion from Prohibition of Transactions Between Investment Properties)

Article 129 (1) The acts to be specified by Cabinet Office Order as referred to in Article 42-2 of the Act are as follows:

- (i) to make an investment whose purpose is to conduct any transaction which satisfies all of the following requirements:
- (a) that the transaction falls under any of the following cases:
1. that the transaction is to be conducted for the purpose of terminating the investment of certain investment property;
  2. that the transaction is to be conducted for the purpose of payment of a cancellation money pertaining to the securities specified in Article 2, paragraph (1), item (x) of the Act, a refund pertaining to the securities specified in item (xi) of that paragraph or a refund pertaining to the rights specified in Article 2, paragraph (8), item (xv), (a) through (c) of the Act;

3. that the transaction is to be conducted if the amount of the assets targeted for investment held or the holding ratio thereof is likely to exceed the limit provided by the laws and regulations or by the contract or any other juridical act listed in the items of Article 42-3, paragraph (1) of the Act, for the purpose of preventing such amount or ratio from exceeding such limit; or
  4. that it is found to be necessary and reasonable to conduct the transaction, with regard to both of the relevant investment properties, in light of the investment policy, the amount of the investment properties and the status of the market.
- (b) a purchase and sale or other transaction of subject securities, etc. to be conducted at the fair value pursuant to the provisions of paragraph (3);
- (ii) to make an investment whose purpose is to conduct a transaction which satisfies all of the following requirements:
- (a) that, with regard to each transaction, all the right holders of both of the investment properties have been given an explanation on, and have consented to, the details of the transaction and the reason for conducting such transaction (such explanation is referred to as an "explanation on transaction" in this item to item (v)) (with regard to a transaction to be conducted as an act listed in Article 2, paragraph (8), item (xv), (a) through (c) of the Act, if the contracts or any other juridical acts related to both investment properties which pertains to such rights provides all of the following matters, the consent includes the consent pertaining to both investment properties as specified in 1. below):
    1. that the act specified in Article 42-2, item (ii) of the Act may be conducted subject to the consent of at least half of all right holders (or, if a larger proportion has been prescribed, at least such proportion), and at least three-fourths of the rights listed in Article 2, paragraph (8), item (xv), (a) through (c) of the Act held by all right holders (or, if a larger proportion has been prescribed, at least such proportion);
    2. that, if any right holder refuses to consent to the act specified in Article 42-2, item (ii) of the Act, and such right holder requests within 20 days (or, if a longer period has been prescribed, within such period) after the right holder was given an explanation on the transaction, such right holder's rights as listed in Article 2, paragraph (8), item (xv), (a) through (c) of the Act are purchased at a fair value using the investment property, before the day on which 60 days (or, if a shorter period has been prescribed, before such period) have elapsed from the day when that act was conducted (including the fact that the contract pertaining to such right is cancelled);
  - (b) that the transaction falls under any of item (ii), (b), 1. through 3. of the

- preceding Article;
- (iii) to make an investment whose purpose is to conduct a transaction which satisfies all of the following requirements (limited to a transaction for which specially-permitted business for qualified institutional investors, etc. (meaning the act specified in Article 63, paragraph (1), item (ii) of the Act for which the equity in business subject to investment regarding that act satisfies the requirements specified in Article 17-12, paragraph (2) of the Order; the same applies in Article 134, paragraph (1), item (iii), (c) are to be conducted; the same applies hereinafter):
    - (a) that explanation on the individual transaction is given to all right holders of both of the investment properties, and the transaction is approved by not less than two-thirds (or, if a higher proportion has been provided, such proportion) of the equities in business subject to investment held by all right holders;
    - (b) a purchase and sale or other transaction of subject securities, etc. to be conducted at a fair value conducted pursuant to the provisions of paragraph (3), or a purchase and sale of a beneficial interest in real property trust at a value calculated by a reasonable method;
  - (iv) to make an investment whose purpose is to conduct transactions satisfying all of the following requirements:
    - (a) that explanation on the individual transaction (including the method of calculation of the value of transaction) is given to all right holders of both of the investment properties, and the transaction is approved by not less than two-thirds (or, if a higher proportion has been provided, such proportion) of the equities in business subject to investment held by all right holders; and
    - (b) that the transaction is not a purchase and sale or other transaction of subject securities, etc. or a transaction for the purchase and sale of beneficial interest in real property trust.
  - (v) to make an investment whose purpose is to conduct transactions satisfying all of the following requirements:
    - (a) that the investment falls under the acts specified in item (xii) or (xv) (limited to the part pertaining to sub-item (c)) of Article 2, paragraph (8) of the Act;
    - (b) that all right holders of both of the investment properties (if the investment falls under the acts specified in item (xii) (limited to the part pertaining to sub-item (b)) of Article 2, paragraph (8) of the Act, excluding a counterparty of the contract specified in sub-item (b) of that item) are qualified institutional investors;
    - (c) that an explanation on the individual transaction is given to all right holders of both of the investment properties, and the transaction is

- approved by not less than two-thirds (or, if a higher proportion has been provided for, that proportion) of the rights held by all right holders; and
- (d) that the transaction is a transaction for the purchase and sale of beneficial interest in real property trust conducted at a value calculated in accordance with a reasonable formula;
- (vi) to make any other investment whose purpose is conducting a transaction approved by the Commissioner of the Financial Services Agency or other competent official as being unlikely to result in insufficient protection for investors, harm to the fairness of transactions or cause a loss of confidence in the financial instruments business.
- (2) The "purchase and sale or other transaction of subject securities, etc." as used in item (i), (b), item (iii), (b) and item (iv), (b) of the preceding paragraph are as follows:
- (i) the purchase and sale of the following securities (including the securities specified in Article 2, paragraph (1), item (xx) of the Act indicating the rights pertaining to the following securities, and the rights regarded as the securities under paragraph (2) of that Article which are indicated on the following securities):
- (a) securities listed on financial instruments exchange;
  - (b) over-the-counter traded securities;
  - (c) securities listed on a designated foreign financial instruments exchange (meaning a designated foreign financial instruments exchange provided in Article 2-12-3, item (iv), (b) of the Order; the same applies in item (iii) of the following paragraph and Article 130, paragraph (3), item (ii));
  - (d) Securities other than those specified in (a) through (c), as specified in the following:
    1. the securities specified in Article 2, paragraph (1), items (i) through (v) of the Act (including the securities specified in item (xvii) of that paragraph which have the nature of such securities);
    2. the securities specified in Article 2, paragraph (1), item (ix) of the Act (including the securities specified in item (xvii) of that paragraph which have the nature of such securities) whose prices are publicized in accordance with the rules prescribed by an authorized financial instruments firms association, or by any organization with characteristics similar thereto established in a foreign state; and
    3. the securities specified in Article 2, paragraph (1), items (x) and (xi) of the Act;
- (ii) market transactions of derivatives; and
- (iii) foreign market derivatives transactions.
- (3) The purchase and sale or other transaction of subject securities, etc. as specified in paragraph (1), item (i), (b) and item (iii), (b) of that paragraph are

conducted by the means specified in each of the following items, in accordance with the categories of transactions set forth respectively therein:

- (i) the purchase and sale of securities specified in item (i), (a) of the preceding paragraph: a transaction conducted on the financial instruments exchange market, or a transaction conducted at a value calculated based on the closing price published on the immediately preceding day or a price equivalent thereto calculated in accordance with a reasonable formula;
- (ii) the purchase and sale of securities specified in item (i), (b) of the preceding paragraph: a transaction conducted on the over-the-counter traded securities market, or a transaction conducted at a value calculated based on the closing price published on the immediately preceding day or a price equivalent thereto calculated in accordance with a reasonable formula;
- (iii) the purchase and sale of securities specified in item (i), (c) of the preceding paragraph: a transaction conducted on the designated foreign financial instruments exchange, or a transaction conducted at a value calculated based on the closing price published on the immediately preceding day or a price equivalent thereto calculated in accordance with a reasonable formula;
- (iv) the purchase and sale of securities specified in item (i), (d) of the preceding paragraph: a transaction conducted at a value calculated based on the closing price published on the immediately preceding day, or a value equivalent thereto calculated in accordance with a reasonable formula;
- (v) a transaction specified in item (ii) of the preceding paragraph: a transaction to be conducted on a financial instruments market; and
- (vi) a transaction specified in item (iii) of the preceding paragraph: a transaction to be conducted on a foreign financial instruments market.

(Exemption of Prohibition of Compensation of Losses Relating to Investment Management Business)

Article 129-2 The investment trust to be specified by Cabinet Office Order as referred to in Article 42-2, item (vi) of the Act is a bond investment trust provided in Article 25, item (ii) of the Regulation for Enforcement of Act on Investment Trusts and Investment Corporations (limited to the bond investment trust of which accounting period is one day), for which beneficial interest is acquired or held for the purpose of providing it for paying or receiving money in the purchase and sale of securities or any other transactions between a right holder and a financial instruments business operator, etc.

(Prohibited Acts in Relation to Investment Management Business)

Article 130 (1) The acts to be specified by Cabinet Office Order as referred to in Article 42-2, item (vii) of the Act are as follows:

- (i) an act of making an investment whose purpose is to conduct a transaction (excluding the acts listed in the items of Article 128), with an auditor of itself, with a person holding a position similar to an officer thereof, or with an employee thereof;
- (ii) an act of making an investment whose purpose is to conduct any transaction which would prejudice the right holder's interests, in an attempt to gain profit for itself or for any third party;
- (iii) an act of making an investment whose purpose is to conduct any transaction in connection with the investment management business it performs, which is deemed unnecessary in light of the management policy, the amount of investment property or the status of the market (excluding the acts specified in Article 44-3, paragraph (1), item (iii) and Article 44-3, paragraph (2), item (iii) of the Act), in an attempt to gain profit for any third party;
- (iv) an act of making an investment of the investment property if there is any unreasonable limit to the transaction or any other restriction imposed by a third party;
- (v) an act of making an investment whose purpose is to conduct any transaction which aims to unjustly increase the transaction volumes or to create manipulative prices, in connection with the purchase and sale or other transaction of securities.;
- (vi) an act of making an investment whose purpose is to conduct a transaction with a third party, wherein the financial instruments business operator, etc. acts as an agent of such third party (excluding an investment to be made on behalf of such third party as type I financial instruments business, type II financial instruments business or registered financial instrument business, and also excluding an investment to be made if, for each of the individual transactions, the financial instruments business operator, etc. has, in advance, provided all right holders with an explanation on the contents of and reason for conducting such transaction and has obtained consent thereon from all such right holders);
- (vii) in connection with an investment of investment property, an act of specifying the investment property after the application for transaction has been made;
- (viii) if, in connection with the investment property (limited to the investment property pertaining to the business of conducting the act specified in Article 2, paragraph (8), item (xiv) of the Act; hereinafter the same applies in this item through item (viii)-3 and the following paragraph), the amount calculated in accordance with a reasonable formula predetermined by the financial instruments business operator, etc. as the amount equivalent to the risk which may accrue from reasons such as fluctuations in the interest rate,

- currency values, quotations on a financial instruments market or any other indicators will exceed the net assets of the investment property, an act of making an investment whose purpose is to conduct or to continue derivative transactions (including transactions of share option certificates, investment equity subscription rights certificates or instruments or certificates indicating options, and the trading of bonds with options);
- (viii)-2 in relation to the investment properties, to make an investment whose purpose is to conduct transactions which do not comply with the reasonable method determined in advance by the financial instruments business operator, etc. as a method for appropriately managing a credit risk (meaning risk that may arise in relation to the securities held or other assets due to the default of the counterparty to the transaction or any other reasons);
- (viii)-3 in relation to the investment properties, to make the investment without taking reasonable measures to prevent the situation where it is no longer possible to respond to the right holder's offer to terminate the management related to liquidity of securities held or other assets;
- (ix) if the person specified in any of the following conducts the underwriting of securities, etc. (meaning the acts listed in Article 2, paragraph (8), items (vi) through (ix) of the Act; the same applies in Article 147, item (iv), Article 153, paragraph (1), item (xiii) and Article 154, item (vii)), and if the amount pertaining to applications for the acquisition or purchase of the securities made to such person (if the person implements those listed in Article 2, paragraph (6), item (iii) of the Act, the exercise of share option prescribed in that item by the person that acquired the share option) is likely to be less than the amount scheduled by such person, an act of making an investment whose purpose is the acquisition or purchasing of such securities (if the person implements those listed in that item, securities acquired by the exercise of the share option), upon the request of such person:
- (a) a related foreign corporation, etc. of the financial instruments business operator, etc.; or
- (b) a person whose total amount of securities pertaining to the investment property for which the acts listed in Article 2, paragraph (8), items (i) through (iii), (viii) and (ix) of the Act were conducted (limited to the securities indicating the rights of the holder of such investment properties or such rights; hereinafter the same applies in this item) in the immediately preceding two business years exceeds 50 percent of the amount of securities pertaining to the investment properties issued in the immediately preceding two business years;
- (x) if the financial instruments business operator, etc. entrusts all or part of its authority to make investments for the right holders pursuant to the provisions of Article 42-3, paragraph (1) of the Act, an act of such



- entrustment without taking measures to ensure that the entrusted person will not re-entrust the authority so entrusted (excluding a case in which a part of such authority is to be re-entrusted to a person specified by Cabinet Order as referred to in that paragraph (limited to a case in which measures to prevent such re-entrusted person from making any entrustment of the authority so re-entrusted have been taken));
- (xi) if the financial instruments business operator, etc. receives deposit from customer into an account held under its name the money or securities belonging to the customer's account for the purpose of settlement of transactions pursuant to the provisions of the proviso to Article 42-5 of the Act, an act of utilizing such account for any purpose other than settlement of the relevant transactions, or retaining such money or securities within such account for a period exceeding the period necessary for the settlement of the relevant transactions;
- (xii) if a person has learned that the Former Cabinet Order for Employees' Pension Fund before the repeal under Article 1 of the Cabinet Order on Revision, etc. Accompanying the Partial Enforcement of the Act for Partial Revision to the Employees' Pension Insurance Act, etc. to Ensure the Integrity and Reliability of the Public Pension System (Cabinet Order No. 73 of 2014) which remains in force pursuant to Article 3, paragraph (2) of the Cabinet Order on Transitional Measures Accompanying the Enforcement of the Act for Partial Revision to the Employees' Pension Insurance Act, etc. to Ensure the Integrity and Reliability of the Public Pension System (Cabinet Order No. 74 of 2014; referred to as "2014 Cabinet Order on Transitional Measures" in the following item) is likely to violate the provisions of Article 39-15, paragraph (1) of the Cabinet Order for Employees' Pension Fund (Cabinet Order No. 324 of 1966; referred to as "former cabinet order for employees' pension fund"), an act of not informing the surviving employee's pension fund of that fact;
- (xiii) if a surviving employee's pension fund violates the provisions of Article 30, paragraph (3) of the Former Cabinet Order for Employees' Pension Fund which remains in force pursuant to Article 3, paragraph (2) of the 2014 Cabinet Order on Transitional Measures and orders to have the surviving employee's pension fund acquire specific financial instruments or orders related to specific transactions as investment of investment properties, an act of responding thereto;
- (xiv) with regard to fund management, an act of providing the surviving employee's pension fund with a conclusive assessment of a matter that is uncertain or providing with information that could mislead the customer into believing that a matter that is uncertain is actually certain; and
- (xv) if a right holder (excluding a professional investor; hereinafter the same

applies in (a), 1. and paragraph (3), item (i)) entrusts management of investment property (limited to those pertaining to operations to implement the act listed in Article 2, paragraph (8), item (xii) of the Act based on a discretionary investment contract; hereinafter the same applies in this item and paragraph (3)) to a trust company, etc. (meaning a trust company or a financial institution engaged in a trust business; hereinafter the same applies in this item and paragraph (3), item (i)), the fact that with regard to the investment of investment properties, a financial instrument transaction operator in charge of the investment applies for acquisition or purchase of the subject securities without fulfilling the following requirements:

(a) to take any of the following measures as necessary measures for the trust company, etc. to learn the true value of the subject securities:

1. measures to ensure that the trust company, etc. receives information on the price of the subject securities directly from the person that calculates the value once or more in six months (if the right holder is a surviving employee's pension fund, three months); and
2. measures to ensure that the trust company, etc. can check the value of the subject securities directly with the person that calculates the value;

(b) to implement a fund audit pertaining the assets invested or paid by the person that holds a right pertaining to the subject securities; and

(c) to take any of the following measures as necessary measures for the trust company, etc. to receive the provision of the true audit report, etc. of the fund audit set forth in (b):

1. measures to ensure that the trust company, etc. receives the provision of the audit report, etc. of the fund audit directly from the person that implements the fund audit;
2. measures to ensure that the trust company, etc. receives the provision of an audit report, etc. of the fund audit from the person that implements the fund audit via a person other than the financial instruments business operator or parent corporation, etc., subsidiary corporation, etc., or related foreign corporation, etc. of the financial instruments business operator; and
3. other measures to ensure that the trust company, etc. receives the provision of the true audit report of the fund audit.

(2) The provisions of the preceding paragraph (limited to the parts pertaining to item (viii) through item (viii)-3) do not apply if, with regard to the beneficiary certificates pertaining to the investment property (meaning the securities indicating the rights of the holder pertaining to such investment property, or such rights; hereinafter the same applies in this paragraph), the solicitation of an application for the acquisition thereof had been conducted through private

placement of securities (other than if, with regard to beneficiary certificates pertaining to any other investment property whose purpose is the acquisition of the above-mentioned beneficiary certificates, the solicitation of an application for the acquisition thereof had been conducted through a public offering of securities).

- (3) The "subject securities" as used in paragraph (1), item (xv) mean the subject securities prescribed in Article 96, paragraph (4) (excluding the following):
- (i) beneficiary certificates of an investment trust, if a trustee of the investment trust is a trust company, etc. that accepts investment of the right holder's investment property and type of assets subject to the investment is limited to the following by the basic terms and conditions of the investment trust (meaning the basic terms and conditions of the investment trust prescribed in Article 4, paragraph (1) of the Order for the Enforcement of the Act on Investment Trusts and Investment Corporations; the same applies in (g)):
    - (a) securities listed on a financial instruments exchange;
    - (b) national government bonds;
    - (c) rights pertaining to market transactions of derivatives;
    - (d) forward exchange transactions (meaning the forward exchange transactions prescribed in Article 57, paragraph (2) of the Regulation on Accounting for Investment Trust Property (Prime Minister's Office Order No. 133 of 2000));
    - (e) deposits;
    - (f) a call loan; and
    - (g) beneficiary certificates (limited to those for which a trustee of the investment trust is a trust company, etc. that accepts management of the right holder's investment property and the type of assets subject to the investment is limited to those listed in (a) through (f) by the basic terms and conditions of the investment trust of the mother fund) of mother funds (meaning the mother funds prescribed in Article 13, item (iii), (b) of the Regulation for Enforcement of the Act on Investment Trusts and Investment Corporations);
  - (ii) beneficiary securities listed on the designated foreign financial instrument exchange.
- (4) The "fund audit" as used in paragraph (1), item (xv), (b) means an external audit that fulfills the requirements specified by the rules of a financial instruments firms association to which the financial instruments business operator belongs (limited to rules specified by the Commissioner of the Financial Services Agency (hereinafter referred to as "association rules" in this paragraph and the following paragraph); in cases of a financial instruments business operator that is not a member of the financial instruments firms association which specifies the association rules, rules specified by the

Commissioner of the Financial Services Agency).

- (5) The following matters must be specified by the association rules:
- (i) matters related to balance sheets, profit and loss statements, and other documents related to financial and accounting documents that are subject to an external audit;
  - (ii) matters related to the body implementing the external audit;
  - (iii) matters related to the standards and procedures of the external audit; and
  - (iv) in cases of changing the association rules, the fact of informing the Commissioner of the Financial Services Agency of the content in advance.
- (6) The "audit report, etc." set forth in paragraph (1), item (xv), (c) means the documents (including the copy thereof and electronic or magnetic records) in which the person that implemented the fund audit prescribed in paragraph (4) states the results of the fund audit and balance sheet, profit and loss statement, and other documents related to finance and accounting that are subject to the fund audit (including electronic or magnetic records).

(Matters Related to Entrustment of Authority of Investment)

Article 131 The matters to be specified by Cabinet Office Order as referred to in Article 42-3, paragraph (1) of the Act are as follows:

- (i) to the effect that all or part of the authority to make investments for the right holder is to be entrusted (including if a part of the authority so entrusted is to be re-entrusted; hereinafter the same applies in this Article), and the trade name or the name of the entrusted party (if the entrusted party is a financial instruments business operator that is authorized pursuant to Article 29 of the Act for engaging in an investment management business for qualified investors, including to that effect);
- (ii) an outline of the entrustment; and
- (iii) if the remuneration for the entrustment is to be disbursed from the investment property, the amount of such remuneration (if the amount of the remuneration has not been fixed in advance, the method of calculation thereof).

(Separate Management)

Article 132 (1) If a financial instruments business operator, etc. manages investment property pursuant to the provisions of Article 42-4 of the Act, and such investment property comprises money (including Cryptoassets; the same applies in the following paragraph), it must manage such money in accordance with the methods specified in Article 125, item (ii), (a) through (d).

- (2) If a financial instruments business operator, etc. manages an investment property pursuant to the provisions of Article 42-4 of the Act, and such investment property comprises securities, etc. (meaning property other than

money, such as securities; hereinafter the same applies in this Article), it must money such securities, etc. in accordance with the methods specified in the following items, in accordance with the types of the securities, etc. set forth respectively therein:

- (i) securities, etc. managed by the financial instruments business operator, etc. itself by taking custody thereof (excluding the securities, etc. to be retained by way of commingled custody; the same applies in the following item): a method whereby the place of the custody of the securities, etc. included in an investment property (hereinafter referred to as the "invested securities, etc." in this Article) is clearly distinguished from the place of the custody of the securities, etc. which constitute the proprietary assets of the financial instruments business operator, etc. (hereinafter referred to as the "own securities, etc." in this paragraph) or any securities, etc. other than the invested securities, etc., and by the investment property to which such invested securities, etc. belong is immediately identifiable;
- (ii) securities, etc. managed by the financial instruments business operator, etc. by way of having a third party take custody thereof: a method whereby the financial instruments business operator, etc. causes the third party to make a clear distinction between the place of the custody of the invested securities, etc. and the place of the custody of the own securities, etc. and to retain the custody of the invested securities, etc. in a manner such that the investment property to which such invested securities, etc. belong is immediately identifiable;
- (iii) securities, etc. managed by the financial instruments business operator, etc. itself by taking custody thereof (limited to securities to be retained by way of commingled custody; the same applies in the following item): a method whereby the place of the custody of the invested securities, etc. is clearly distinguished from the place of the custody of the own securities, etc., and by the share of each investment property pertaining to such invested securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc.;
- (iv) securities, etc. managed by the financial instruments business operator, etc. by way of having a third party take custody thereof: a method whereby the financial instruments business operator, etc. causes the third party to take custody thereof by segregating the account for such financial instruments business operator, etc. from the account for the investment properties of the financial instruments business operator, etc. or by any other method, so that the share pertaining to the invested securities, etc. is immediately identifiable and that the share of each investment property pertaining to such invested securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc. (if the financial

instruments business operator, etc. causes a foreign third party to take custody thereof, and if the laws and regulations of the foreign state hinder the financial instruments business operator, etc. from having such third party take custody thereof by separating the share pertaining to the invested securities, etc. and the share pertaining to the own securities, etc., or if there are any especially unavoidable grounds which prevent such financial instruments business operator, etc. from having a third party take custody of the securities in a manner which enables immediate identification of the shares pertaining to such invested securities, etc. based on the books of such financial instruments business operator, etc., a method whereby the financial instruments business operator, etc. causes such third party to take custody thereof in a manner such that the share of each investment property pertaining to such invested securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc.);

- (v) Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. managed by the Financial Instruments Business Operator, etc. by itself: the method set forth in sub-items (a) and (b) (with regard to the minimum level of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that are required to be managed by a method other than the method set forth in sub-item (b) for the purpose of securing the convenience of the Right Holders pertaining to Investment Property for the Investment Management Business (limited to the operation to conduct the act set forth in Article 2, paragraph (8), item (xv) of the Act; hereinafter the same applies in this and the following items) and promoting smooth conduct of the Investment Management Business, in light of the situation of the Investment Management Business that it conducts, the method set forth in sub-item (a)):
- (a) a method to manage Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Invested Securities, etc. by clearly separating them from the Own Securities, etc. in a manner to make it immediately identifiable to which Investment Property said Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. belong (including a manner to ensure that the share of each Investment Property pertaining to such Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Invested Securities, etc. is immediately identifiable based on the books of said Financial Instruments Business Operator, etc.; the same applies in sub-item (a) of the following item); and
- (b) a means of managing information necessary for transferring the representation of values representing the electronically recorded transferable rights to be indicated on securities, etc. that constitute invested securities, etc., which involves recording them onto electronic

equipment, an electronic or magnetic recording medium, or any other such recording medium that is not connected to the internet at any time (including a document or any other such object), or a means of managing that information by taking technological security control measures equivalent to this;

- (vi) Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that the Financial Instruments Business Operator, etc. cause a third party to manage: the method set forth in sub-items (a) and (b) (with regard to the minimum level of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that are required to be managed by a method other than the method set forth in sub-item (b) for the purpose of securing the convenience of the Right Holders pertaining to Investment Property for the Investment Management Business and promoting smooth conduct of the Investment Management Business, in light of the situation of the Investment Management Business that it conducts, the method set forth in sub-item (a)):
  - (a) a method to cause the third party to manage Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Invested Securities, etc. by clearly separating them from the Own Securities, etc. in a manner to make it immediately identifiable to which Investment Property said Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. belong; and
  - (b) a method reasonably found to ensure the protection of Investment Property at an equivalent level to the level in the case of the management by the Financial Instruments Business Operator, etc. itself with regard to the preservation of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Invested Securities, etc.;
- (vii) rights regarded as securities under Article 2, paragraph (2) of the Act, rights pertaining to derivative transactions, or any other securities, etc. (excluding those listed in the foregoing items): the methods specified in (a) or (b) below, in accordance with the cases set forth respectively therein:
  - (a) if there are documents evidencing the rights pertaining to the securities, etc. or any other document, which are necessary upon the exercise of such rights: to regard those documents as securities, etc. and manage them in accordance with the categories of the securities as listed in items (i) to (iv); and
  - (b) in cases other than the case specified in (a): to cause a third party to manage precisely the rights pertaining to the securities, etc. by treating them as the invested securities, etc. and to manage them in a condition such that status of the management thereof is immediately identifiable based on the books of the financial instruments business operator, etc.
- (3) Notwithstanding the provisions of the preceding paragraph, if the securities,

etc. are co-owned by the financial instruments business operator, etc. and investment property, and it is impossible to manage them as specified by the provisions of that paragraph, the financial instruments business operator, etc. must manage them in a condition such that the share of each investment property pertaining to such invested securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc.

(Exclusion from Prohibition of Loans of Money or Securities in Relation to Investment Management Business)

Article 133 The cases specified by Cabinet Office Order as prescribed in Article 16-13, item (vi) of the Order are those in which a financial instruments business operator provides an intermediary or brokerage service for the loan of money or securities to an investment corporation engaged in investment of the assets.

(Delivery of Investment Reports)

Article 134 (1) The following particulars (for the particulars set forth in items (ix) through (xi), this is limited to cases in which investment properties related to the operation to implement acts listed in Article 2, paragraph (8), item (xii) of the Act based on a discretionary investment contact) must be stated in an investment report set forth in Article 42-7, paragraph (1) of the Act (hereinafter simply referred to as the "investment report" in this Article and the following Article):

- (i) the reporting period (meaning the period between the day following the latest base date (meaning the date based on which the investment report is prepared; hereinafter the same applies in this Article) (in cases of the investment report is prepared for the first time, the date when the investment of the investment property is commenced) and the base date for such relevant investment report; hereinafter the same applies in this Article) for the relevant investment report;
- (ii) the following matters, as the status of the investment property as of the base date of the relevant investment report:
  - (a) the amount of money (including the amount of Cryptoassets);
  - (b) the issues, volumes and value of the securities; and
  - (c) the issues (including financial instruments or financial indicators or any others similar thereto which will be the subject of the transactions; the same applies in (d), 2. of the following item), the agreed volumes (if there are no volumes, the number of transactions, or any other information equivalent the volumes; the same applies in (d), 2. of that item), and the unit price, etc. (meaning the unit price, amount of consideration, agreed figure or any other amount or figure per transaction unit; the same applies



- in (d), 2. of that item) of the derivative transactions;
- (iii) the following matters, as the status of the investments made in the reporting period for the relevant investment report:
  - (a) the day when the transactions were conducted;
  - (b) the type of the transactions;
  - (c) the trade name or name of the counterparty to the acts that constitute financial instruments transactions (if it is provided that the trade name or name of the counterparty needs not be included if the consent of the counterparty cannot be obtained in relation to a contract for the equity in business subject to investment relating to the specially-permitted business for qualified institutional investors, etc., excluding cases in which consent cannot be obtained);
  - (d) the following particulars of the transactions:
    - 1. in the case of the purchase and sale or any other transaction of securities, the issues, volumes, value of securities and information as to whether it was sale, etc. or purchase, etc. by each transaction; and
    - 2. in the case of derivatives transactions, the issues, agreed volume, unit price, etc. and information as to whether it was sale, etc. or purchase, etc. by each transaction (in the case of a transaction listed in Article 100, paragraph (1), item (ii), (a) through (e), information set forth respectively in (a) through (e) of the same item);
  - (iv) the amount of the remuneration pertaining to the investment of the investment property, which was paid during the reporting period of the relevant investment report;
  - (v) if, during the reporting period of the relevant investment report and in connection with any transaction pertaining to the investment property, the financial instruments business operator, etc. conducted any act which falls under type I financial instruments business, type II financial instruments business or registered financial institution business, the amount of the fees, remuneration or any other type of consideration related to that act in the reporting period of the relevant investment report;
  - (vi) if, during the reporting period of the relevant investment report, the financial instruments business operator, etc. has conducted a transaction with any of the following parties, the details thereof:
    - (a) such financial instruments business operator, etc. itself, or its directors, executive officers, auditors or persons holding positions similar to the officers, or its employees;
    - (b) other investment properties; or
    - (c) the parent corporation, etc. or the subsidiary corporation, etc. of the financial instruments business operator, etc.;
  - (vii) the proportion of the aggregate amount of the transaction pertaining to

- acts that constitute financial instruments transactions conducted with the counterparties specified in (a) through (c) of the preceding item, to the aggregate amount of the transaction pertaining to acts that constitute financial instruments transactions conducted during the reporting period of the relevant investment report; and
- (viii) if there is any counterparty to the acts that constitute financial instruments transactions conducted as the investment of investment properties during the reporting period of the relevant investment report, whose transaction amount is ten percent or more of the aggregate transaction amount of the acts that constitute financial instruments transactions conducted for the investment properties, the trade name or name of such counterparty, and the proportion of the aggregate transaction amount pertaining to the acts that constitute financial instruments transactions conducted for such counterparty, to the aggregate transaction amount pertaining to acts that constitute financial instruments transactions conducted during the reporting period of the relevant investment report;
  - (ix) passage of investment in investment properties during the reporting period of the management report (including major change factors of the amount of investment properties);
  - (x) changes in investment conditions; and
  - (xi) if an external audit has been implemented with the financial instruments business operator, etc. related to the operations pertaining to the finance or a discretionary investment contract, when a report pertaining to the external audit is made during the reporting period of the investment report, the name of the external audit, subject of the external audit, and outline of the results.
- (2) If the investment properties are related to the operation implementing the act listed in Article 2, paragraph (8), item (xii) of the Act based on a discretionary investment contract, the matters listed in the items of paragraph (2) of that Article must be indicated in addition to the matters listed in the items of the preceding paragraph in the investment report when subject securities (excluding those for which the percentage of the amount held to the investment properties is less than three percent) prescribed in Article 96, paragraph (4) are included in the investment properties as of the standard day; provided, however, that this does not apply if all the matters are stated in the document for delivery prior to conclusion of a contract, explanatory document on changes to contract information, or investment report pertaining to the discretionary investment contract that is delivered to the counterparty of the discretionary investment contract within one year before delivery of the investment report.
- (3) The reporting period must not exceed six months (in cases set forth in the following items, the periods set forth therein, respectively; the same applies in paragraph (5), item (iii)):

- (i) if the right holder (limited to a counterparty to a discretionary investment contract) is a surviving employee's pension fund or the national pension fund: three months;
  - (ii) if the contract pertaining to the right holder (limited to a counterparty to a contract pertaining to a specially-permitted business for qualified institutional investors, etc. limited to an act specified in Article 63, paragraph (1), item (ii) of the Act; the same applies in paragraph (5), item (iv))) is a holder of a right which satisfies the requirements specified in Article 17-12, paragraph (2) of the Order, and if the written contract provides for the period: one year.
- (4) The financial instruments business operator, etc. must prepare an investment report without delay after the end of the reporting period and deliver it to the known right holders.
- (5) The cases to be specified by Cabinet Office Order as referred to in the proviso to Article 42-7, paragraph (1) of the Act are as follows:
- (i) if it is expected that any person that lives together with a right holder will receive the investment report, and if the right holder has given consent prior to the base date that such investment report will not be delivered (other than if, prior to the base date, the right holder has requested the delivery of such investment report);
  - (ii) if the beneficiary certificates pertaining to the investment properties (meaning the beneficiary certificates indicating the rights of the right holder in relation the investment properties, or such rights) fall under the categories of securities for professional investors, and information pertaining to the matters to be contained in an investment report is to be provided or publicized as the issuer's information as set forth in Article 27-32, paragraph (1) of the Act, pursuant to the provisions of that paragraph or paragraph (2) of that Article, without delay after the end of such reporting period (but only if the contract or any other juridical act pertaining to such beneficiary certificates provides that such information is to be provided or publicized in lieu of the delivery of an investment report);
  - (iii) when, pursuant to the provisions of other laws and regulations and at least once in six months, a document stating the matters to be contained in an investment report is to be delivered to a known right holder pertaining to the investment property, or an electronic or magnetic record storing such matters is to be delivered to such right holder;
  - (iv) if a specially-permitted business for qualified institutional investors, etc. is to be conducted, and the counterparty to the contract pertaining to the specially-permitted business for qualified institutional investors, etc. is a professional investor; and
  - (v) if the document is to be delivered or the electronic or magnetic record is to

be provided regularly to a right holder (excluding a person to whom it is not required by the provisions of foreign laws and regulations to deliver a document equivalent to an investment report created based on the foreign laws and regulations or to provide electronic or magnetic records on which matters to be stated in the document are recorded) who is known in relation to an investment property (limited to investment property related to operations implementing the acts listed in Article 63-8, paragraph (1), item (i) of the Act).

(Exemption from Requirement of Notification of Investment Reports)

Article 135 The cases specified by Cabinet Office Order as prescribed in the proviso to Article 42-7, paragraph (3) of the Act are those in which, pursuant to the provisions of Article 24, paragraph (1) of the Act as applied mutatis mutandis pursuant to paragraph (5) of that Article (including as applied mutatis mutandis pursuant to Article 27 of the Act), the financial instruments business operator, etc. is required to submit an annual securities report set forth in that paragraph (such annual securities report is limited to that which contains the matters to be stated in the investment report), in connection with the rights listed in Article 2, paragraph (8), item (xv), (a) through (c) of the Act which pertains to the investment property held by the right holder thereof.

### **Subsection 3 Special Provisions on Securities Management Business**

(Means for Management in a Reliable and Orderly Manner)

Article 136 (1) The methods to be specified by Cabinet Office Order as referred to in Article 43-2, paragraph (1) of the Act are the methods specified in the following items, in accordance with the categories of the securities set forth respectively therein:

- (i) securities managed by the financial instruments business operator, etc. itself by taking custody thereof (excluding securities to be retained by way of commingled custody; the same applies in the following item): a method whereby the place of the custody of the securities which the financial instruments business operator, etc. is required to manage separately from its proprietary assets pursuant to the provisions of Article 43-2, paragraph (1) of the Act (hereinafter referred to as the "customers' securities" in this Article) is clearly distinguished from the place of the custody of the securities other than the customers' securities, such as the securities constituting its proprietary assets (hereinafter referred to as the "own securities, etc." in this paragraph), and by the customers to which such customers' securities belong is immediately identifiable;
- (ii) securities managed by the financial instruments business operator, etc. by

way of having a third party take custody thereof: a method whereby the financial instruments business operator, etc. causes the third party to make a clear distinction between the place of the custody of the customers' securities and the place of the custody of the own securities, etc., and to retain custody of the customers' securities in a manner such that the customers to which such customers' securities belong are immediately identifiable;

- (iii) securities managed by the financial instruments business operator, etc. itself by taking custody thereof (limited to those to be retained by way of commingled custody; the same applies in the following item): a manner such that the place of the custody of the customers' securities is clearly distinguished from the place of the custody of the own securities, etc., and such that the share of each customer pertaining to the customers' securities is immediately identifiable based on the books of such financial instruments business operator, etc.;
- (iv) securities managed by the financial instruments business operator, etc. by way of having a third party take custody thereof: a method whereby the financial instruments business operator, etc. causes the third party to take custody thereof by segregating the account for such financial instruments business operator, etc. from the account for the customers of the financial instruments business operator, etc. or by any other method, such that the share pertaining to the customers' securities is immediately identifiable and that the share of each customer pertaining to such customers' securities is immediately identifiable based on the books of such financial instruments business operator, etc. (if the financial instruments business operator, etc. causes a foreign third party to take custody thereof, and if the laws and regulations of the foreign state hinder the financial instruments business operator, etc. from having such third party take custody thereof by separating the share pertaining to the customers' securities and the share pertaining to the own securities, etc., or if there are any especially unavoidable grounds which prevent such financial instruments business operator, etc. from having a third party take custody of the securities in a manner which enables immediate identification of the shares pertaining to such customers' securities based on the books of such financial instruments business operator, etc., a method whereby the financial instruments business operator, etc. causes such third party to take custody thereof in a manner such that the share of each customer pertaining to such customers' securities is immediately identifiable based on the books of such financial instruments business operator, etc.);
- (v) Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. managed by the Financial Instruments Business Operator, etc. by itself:

the method set forth in sub-items (a) and (b) (with regard to the minimum level of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that are required to be managed by a method other than the method set forth in sub-item (b) for the purpose of securing the convenience of the customers of the Financial Instruments Business (including Registered Financial Institution Business; hereinafter the same applies in this and the following items) and promoting smooth conduct of the Financial Instruments Business, in light of the situation of the Financial Instruments Business that it conducts, the method set forth in sub-item (a)):

- (a) a method to manage Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities by clearly separating them from the Own Securities, etc. in a manner to make it immediately identifiable to which customer said Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. belong (including a manner to ensure that the share of each customer pertaining to such Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities is immediately identifiable based on the books of said Financial Instruments Business Operator, etc.; the same applies in sub-item (a) of the following item); and
  - (b) a method to manage information necessary for transferring financial values on which Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities are indicated by recording it in electronic equipment not always connected to 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;
- (vi) Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that the Financial Instruments Business Operator, etc. cause a third party to manage: the method set forth in sub-items (a) and (b) (with regard to the minimum level of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that are required to be managed by a method other than the method set forth in sub-item (b) for the purpose of securing the convenience of 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 it conducts, the method set forth in sub-item (a)):
- (a) a method to cause the third party to manage Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities by clearly separating them from the Own Securities, etc. in a manner to make it immediately identifiable to which customer

- said Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. belong; and
- (b) 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 Financial Instruments Business Operator, etc. itself with regard to the preservation of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities;
- (vii) rights regarded as securities under Article 2, paragraph (2) of the Act (excluding those listed in the foregoing items): the methods specified in the following (a) or (b), in accordance with the cases set forth respectively therein:
- (a) if there are documents evidencing the rights or any other document which are necessary upon the exercise of such rights: to regard those documents as securities, etc. and manage them in accordance with the categories of the securities as listed in items (i) to (iv); and
  - (b) in the cases other than the case specified in (a): to cause a third party to manage precisely such rights by treating them as the customers' securities, and to manage them in a condition such that status of the management thereof is immediately identifiable based on the books of the financial instruments business operator, etc.
- (2) Notwithstanding the provisions of the preceding paragraph, if the securities are co-owned by the financial instruments business operator, etc. and a customer, and it is impossible to manage them as specified by the provisions of that paragraph, the financial instruments business operator, etc. must manage them in a condition such that the share of each customer pertaining to such customers' securities is immediately identifiable based on the books of such financial instruments business operator, etc.

(Business Incidental to Securities-Related Business)

Article 137 The business specified by Cabinet Office Order as business incidental to the securities-related business, as provided for in Article 43-2, paragraph (1), item (ii) of the Act, is business that is incidental to the financial instruments business, other than the following business:

- (i) business to conduct any of the acts specified in Article 35, paragraph (1), items (i), or (x) through (xvii) of the Act;
- (ii) business to conduct the act specified in Article 35, paragraph (1), item (ix) of the Act (limited to an act pertaining to the following businesses):
  - (a) from among financial instruments businesses (including a registered financial institution business to be conducted by a registered financial institution), a business other than the securities-related business;
  - (b) from among securities-related businesses, a business which pertains to an

over-the-counter transaction of derivatives (limited to a transaction prescribed in the following Article) or a transaction prescribed in Article 16-15 of the Order (limited to a transaction prescribed in the following Article); and

- (c) business specified in the foregoing item; and
- (iii) business similar to those specified in the preceding two items.

(Over-the-Counter Derivatives Transactions Pertaining to Securities-Related Business Excluded from Separate Management Requirements)

Article 137-2 The transaction to be made with a financial instruments business operator engaged in securities-related business that has been registered under Article 29 of the Act for engaging in type-I financial instruments business and other transactions to be specified by Cabinet Office Order by taking into consideration the characteristics of the counterparty to the transaction as referred to in Article 43-2, paragraph (1), item (ii) of the Act is transactions with a person that falls under either Article 1-8-6, paragraph (1), item (ii), (a) or (b) of the Order.

(Calculation of the Amount of Customer-Segregated Funds)

Article 138 The amount to be refunded to the customer as referred to in Article 43-2, paragraph (2) of the Act is calculated by each customer, and is the total of the amount of money specified in items (i) and (ii) of that paragraph and the market value (meaning the closing price published on the relevant date or the price equivalent thereto as calculated in accordance with a reasonable formula; the same applies in Article 139 through 141) of the securities specified in item (iii) of that paragraph, on which the calculation is to be based.

(Deduction from Customer-Segregated Funds)

Article 139 (1) For the purpose of calculating the amount payable to each customer pursuant to the provisions of the preceding Article, the following amounts may be deducted:

- (i) a claim held by the financial instruments business operator, etc. against the customer (limited to the claim related to the advance payment of the purchase price of securities purchased by such customer (limited to the securities managed separately pursuant to the provisions of Article 43-2, paragraph (1) of the Act));
- (ii) money constituting the sales price of the securities sold by the customer based on a margin transaction (limited to the money provided as security for the claim pertaining to the credit granted to the customer by the financial instruments business operator in connection with such margin transaction);
- (iii) the amount specified in the items of Article 8, paragraph (1) of the



"Cabinet Office Order on Transactions Prescribed in Article 161-2 of the Financial Instruments and Exchange Act and Security Deposits for the Transactions" (limited to the amount pertaining to the customer's margin transaction, and if such amount exceeds the total of the amount of the money or the market value of the securities deposited as deposited security money (meaning the deposited security money prescribed in Article 3, item (i) of that Order) pertaining to the customer's margin transaction, such total amount); and

(iv) the amount of money provided as security by the customer under a contract for a transaction with a repurchase/resale agreement (meaning a transaction specified in Article 110, paragraph (1), item (ii), (a) or (b); the same applies hereinafter).

(2) For the purpose of calculating the amount pertaining to the customer's margin transaction as set forth in item (iii) of the preceding paragraph, the profit and loss accrued from any fluctuation in the quotation of the securities pertaining to the customer's margin transaction as referred to in Article 8, paragraph (1) of the "Cabinet Office Order on Transactions Prescribed in Article 161-2 of the Financial Instruments and Exchange Act and Security Deposits for the Transactions " are, notwithstanding the provisions of paragraph (3) of that Article, the difference between the contract value of such Securities and the price thereof appraised based on the market value on the calculation date.

(Special Rules on Procurement Transactions)

Article 140 (1) If the financial instruments business operator, in order to procure money or securities to be loaned to a customer in connection with margin transactions, provides as security the securities deposited by the customer which are substituted for money under Article 161-2, paragraph (1) of the Act pursuant to the provisions of paragraph (2) of that Article (hereinafter referred to as "security deposit substitute securities related to margin transactions" in this Article) to a securities finance company, another financial instruments business operator which conducts transactions (including the transactions effected on behalf of the person providing a service for brokerage for clearing of securities, etc. (limited to a brokerage which fulfills the requirements specified in Article 2, paragraph (27), item (i) of the Act) as an entrustor of such brokerage for clearing of securities, etc.; the same applies in item (i)) with such financial instruments business operator, or a person that has accepted entrustment of brokerage for clearing of securities, etc. from such financial instruments business operator (hereinafter referred to as the "correspondent financial instruments business operator, etc." in this paragraph), and if all of the following requirements are satisfied, the market value of such security

deposit substitute securities related to margin transactions is to be deducted for the purpose of calculating the market value of the securities set forth in Article 138:

- (i) that each of the financial instruments business operator, the securities finance company or the correspondent financial instruments business operator, etc. makes a clear distinction between the management for the transactions which the financial instruments business operator concludes with such securities finance company or the correspondent financial instruments business operator, etc. for the purpose of procuring money or securities to be loaned to customers in connection with margin transactions (hereinafter referred to as "procurement transactions" in this paragraph), and the management of any other transactions which the financial instruments business operator concludes with such securities finance company or the correspondent financial instruments business operator, etc. (hereinafter referred to as "non-procurement transactions" in this paragraph);
- (ii) that, if any procuring transaction is to be conducted with the correspondent financial instruments business operator, etc., such correspondent financial instruments business operator, etc. makes a clear distinction by each customer in managing the procurement transactions;
- (iii) that the customer retains ownership in the security deposit substitute securities related to margin transactions furnished as securities to a securities finance company or a correspondent financial instruments business operator, etc. in connection with a procurement transaction (hereinafter referred to as "specified substitute securities" in this paragraph);
- (iv) that the securities finance company or a correspondent financial instruments business operator, etc. makes a clear distinction in the management of the specified substitute securities and the securities pertaining to non-procurement transactions, and that the financial instruments business operator (if any procuring transaction is to be concluded with any correspondent financial instruments business operator, etc., including such correspondent financial instruments business operator, etc.) may clearly identify the type and volume of such specified substitute securities owned by each customer, based on the books and documents;
- (v) that it has been agreed between the financial instruments business operator and the securities finance company or a correspondent financial instruments business operator, etc. that the difference between the following amounts is to be calculated and delivered every day: the total amount of the money and market value of the securities which the financial instruments business operator has procured from such securities finance company or a

- correspondent financial instruments business operator, etc. in connection with a procuring transaction; and the total of the amount of the market value of the securities purchased by the use of the money so procured, which the such financial instruments business operator has furnished as securities for the securities finance company or an correspondent financial instruments business operator, etc. in connection with such procuring transaction and the sales price of the securities so procured; and
- (vi) that there is a contractual agreement that the securities finance company or a correspondent financial instruments business operator, etc. may not dispose of the specified substitute securities for the purpose of appropriating the proceeds to the amount of claims (if any procuring transaction is to be concluded with a correspondent financial instruments business operator, etc., such claims include those held by the correspondent financial instruments business operator, etc. in relation to a procuring transaction pertaining to other customer) held by such securities finance company or an correspondent financial instruments business operator, etc. against such financial instruments business operator in relation to Non-procurement transactions.
- (2) The provisions of the preceding paragraph (excluding item (ii)) apply mutatis mutandis if a financial instruments business operator, etc. accepts the entrustment of brokerage for clearing of securities, etc. from another financial instruments business operator which is its customer, and furnishes the security deposit substitute securities related to margin transactions deposited by such other financial instruments business operator as security for a securities finance company. In this case, the term "the financial instruments business operator (if any procuring transaction is to be concluded with any correspondent financial instruments business operator, etc., including such correspondent financial instruments business operator, etc.)" in item (iv) of that paragraph is deemed to be replaced with "the financial instruments business operator, etc."; and the term "the claims (if any procuring transaction is to be concluded with a correspondent financial instruments business operator, etc., such claims include those held by the correspondent financial instruments business operator, etc. in relation to a procuring transaction pertaining to other customer)" in item (vi) of that paragraph is deemed to be replaced with "the claims".

(Calculation of the Amount of Customer Segregated Funds Pertaining to Over-the-Counter Derivatives Transactions Related to Subject Securities)

Article 140-2 Notwithstanding the provisions of the preceding three Articles, the amount to be refunded to the customer prescribed in Article 43-2, paragraph (2) of the Act with regard to the money listed in paragraph (2), item (ii) of that Article and Securities listed in item (iii) of that paragraph (limited to those

concerning a transaction related to subject securities prescribed in (1), item (ii) of that Article (limited to such transaction that falls under the following transaction; hereinafter referred to as a "over-the-counter derivatives transaction etc. related to subject securities" in this subsection)) is calculated for each customer and is the total amount of the amount of such money and the market value of such securities for which the calculation is made:

- (i) an over-the-counter derivatives transaction;
- (ii) a foreign market derivatives transaction; or
- (iii) a transaction prescribed in Article 16-15 of the Order.

(Deduction from the Amount of Customer Segregated Funds Pertaining to Over-the-Counter Derivatives Transactions Related to Subject Securities)

Article 140-3 (1) The amount of money under the preceding Article is to include the amount of profits that would arise to the customer from settling such over-the-counter derivatives transaction, etc. related to subject securities under that Article, and the amount of losses that would arise to the customer from settling such over-the-counter derivatives transaction, etc. related to subject securities may be deducted.

(2) If, for the purpose of calculating the amount for each customer pursuant to the provisions of the preceding Article, if the financial instruments business operator, etc. is conducting the over-the-counter derivatives transaction etc. related to subject securities under a basic agreement in which a contract on collective clearing was made with the customer, and if any collective clearing event occurs to such customer at the time of such calculation, there is an appraisal value (meaning an appraisal value under Article 2, paragraph (6) of the Act on Collective Clearing of Specified Financial Transaction Conducted by Financial Institutions, etc.; the same applies in Article 143-2, paragraph (3)) resulting in an appraisal loss to such customer at the time of such collective clearing event occurring with regard to any specified financial transaction (meaning a specified financial transaction prescribed in Article 2, paragraph (1) of that Act; hereinafter the same applies in this paragraph and Article 143-2, paragraph (3)) being conducted under such basic agreement (excluding such loss pertaining to such over-the-counter derivatives transaction etc. related to subject securities), the amount of such appraisal loss may be deducted to the extent that it is deemed not to compromise the protection of customers even if an over-the-counter derivatives transaction etc. related to subject securities is settled under such basic agreement.

(Requirements for Customer Segregated Fund Trusts)

Article 141 (1) In creating the trust specified in Article 43-2, paragraph (2) of the Act (hereinafter referred to as a "customer segregated fund trust"), a

financial instruments business operator, etc. must satisfy all of the following requirements (in the case of the Financial Instruments Business Operator specified in Article 18-7-2, paragraph (1) of the Cabinet Order, a type I small amount electronic public offering service provider (limited to an operator which is not a member of any investor protection fund; hereinafter the same applies in this Article) and a registered financial institution, the requirements specified in items (iii) and (x) are excluded):

- (i) that, under the trust agreement for the customer segregated fund trust (excluding the customer segregated fund trust pertaining to an over-the-counter derivatives transaction etc. related to subject securities; hereinafter the same applies in this Article) (hereinafter referred to as the "customer segregated fund trust agreement" in this Article), a financial instruments business operator, etc. is the settlor, a trust company or a financial institution engaged in trust business is the trustee, and the customer of the financial instruments business conducted by the financial instruments business operator, etc. (including registered financial institution business) is the beneficiary of the principal;
- (ii) that an agent for a beneficiary is to be appointed for the customer segregated fund trust, and that, if the financial instruments business operator, etc. concludes two or more customer segregated fund trust agreements, the agent for beneficiaries appointed under the respective customer segregated fund trust agreements is the same person;
- (iii) that, if the financial instruments business operator falls under a notifying financial instruments business operator (meaning the notifying financial instruments business operator prescribed in Article 79-54 of the Act; the same applies in item (x)), the investor protection fund (limited to that to which the financial instruments business operator, etc. belongs, and excluding an investor protection fund which has a provision of articles of incorporation under Article 79-49, paragraph (4) of the Act; hereinafter the same applies in this paragraph) is the agent for a beneficiary, unless otherwise specifically permitted by such investor protection fund;
- (iv) that the investment of money belonging to the trust property under the customer segregated fund trust (excluding the money trust created with a financial institution engaged in trust business, with a contractual agreement on the compensation of principal) is made only in accordance with the following methods:
  - (a) holding government bonds or any other securities designated by the Commissioner of the Financial Services Agency;
  - (b) making deposits with a bank or any other financial institution designated by the Commissioner of the Financial Services Agency (excluding such financial instruments business operator, etc. itself); or

- (c) any other method to be designated by the Commissioner of the Financial Services Agency.
- (v) that, if the customer segregated fund trust falls under the category of securities trust, or money and securities trust, the securities to be entrusted are to be limited to the government bonds or any other securities designated by the Commissioner of the Financial Services Agency, and that the securities comprising the trust property under the customer segregated fund trust are not invested by means of loans thereof;
- (vi) that the financial instruments business operator, etc. calculates individual amount of customer segregated fund to be refunded (meaning the amounts to be refunded to a customer as calculated by each customer, pursuant to the provisions of Articles 138 through 140; hereinafter the same applies in this item and item (xii)) and required amount of customer segregated fund (meaning the total amount of the individual amount of customer segregated fund to be refunded; hereinafter the same applies in this Article) every day;
- (vii) that, if the appraisal value of the principal of the trust property as of the base date which is at least once a week (hereinafter referred to as the "reappraisal base date" in this Article) is less than the required amount of customer segregated fund, the trust property equivalent to such shortfall amount is added within three business days from the day immediately after such reappraisal base date;
- (viii) that the appraised value of the securities comprising trust property is the amount specified in the following (a) through (c), in accordance with the categories of the cases set forth respectively therein:
  - (a) if the customer segregated fund trust is a money trust created with a financial institution engaged in trust business, with a contractual agreement on the compensation of principal: the amount of the principal of such money trust;
  - (b) if the customer segregated fund trust falls under the category of a securities trust, or a money and securities trust: the amount not exceeding the amount arrived by multiplying the market value as of the reappraisal base date, by the rate specified by the Commissioner of the Financial Services Agency by taking into account any assurance of the protection of the customer that is the beneficiary of the principal of the customer segregated fund trust; or
  - (c) in cases other than those specified in (a) or (b): the market value as of the reappraisal base date;
- (ix) that cases in which the cancellation of the customer segregated fund trust agreement or any part thereof may be effected are as follows:
  - (a) if the appraised value of the principal of the trust property as of the reappraisal base date exceeds the required amount of customer segregated

- fund, and if the customer segregated fund trust Agreement or any part thereof is to be cancelled within the amount equivalent to such exceeded amount;
- (b) if the customer segregated fund trust agreement or any part thereof is to be cancelled on the date of the payment of the deposit related to public offering, etc. (meaning an advance on the subscription or payment which is received from customers in relation to share certificates, bond certificates, beneficiary certificates for investment trust or investment securities pertaining to the secondary distribution or solicitation for selling, etc. only for professional investors, dealing in a public offering or secondary distribution, or dealing in a private placement or a solicitation for selling, etc. only for professional investors; hereinafter the same applies in this Article), within the amount equivalent to the required amount of customer segregated fund pertaining to such deposit related to public offering, etc. (if such amount exceeds the remaining customer segregated fund, such remaining customer segregated fund); or
  - (c) if the customer segregated fund trust agreement or any part thereof is to be cancelled so as to change it into another customer segregated fund trust agreement.
- (x) that, if the financial instruments business operator falls under the category of the notifying financial instruments business operator, it does not give the trustee any instruction on investment of the trust property, unless otherwise specifically permitted by the investor protection fund;
- (xi) that the beneficial interest in principal under the customer segregated fund agreement is exerted in whole with regard to all the customers by an agent for a beneficiary (if the settlor is the Financial Instruments Business Operator specified in Article 18-7-2, paragraph (1) of the Cabinet Order and a type I small amount electronic public offering service provider, limited to the investor protection fund which is in the position of an agent for a beneficiary, and if the settlor is the Financial Instruments Business Operator specified in that paragraph or a type I small amount electronic public offering service provider, limited to attorney-at-law, etc. (meaning the attorney-at-law, etc. provided in paragraph (7), item (i)) who is an agent for a beneficiary; hereinafter the same applies in this item and paragraph (6)), when such agent deems it necessary;
- (xii) that the value equivalent to the beneficial interest in principal in regard to each customer that is the beneficiary of the principal is the amount arrived by multiplying the realized amount of principal of the customer segregated fund trust as of the time of the exercise of the beneficial interest in principal by the proportion of individual amount of customer segregated fund to be refunded pertaining to the respective customers to the required

- amount of customer segregated fund as of the date of the exercise of such beneficial interest (if the amount exceeds the individual amount of customer segregated fund to be refunded, that individual amount of customer segregated fund to be refunded); and
- (xiii) that the portion of the realized amount of principal exceeding the total amount of the value equivalent to the beneficial interest in principal in regard to each customer is to be vested in the financial instruments business operator, etc. which is the settlor.
- (2) In the case referred to in item (vii) of the preceding paragraph, if the required amount of customer segregated fund as specified in that item contains any portion pertaining to the deposit related to public offering, etc. (limited to the deposit paid before the day of the addition of trust property under that item; hereinafter the same applies in this paragraph), such required amount of customer segregated fund pertaining to the deposit related to public offering, etc. may be deducted from the shortfall specified in that item.
- (3) The trust property pertaining to the cancellation of the customer segregated fund trust agreement or part thereof effected pursuant to the provisions of paragraph (1), item (ix) may be vested in the Financial instruments business operator, etc. which is the settlor.
- (4) The "remaining customer segregated fund" as used in paragraph (1), item (ix), (b) means the appraisal value of principal of the trust property under the customer segregated fund trust agreement as of the day of the calculation of the aggregate amount of refund for customer pertaining to the deposit related to public offering, etc. in relation to the cancellation of all or a part of the customer segregated fund trust agreement or any part thereof to be effected pursuant to the provisions of (b) of that item, less the required amount of customer segregated fund (excluding the amount pertaining to the deposit related to public offering, etc.).
- (5) In the case referred to in paragraph (1), item (xi), the customer segregated fund trust agreement set forth in that item may be terminated on the grounds of the achievement of the purpose thereof.
- (6) The "realized amount of principal" as used in paragraph (1), items (xii) and (xiii) is the amount obtained by realizing the trust property which is the principal under the customer segregated fund agreement, or the amount equivalent thereto as calculated by the agent for beneficiary in accordance with a reasonable formula.
- (7) For a customer segregated fund trust, the Financial Instruments Business Operator specified in Article 18-7-2, paragraph (1) of the Cabinet Order or a type I small amount electronic public offering service provider must satisfy all of the following requirements, beyond the requirements set forth in the items of paragraph (1) (excluding those specified in items (iii) and (x) of that



paragraph):

- (i) that at least one of such agents for beneficiaries should be served by an attorney-at-law, legal professional corporation, certified public accountant, auditing firm, tax accountant, tax accountant corporation or a person designated by the Commissioner of the Financial Services Agency (hereinafter referred to as an "attorney-at-law, etc." in this paragraph);
- (ii) that if the Financial Instruments Business Operator specified in Article 18-7-2, paragraph (1) of the Cabinet Order or the type I small amount electronic public offering service provider comes to fall under any of the conditions specified in Article 141-2, paragraph (1), item (iv), (a) and (c) through (g), only an agent for beneficiaries that is an attorney-at-law, etc. should exercise its authority (other than if such agent for beneficiaries agrees that another agent for beneficiaries should exercise the authority);
- (iii) that, if the Financial Instruments Business Operator specified in Article 18-7-2, paragraph (1) of the Cabinet Order or the type I small amount electronic public offering service provider comes to fall under any of the conditions specified in Article 141-2, paragraph (1), item (iv), (a) and (c) through (g), such Financial Instruments Business Operator or type I small amount electronic public offering service provider may not give the trustee any investment instruction on the trust property, unless otherwise specifically permitted by an agent for beneficiaries that is an attorney-at-law, etc.; and
- (iv) that, if the beneficial right of customers has been exercised collectively by an agent for beneficiaries that is an attorney-at-law, etc., the trust agreement pertaining to such beneficial right may be ended.

(Requirements for Customer Segregated Fund Trust Pertaining to Over-the-Counter Derivatives Transaction Related to Subject Securities)

Article 141-2 (1) Notwithstanding the provisions of the preceding Article, the contract pertaining to a customer segregated fund trust pertaining to an over-the-counter derivatives transaction etc. related to subject securities (hereinafter simply referred to as a "customer segregated fund trust" in this Article) must satisfy all of the following requirements:

- (i) that a financial instruments business operator, etc. should be the settlor, a trust company or a financial institution engaged in trust business should be the trustee, and the customer pertaining to the over-the-counter derivatives transaction etc. related to subject securities conducted by the financial instruments business operator, etc. should be the beneficiary of the principal;
- (ii) that agents for beneficiaries should be appointed and at least one of such agents for beneficiaries should be served by an attorney-at-law, etc.);
- (iii) that, in carrying out multiple customer segregated fund trusts, the same agents for beneficiaries should be appointed for such multiple customer

segregated fund trusts;

- (iv) that if the financial instruments business operator, etc. comes to fall under the following conditions, only an agent for beneficiaries that is an attorney-at-law, etc. should exercise its authority (other than if such agent for beneficiaries agrees that another agent for the beneficiary should exercise the authority):
- (a) when registration set forth in Article 29 of the Act is rescinded under the provisions of Article 52, paragraph (1) or (4), Article 53, paragraph (3), Article 54, or Article 57-6, paragraph (3) of the Act;
  - (b) when registration set forth in Article 33-2 of the Act is rescinded under the provisions of Article 52-2, paragraph (1) or (3), or Article 54 of the Act;
  - (c) when the financial instruments business operator, etc. files an application for commencement of bankruptcy proceedings, rehabilitation proceedings, reorganization proceedings, or special liquidation proceedings (with regard to a financial instruments business operator, etc. which is a foreign corporation, when it files an application for commencement of bankruptcy proceedings, rehabilitation proceedings, reorganization proceedings, or special liquidation proceedings in Japan, or when it files an application of the same kind in a state where its head office is located based on the laws and regulations of that state);
  - (d) when the financial instruments business operator, etc. abolishes its financial instruments business, etc. (with regard to a financial instruments business operator, etc. which is a foreign corporation, when it abolishes financial instruments business, etc. at all business offices or offices established in Japan; the same applies in (d)) or dissolves (with regard to a financial instruments business operator, etc. which is a foreign corporation, when it commences liquidation of business offices or offices established in Japan; hereinafter the same applies in (d)), or when the financial instruments business operator, etc. gives a public notice of abolition or dissolution of its financial instruments business, etc. under the provisions of Article 50-2, paragraph (6) of the Act;
  - (e) when the financial instruments business operator, etc. receives an order for suspension of all or part of its business under the provisions of Article 52, paragraph (1) of the Act (limited to the case falling under item (vii) of that paragraph);
  - (f) when the Prime Minister files a petition for commencement of reorganization proceedings under Article 377, paragraph (1) of the Act on Special Measures Concerning Reorganization Proceedings of Financial Institutions, etc. (Act No. 95 of 1996), a petition for commencement of rehabilitation proceedings under Article 446, paragraph (1) of that Act or an application for commencement of bankruptcy proceedings under Article

- 490, paragraph (1) of that Act with a court; or
- (g) when the Prime Minister receives a notice under the provisions of Article 379, 448 or 492 of the Act on Special Measures Concerning Reorganization Proceedings of Financial Institutions, etc. or other notice concerning special liquidation proceedings;
  - (v) the methods of investment of the trust property pertaining to such customer segregated fund (excluding a money trust with a financial institution engaged in trust business with a contractual agreement on principal protection) should be the following methods:
    - (a) holding the following securities:
      1. national government bond certificates;
      2. municipal bond certificates;
      3. securities issued by any kosha public corporations, public financial corporations and Kodan public corporations and any other securities for which the government guarantees the principal and interest payment;
      4. national federation debentures under the provisions of Article 54-2-4, paragraph (1) of the Shinkin Bank Act, long-term credit bank debentures under the provisions of Article 8 of the Long-Term Credit Bank Act, agriculture and forestry debentures under the provisions of Article 60 of the Norinchukin Bank Act and Shoko debentures under the provisions of Article 33 of The Shoko Chukin Bank Limited Act (including those deemed to be Shoko debentures issued under the provisions of Article 33 of that Act pursuant to the provisions of Article 37 of the Supplementary Provisions of that Act);
      5. specified corporate bonds under the provisions of Article 8, paragraph (1) of the Act on Financial Institutions' Merger and Conversion (Act No. 86 of 1968) (including as applied mutatis mutandis pursuant to Article 55, paragraph (4) of that Act) (including bond certificates under the provisions of Article 17-2, paragraph (1) of the Act on Financial Institutions' Merger and Conversion prior to the revision by Article 199 of the Act on Arrangement of Relevant Acts Incidental to Enforcement of the Companies Act (Act No. 87 of 2005) (including as applied mutatis mutandis pursuant to Article 24, paragraph (1), item (vii) of that Act));
      6. beneficiary certificates under the Loan Trust Act (Act No. 195 of 1952) with a contractual agreement on principal protection;
      7. secured bonds (limited to those with no delayed redemption or interest payment); and
      8. Beneficiary certificates of investment trusts listed in Article 65, item (ii), (a) through (c) (limited within the range equivalent to one third of the

required amount of customer segregated fund (meaning the total amount of individual amounts of customer segregated fund to be refunded (each meaning the amount calculated for each customer pursuant to the provisions of Articles 140-2 and 140-3 to be refunded to such customer; the same applies in item (xiv) and the following Article); hereinafter the same applies in this paragraph and the following Article)); or

- (b) setting up a deposit or savings account at the following financial institution (if the financial instruments business operator, etc. is such financial institution, excluding any deposit or savings account at itself):
  1. a bank;
  2. a Shinkin bank and a federation of Shinkin banks, and a labor bank and a federation of labor banks;
  3. the Norinchukin Bank and The Shoko Chukin Bank Limited; and
  4. a credit cooperative and a federation of credit cooperatives, and an agricultural cooperatives, a federations of agricultural cooperatives, a fisheries cooperative, a federation of fisheries cooperatives, a fishery processing cooperative and a federation of fishery processing cooperatives which may accept deposits in the course of trade;
- (c) a call loan;
- (d) a loan to a bank principal account of the financial institution engaged in trust business that is the trustee; and
- (e) a money trust with a financial institution engaged in trust business with a contractual agreement on principal protection;
- (vi) that, if the appraisal value of the principal of the trust property is less than the required amount of customer segregated fund, money in an amount equivalent to such shortfall amount should be added to the trust property by the financial instruments business operator, etc. within two business days counting from the day immediately after the day when the shortfall takes place;
- (vii) that the financial instruments business operator, etc. should calculate the appraisal value of securities comprising the trust property based on the market value thereof (excluding a case in which the customer segregated fund trust is a money trust with a financial institution engaged in trust business with a contractual agreement on principal protection);
- (viii) that, if the customer segregated fund trust is a money trust with a financial institution engaged in trust business with a contractual agreement on principal protection, the appraisal value of the principal of the trust property therein is used as the amount of the principal of such money trust;
- (ix) that, in cases other than the following cases, all or part of the contract pertaining to the customer segregated fund trust may not be terminated:

- (a) when, if the appraisal value of the principal of the trust property exceeds the required amount of customer segregated fund, all or part of the contract pertaining to the customer segregated fund trust is terminated to the extent of such excess amount; or
  - (b) if all or part of the contract pertaining to the customer segregated fund trust is terminated for the purpose of entrustment as a trust property pertaining to another customer segregated fund trust;
  - (x) that the trust property pertaining to the termination of the all or part of the contract pertaining to the customer segregated fund trust effected in a case set forth in (a) or (b) of the preceding item should be vested in the settlor;
  - (xi) that, if the financial instruments business operator etc. comes to fall under any of item (iv), (a) through (g), such financial instruments business operator, etc. may not give the trustee any investment instruction on the trust property, unless otherwise specifically permitted by an agent for beneficiaries that is an attorney-at-law, etc.;
  - (xii) that, if an agent for beneficiaries that is an attorney-at-law, etc. deems necessary, the beneficial right of customers should be exercised collectively for all customers by such agent for beneficiaries;
  - (xiii) that, if the beneficial right of customers has been exercised collectively by an agent for beneficiaries that is an attorney-at-law, etc., the trust agreement pertaining to such beneficial right may be ended;
  - (xiv) that the amount to be paid to each customer when the customer exercises the beneficial right should be specified as the amount arrived by multiplying the realized amount of principal as of the day of the exercise of such beneficial right by the proportion of the individual amount of customer segregated fund to be refunded pertaining to the customer to the required amount of customer segregated fund as of that date (if the amount so arrived at exceeds the individual amount of customer segregated fund to be refunded, that individual amount of customer segregated fund to be refunded); and
  - (xv) that, if the realized amount of principal on the day when the customer exercises the beneficial right exceeds the required amount of customer segregated fund, such excess amount should be vested in the settlor.
- (2) The realized amount of principal under items (xiv) and (xv) of the preceding paragraph means the amount that can be obtained by realizing the trust property pertaining to the customer segregated fund trust (limited to the principal portion) (if the customer segregated fund trust has principal protection features, the amount of principal).

(Calculation of Individual Amounts of Customer Segregated Funds to Be Refunded)

Article 141-3 The financial instruments business operator, etc. must calculate

the individual amount of customer segregated fund to be refunded and the required amount of customer segregated funds every day.

(Audit of Separate Management)

Article 142 (1) A financial instruments business operator must, on a regular basis and at least once in each year, have a certified public accountant or an auditing firm audit the status of its management under Article 43-2, paragraphs (1) and (2) of the Act (hereinafter referred to as the "audit of separate management"), pursuant to the provisions of paragraph (3) of that Article and in accordance with the rules established by a financial instruments firms association to which it belongs (limited to the rules designated by the Commissioner of the Financial Services Agency (hereinafter referred to as the "association rules" in this Article), and, with regard to a financial instruments business operator not belonging to a financial instruments firms association which has the association rules, the rules to be specified by the Commissioner of the Financial Services Agency).

(2) The association rules must contain the following:

- (i) the matters related to the standards and procedures for the audit of separate management;
- (ii) the matters related to the reporting of the results of the audit of separate management;
- (iii) the matters related to the measures to be taken in the case of violation by a member of the financial instruments firms association of the laws and regulations, a disposition issued by administrative agencies under the laws and regulations or the rules of such financial instruments firms association including its articles of association, or any other matters regarding the measures necessary in relation to the status of management performed by such member under Article 43-2, paragraphs (1) and (2) of the Act;
- (iv) the matters related to an amendment to the Association Rules; and
- (v) beyond what is set forth in the preceding items, the matters necessary for the implementation of audit of separate management.

(3) A person listed in any of the following items may not conduct an audit of separate management:

- (i) a person that, under the provisions of the Certified Public Accountants Act, may not conduct the services related to auditing under Article 43-2, paragraph (3) of the Act;
- (ii) an officer or employee of the financial instruments business operator, or its specified individual shareholder (meaning the specified individual shareholder prescribed in Article 15-16, paragraph (1), item (iv) of the Order);
- (iii) a parent corporation, etc. or subsidiary corporation, etc. of the financial

- instruments business operator;
- (iv) a person that, on a regular basis, receives remuneration for a service other than the service of the certified public accountant or auditing firm from the financial instruments business operator or any of the persons specified in the preceding two items, or the spouse; and
  - (v) an auditing firm any of whose members fall under the person specified in item (ii) or the preceding item.

(Business Incidental to Business Pertaining to Brokerage for Commodity-Related Market Transactions of Derivatives)

Article 142-2 The business to be specified by Cabinet Office Order as referred to in Article 43-2-2 of the Act is the business pertaining to the act specified in Article 35, paragraph (1), item (ix) of the Act (limited to the business pertaining to brokerage, etc. for commodity-related market transactions of derivatives (meaning the brokerage, etc. for commodity-related market transactions of derivatives provided in Article 43-2-2 of the Act; the same applies hereinafter)).

(Separate Management of Securities for Subject Commodity Derivatives Transaction-Related Transactions)

Article 142-3 (1) If a financial instruments business operator, etc. manages properties pursuant to the provisions of Article 43-2-2 of the Act, and if the properties are securities, etc., it must manage such Securities, etc. separately from its own properties, by the method specified in the following items in accordance with the categories of the securities, etc. set forth respectively therein:

- (i) securities, etc. managed by the financial instruments business operator, etc. itself by taking custody thereof (excluding those retained by way of commingled custody; the same applies in the following item): a method whereby the place of the custody of the securities, etc. which the financial instruments business operator, etc. is required to manage separately from its proprietary assets pursuant to the provisions of Article 43-2-2 of the Act (hereinafter referred to as the "customers' securities, etc." in this Article) is clearly distinguished from the place of the custody of the securities, etc. other than the customers' securities, etc., such as the securities, etc. constituting its proprietary assets (hereinafter referred to as the "own securities, etc." in this paragraph), and by the customers to which such customers' securities, etc. belong is immediately identifiable;
- (ii) securities, etc. managed by the financial instruments business operator, etc. by way of having a third party take custody thereof: a method whereby the financial instruments business operator, etc. causes the third party to make

a clear distinction between the place of the custody of the customers' Securities, etc. and the place of the custody of the own securities, etc., and to retain custody of the customers' Securities, etc. in a manner such that the customers to which such customers' securities, etc. belong are immediately identifiable;

- (iii) securities, etc. managed by the financial instruments business operator, etc. itself by taking custody thereof (limited to those to be retained by way of commingled custody; the same applies in the following item): a manner such that the place of the custody of the customers' securities, etc. is clearly distinguished from the place of the custody of the own securities, etc., and such that the share of each customer pertaining to the customers' securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc.;
- (iv) securities, etc. managed by the financial instruments business operator, etc. by way of having a third party take custody thereof: a method whereby the financial instruments business operator, etc. causes the third party to take custody thereof by segregating the account for such financial instruments business operator, etc. from the account for the customers of the financial instruments business operator, etc. or by any other method, such that the share pertaining to the customers' securities, etc. is immediately identifiable and that the share of each customer pertaining to such customers' securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc. (if the financial instruments business operator, etc. causes a foreign third party to take custody thereof, and if the laws and regulations of the foreign state hinder the financial instruments business operator, etc. from having such third party take custody thereof by separating the share pertaining to the customers' securities, etc. and the share pertaining to the own securities, etc., or if there are any especially unavoidable grounds which prevent such financial instruments business operator, etc. from having a third party take custody of the securities, etc. in a manner which enables immediate identification of the shares pertaining to such customers' securities, etc. based on the books of such financial instruments business operator, etc., a method whereby the financial instruments business operator, etc. causes such third party to take custody thereof in a manner such that the share of each customer pertaining to such customers' securities, etc. is easily identifiable based on the books of such financial instruments business operator, etc.);
- (v) rights regarded as securities under Article 2, paragraph (2) of the Act (excluding those listed in the foregoing items): the methods specified in the following (a) or (b), in accordance with the cases set forth respectively therein:



- (a) if there are documents evidencing the rights pertaining to the securities, etc. or any other document, which are necessary upon the exercise of such rights: to regard those documents as securities, etc. and manage them in accordance with the categories of the securities as listed in the foregoing items; and
  - (b) in the cases other than the case specified in (a): to cause a third party to manage precisely the rights pertaining to the securities, etc. by treating them as the customers' securities, etc., and to manage them in a condition such that status of management thereof is immediately identifiable based on the books of the financial instruments business operator, etc.
- (2) Notwithstanding the provisions of the preceding paragraph, if the securities, etc. are co-owned by the financial instruments business operator, etc. and a customer, and it is impossible to manage them as specified by the provisions of that paragraph, the financial instruments business operator, etc. must manage them in a condition such that the share of each customer pertaining to such customers' securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc.
- (3) The term "securities, etc." provided in the preceding two paragraphs means the following securities and other non-monetary properties (excluding the securities and other non-monetary properties managed pursuant to paragraph (1) of the following Article):
- (i) securities and other non-monetary properties deposited with the financial instruments business operator, etc. by its customers pursuant to Article 119 of the Act (limited to those deposited in relation to commodity-related market transactions of derivatives); and
  - (ii) in relation to subject commodity derivatives transaction-related transactions (meaning subject commodity derivatives transaction-related transactions provided in Article 43-2-2 of the Act; the same applies in Article 142-4, paragraph (1), item (ii) and Article 142-5, paragraph (1), item (i)), securities or commodities possessed by a financial instruments business operator, etc. at its customers' accounts (including the instruments or certificates issued in relation to the commodities deposited; hereinafter the same applies in this item and the following Article) or securities or commodities deposited with the financial instruments business operator, etc. by its customers (excluding the securities or commodities specified in the preceding item and securities or commodities which can be consumed by the financial instruments business operator, etc. under a contract).

(Separate Management of Money for Subject Commodity Derivatives  
Transaction-Related Transactions)

Article 142-4 (1) If a financial instruments business operator, etc. manages

properties pursuant to Article 43-2-2 of the Act, if the properties are the money, securities or other properties specified in the following, it must entrust with a trust company or a financial institution engaged in trust business in Japan the money equivalent to the amount to be refunded to customers in the case of its discontinuation of financial instruments business (including registered financial institution business; hereinafter the same applies in this paragraph) or other cases in which it ceases to be engaged in any financial instruments business, so as to manage such money separately from its own properties and to manage the money equivalent to the amount to be refunded to customers in the case of its discontinuation of financial instruments business or other cases in which it ceases to be engaged in any financial instruments business:

- (i) money deposited with the financial instruments business operator, etc. by its customers pursuant to Article 119 of the Act (limited to those deposited in relation to commodity-related market transactions of derivatives);
  - (ii) money belonging to the account of customers or money deposited with the financial instruments business operator, etc. by its customers in relation to subject commodity derivatives transaction-related transactions (excluding the money specified in the preceding item); and
  - (iii) among the securities specified in the items of paragraph (3) of the preceding Article or other non-monetary properties, securities provided for security pursuant to Article 43-4, paragraph (1) of the Act or commodities provided for security pursuant to paragraph (2) of that Article.
- (2) The amount to be refunded to the customer as referred to in the preceding paragraph is calculated by each customer, and is the total of the amount of money specified in items (i) and (ii) of that paragraph and the market value (meaning the closing price published on the relevant date or the price equivalent thereto as calculated in accordance with a reasonable formula; the same applies in the following Article) of the securities specified in item (iii) of that paragraph, on which the calculation is to be based.
- (3) The amount of money under the preceding paragraph is to include the amount of profits that would arise to the customer from settling transactions pertaining to brokerage, etc. for commodity-related market transactions of derivatives, and the amount of losses that would arise to the customer from settling the transactions pertaining to the brokerage, etc. for commodity-related market transactions of derivatives may be deducted.

(Requirement for Commodity Customer Segregated Fund Trust)

Article 142-5 (1) In creating the trust specified in paragraph (1) of the preceding Article (hereinafter referred to as a "commodity customer segregated fund trust"), a financial instruments business operator, etc. must satisfy all of the following requirements (in the case of a registered financial institution, the

requirements specified in items (iii) and (x) are excluded):

- (i) that, under the trust agreement for the commodity customer segregated fund trust (hereinafter referred to as a "commodity customer segregated fund trust agreement" in this Article), a financial instruments business operator, etc. is the settlor, a trust company or a financial institution engaged in trust business is the trustee, and the customer of the subject commodity derivatives transaction-related transactions conducted by the financial instruments business operator, etc. is the beneficiary of the principal;
- (ii) that an agent for a beneficiary is to be appointed for the commodity customer segregated fund trust, and that, if the financial instruments business operator, etc. concludes two or more customer segregated fund trust agreements, the agent for beneficiaries appointed under the respective customer segregated fund trust agreements is the same person;
- (iii) that, if the financial instruments business operator falls under a notifying financial instruments business operator (meaning a notifying financial instruments business operator prescribed in Article 79-54 of the Act; the same applies in item (x)), the investor protection fund (limited to that to which the financial instruments business operator, etc. belongs, and excluding a fund which has a provision under Article 79-49, paragraph (2) of the Act in its article of incorporation; hereinafter the same applies in this paragraph) is the agent for a beneficiary, unless otherwise specifically permitted by such investor protection fund;
- (iv) that the investment of money belonging to the trust property under the commodity customer segregated fund trust (excluding the money trust created with a financial institution engaged in trust business, with a contractual agreement on the compensation of principal) is made only in accordance the methods specified in Article 141, paragraph (1), item (iv), (a) through (c);
- (v) that, if the commodity customer segregated fund trust falls under the category of securities trust, or money and securities trust, the securities to be entrusted are to be limited to the government bonds or any other securities designated by the Commissioner of the Financial Services Agency, and that the securities comprising the trust property under the commodity customer segregated fund trust are not invested by means of loans thereof;
- (vi) that the financial instruments business operator, etc. calculates individual amount of commodity customer segregated fund to be refunded (meaning the amounts to be refunded to a customer as calculated by each customer, calculated pursuant to the paragraph (2) of the preceding Article; hereinafter the same applies in this item and item (xii)) and required amount of commodity customer segregated fund (meaning the total amount of the individual amount of commodity customer segregated fund to be refunded;

- the same applies in this paragraph) every day;
- (vii) that, if the appraisal value of the principal of the trust property as of the base date which is at least once a week (hereinafter referred to as the "reappraisal base date") is less than the required amount of commodity customer segregated fund, the trust property equivalent to such shortfall amount is added within three business days from the day immediately after such reappraisal base date;
  - (viii) that the appraised value of the securities comprising trust property is the amount specified in the following (a) through (c), in accordance with the categories of the cases set forth respectively therein:
    - (a) if the commodity customer segregated fund trust is a money trust created with a financial institution engaged in trust business, with a contractual agreement on the compensation of principal: the amount of the principal of such money trust;
    - (b) if the commodity customer segregated fund trust falls under the category of a securities trust, or a money and securities trust: the amount not exceeding the amount arrived by multiplying the market value as of the reappraisal base date by the rate specified by the Commissioner of the Financial Services Agency by taking into account any assurance of the protection of the customer that is the beneficiary of the principal of the commodity customer segregated fund trust; or
    - (c) in cases other than those specified in (a) or (b): the market value as of the reappraisal base date;
  - (ix) that cases in which the cancellation of the customer segregated fund trust agreement or any part thereof may be effected are as follows:
    - (a) if the appraised value of the principal of the trust property as of the reappraisal base date exceeds the required amount of commodity customer segregated fund, and if the customer segregated fund trust agreement or any part thereof is to be cancelled within the amount equivalent to such exceeded amount;
    - (b) if the commodity customer segregated fund trust agreement or any part thereof is to be cancelled so as to change it into another commodity customer segregated fund trust agreement.
  - (x) that, if the financial instruments business operator falls under the category of the notifying financial instruments business operator, it does not give the trustee any instruction on investment of the trust property, unless otherwise specifically permitted by the investor protection fund;
  - (xi) that the beneficial interest in principal under the commodity customer segregated fund trust agreement is exerted in whole with regard to all the customers, by an agent for a beneficiary (if the settlor is a financial instruments business operator, limited to the investor protection fund which

- is in the position of an agent for a beneficiary; hereinafter the same applies in this item and paragraph (4)), when such agent deems it necessary;
- (xii) that the value equivalent to the beneficial interest in principal in regard to each customer that is the beneficiary of the principal is the amount arrived by multiplying the realized amount of principal of the commodity customer segregated fund trust as of the time of the exercise of the beneficial interest in principal, by the proportion of individual amount of commodity customer segregated fund to be refunded pertaining to the respective customers to the required amount of commodity customer segregated fund as of the date of the exercise of such beneficial interest (if such amount exceeds the individual amount of commodity customer segregated fund to be refunded, such individual amount of commodity customer segregated fund to be refunded); and
- (xiii) that the portion of the realized amount of principal exceeding the total amount of the value equivalent to the beneficial interest in principal in regard to each customer is to be vested in the financial instruments business operator, etc. which is the settlor.
- (2) The trust property pertaining to the cancellation of the commodity customer segregated fund trust agreement or part thereof effected pursuant to the provisions of item (ix) of the preceding paragraph may be vested in the financial instruments business operator, etc. which is the settlor.
- (3) In the case referred to in paragraph (1), item (xi), the commodity customer segregated fund trust agreement specified in that item may be terminated on the grounds of the achievement of the purpose thereof.
- (4) The "realized amount of principal" as used in paragraph (1), items (xii) and (xiii) is the amount obtained by realizing the trust property which is the principal under the commodity customer segregated fund agreement, or the amount equivalent thereto as calculated by the agent for beneficiary in accordance with a reasonable formula.

(Separate Management of Money)

- Article 143 (1) If a financial instruments business operator, etc. manages a security deposit such as money pursuant to the provisions of Article 43-3, paragraph (1) of the Act, and if the security deposit is money, it must manage such money separately from its own properties, in accordance with the method specified in the following items according to the category of derivatives transaction, etc. set forth in the respective items (excluding such transaction that falls under the category of transaction of securities-related derivatives, commodity-related market transactions of derivatives or brokerage, etc. for commodity-related market transactions of derivatives):
- (i) Currency-Related Derivatives Transaction, etc. and Cryptoasset-related

- Derivatives Transaction, etc.: a money trust with a trust company or a financial institution engaged in trust business; and
- (ii) derivatives transactions, etc. other than such transaction listed in the preceding item: the following method:
- (a) setting up a deposit or savings account at a bank, cooperative financial institution or the Shoko Chukin Bank Limited (limited to such account for which it is obvious from the holder's name that it comprises such security deposit);
  - (b) creating a money trust with a financial institution engaged in trust business, with principal protection features; or creating a money trust with a trust company or a financial institution engaged in trust business, for which the trust property is managed safely (limited to such trust for which it is obvious from the holder's name that it comprises such security deposit);
  - (c) making a deposit with the counterparty to a cover deal (limited to cases of, if a financial instruments business operator, etc. conducts a cover deal with a specified business operator, etc. (meaning another financial instruments business operator, etc. or a bank (excluding registered financial institutions) or a person that is treated as being equivalent thereto under the laws and regulations of the foreign state and which is under the supervision of the competent authorities in charge of the enforcement of laws and regulations of that state; hereinafter the same applies in this item and Article 143-3) or conducts a cover deal on an on-exchange financial instruments market (including a foreign financial instruments market; the same applies in (c)), depositing money as a security deposit for such cover deal with such specified business operator, etc. or the party that operates such on-exchange financial instruments market); or
  - (d) making a deposit with the counterparty to intermediary services, etc. (limited to cases of, if a financial instruments business operator, etc. provides an intermediation, brokerage, or agency service for an over-the-counter transaction of derivatives (excluding those which fall under the category of transactions of securities-related derivatives; hereinafter the same applies in this item and the following paragraph) other than currency-related over-the-counter derivatives transactions prescribed in Article 123, paragraph (4) and Cryptoasset-related Over-the-Counter Derivatives Transactions prescribed in paragraph (15) of that Article for a specified business operator, etc. as the counterparty to intermediary services, etc., depositing money with such specified business operator, etc. as a security deposit for such over-the-counter transactions of derivatives).
- (2) The money set forth in the preceding paragraph is not to include the money

which the customer has provided as security for an over-the-counter transaction of derivatives, etc. (excluding those which fall under the category of over-the-counter transactions of Financial Futures, Cryptoasset-related Over-the-Counter Derivatives Transactions or those corresponding to the transaction listed in Article 116, paragraph (1), item (v), (a); the same applies in Article 144, paragraph (3)).

(3) A "currency-related derivatives transaction, etc." under paragraph (1), item (i) means the following act:

(i) a currency-related market derivatives transaction prescribed in Article 123, paragraph (3) or an act listed in Article 2, paragraph (8), item (ii) or (iii) of the Act pertaining thereto;

(ii) a currency-related over-the-counter derivatives transaction prescribed in Article 123, paragraph (4) (excluding such transaction which a corporation that conducts business related to foreign trade or any other foreign exchange transactions conducts to reduce the possible risk of losses arising from a fluctuation in the exchange rate related to the assets or liabilities held by such corporation and for which it is checked by the financial instruments business operator, etc. that it is conducted to reduce such possible risk of losses), or intermediary, brokerage (excluding brokerage for clearing of securities, etc.) or agency service therefor; or

(iii) a currency-related foreign market derivatives transaction prescribed in Article 123, paragraph (5) or an act listed in Article 2, paragraph (8), item (ii) or (iii) of the Act pertaining thereto.

(4) A "Cryptoasset-related Derivatives Transaction, etc." under paragraph (1), item (i) means the following act:

(i) a Cryptoasset-related Market Derivatives Transaction prescribed in Article 123, paragraph (14) or an act listed in Article 2, paragraph (8), item (ii) or (iii) of the Act pertaining thereto;

(ii) a Cryptoasset-related Over-the-Counter Derivatives Transaction prescribed in Article 123, paragraph (15) or intermediary, brokerage (excluding Brokerage for Clearing of Securities, etc.) or agency service therefor; or

(iii) a Cryptoasset-related Foreign Market Derivatives Transaction prescribed in Article 123, paragraph (16) or an act listed in Article 2, paragraph (8), item (ii) or (iii) of the Act pertaining thereto.

(Segregated Customer Management Trust Requirements)

Article 143-2 (1) The contract pertaining to a money trust prescribed in paragraph (1), item (i) of the preceding Article (hereinafter referred to as a "segregated customer management trust") must satisfy all of the following requirements:

(i) that a financial instruments business operator, etc. should be the settlor, a

trust company or a financial institution engaged in trust business should be the trustee, and the customer pertaining to the currency-related derivatives transaction, etc. (meaning a currency-related derivatives transaction, etc. prescribed in paragraph (3) of the preceding Article; the same applies in this Article) , or the Cryptoasset-related Derivatives Transaction, etc. (meaning a Cryptoasset-related Derivatives Transaction, etc. prescribed in paragraph (4) of the preceding Article; hereinafter the same applies in this Article) conducted by the financial instruments business operator, etc. should be the beneficiary of the principal;

- (ii) that agents for beneficiaries should be appointed and at least one of such agents for beneficiaries should be served by an attorney-at-law, legal professional corporation, certified public accountant, auditing firm, tax accountant, tax accountant corporation or a person designated by the Commissioner of the Financial Services Agency (hereinafter referred to as an "attorney-at-law, etc." in this paragraph);
- (iii) that, in carrying out multiple segregated customer management trusts, the same agents for beneficiaries should be appointed for such multiple segregated customer management trusts;
- (iv) that if the financial instruments business operator, etc. comes to fall under the following conditions, only an agent for beneficiaries that is an attorney-at-law, etc. should exercise its authority (other than if such agent for beneficiaries agrees that another agent for beneficiaries should exercise the authority):
  - (a) when registration set forth in Article 29 of the Act is rescinded under the provisions of Article 52, paragraph (1) or (4), Article 53, paragraph (3), Article 54, or Article 57-6, paragraph (3) of the Act;
  - (b) when registration set forth in Article 33-2 of the Act is rescinded under the provisions of Article 52-2, paragraph (1) or (3), or Article 54 of the Act;
  - (c) when the financial instruments business operator, etc. files an application for commencement of bankruptcy proceedings, rehabilitation proceedings, reorganization proceedings, or special liquidation proceedings (with regard to a financial instruments business operator, etc. which is a foreign corporation, when it files an application for commencement of bankruptcy proceedings, rehabilitation proceedings, reorganization proceedings or special liquidation proceedings in Japan, or when it files an application of the same kind in a state where its head office is located based on the laws and regulations of that state);
  - (d) when the financial instruments business operator, etc. abolishes its financial instruments business, etc. (with regard to a financial instruments business operator, etc. which is a foreign corporation, when it abolishes financial instruments business, etc. at all business offices or offices



- established in Japan; the same applies in (d)) or dissolves (with regard to a financial instruments business operator, etc. which is a foreign corporation, when it commences liquidation of business offices or offices established in Japan; the same applies in (d)), or when the financial instruments business operator, etc. gives a public notice of abolition or dissolution of its financial instruments business, etc. under the provisions of Article 50-2, paragraph (6) of the Act;
- (e) when the financial instruments business operator receives an order for suspension of all or part of its business under the provisions of Article 52, paragraph (1) of the Act (limited to the case falling under item (viii) of that paragraph);
  - (f) when the Prime Minister files a petition for commencement of reorganization proceedings under Article 377, paragraph (1) of the Act on Special Measures Concerning Reorganization Proceedings of Financial Institutions, etc., a petition for commencement of rehabilitation proceedings under Article 446, paragraph (1) of that Act or an application for commencement of bankruptcy proceedings under the provisions of Article 490, paragraph (1) of that Act with a court; or
  - (g) when the Prime Minister receives a notice under the provisions of Articles 379, 448 or 492 of the Act on Special Measures Concerning Reorganization Proceedings of Financial Institutions, etc. or other notice concerning special liquidation proceedings;
  - (v) that the method of investment of the trust property pertaining to such segregated customer management trust (excluding a money trust with a financial institution engaged in trust business with a contractual agreement on principal protection) should be by holding securities listed in Article 141-2, paragraph (1), item (v), (a), 1. through 7. and beneficiary certificates of investment trusts listed in Article 65, item (ii), (a) through (c) (limited within the range equivalent to one third of the required amount of segregated customer management trust prescribed in the following item) and the means listed in item (v), (b) through (e) of that paragraph;
  - (vi) that, if the appraisal value of the principal of the trust property is less than the required amount of segregated customer management (meaning the total amount of the individual amounts of segregated customer management (each meaning the amount of the money or other security deposit prescribed in Article 43-3, paragraph (1) of the Act pertaining to a Currency-Related Derivatives Transaction, etc. or a Cryptoasset-related Derivatives Transaction, etc. to be refunded to a customer, as calculated per such customer, if the financial instruments business operator, etc. ceases to be engaged in financial instruments business, etc. due to abolition or any other reason; the same applies in item (xiv) and paragraph (1) of the following

- Article); hereinafter the same applies in this paragraph and paragraph (1) of that Article), money in an amount equivalent to such shortfall amount should be added to the trust property by the financial instruments business operator, etc. within two business days counting from the day immediately after the day when the shortfall takes place;
- (vii) that the financial instruments business operator, etc. should calculate the appraisal value of securities comprising the trust property based on the market value thereof (other than if such segregated customer management trust is a money trust with a financial institution engaged in trust business with a contractual agreement on principal protection);
  - (viii) that, if the segregated customer management trust is a money trust with a financial institution engaged in trust business with a contractual agreement on principal protection, the appraisal value of the principal of the trust property therein is used as the amount of the principal of such money trust;
  - (ix) that, in cases other than the following cases, all or part of the contract pertaining to the segregated customer management trust may not be terminated:
    - (a) when, if the appraisal value of the principal of the trust property exceeds the required amount of segregated customer management, all or part of the contract pertaining to the segregated customer management trust is terminated to the extent of such excess amount; or
    - (b) if all or part of the contract pertaining to the segregated customer management trust is terminated for the purpose of entrustment as a trust property pertaining to another segregated customer management trust;
  - (x) that the trust property pertaining to the termination of the all or part of the contract pertaining to the segregated customer management trust effected in a case set forth in (a) or (b) of the preceding item should be vested in the settlor;
  - (xi) that, if the financial instruments business operator etc., comes to fall under any of item (iv), (a) through (g), such financial instruments business operator, etc. may not give the trustee any investment instruction on the trust property, unless otherwise specifically permitted by an agent for beneficiaries that is attorney-at-law, etc.;
  - (xii) that, if an agent for beneficiaries that is an attorney-at-law, etc. deems necessary, the beneficial right of customers should be exercised collectively for all customers by such agent for beneficiaries;
  - (xiii) that, if the beneficial right of customers have been exercised collectively by an agent for beneficiaries that is an attorney-at-law, etc., the trust agreement pertaining to such beneficial right may be ended;
  - (xiv) that the amount to be paid to each customer when the customer exercises

the beneficial right should be specified as the amount arrived by multiplying the realized amount of principal as of the day of the exercise of such beneficial right by the proportion of the individual amount of segregated customer management trust pertaining to the customer to the required amount of segregated customer management as of that date (if the amount so arrived at exceeds the individual amount of segregated customer management, such individual amount of segregated customer management); and

- (xv) that, if the realized amount of principal on the day when the customer exercises the beneficial right exceeds the required amount of segregated customer management, such excess amount should be vested in the settlor.
- (2) The amount of money and any other security deposit under item (vi) of the preceding paragraph is to include the amount of profits that would arise to the customer from settling Currency-Related Derivatives Transaction, etc. or the Cryptoasset-related Derivatives Transaction, etc. under that item, and the amount of losses that would arise to the customer from settling such Currency-Related Derivatives Transaction, etc. or Cryptoasset-related Derivatives Transaction, etc. may be deducted.
- (3) If, for the purpose of calculating an individual amount of segregated customer management prescribed in paragraph (1), item (vi), if the financial instruments business operator, etc. is conducting the Currency-Related Derivatives Transaction, etc. or the Cryptoasset-related Derivatives Transaction, etc. under a basic agreement in which a contract on collective clearing was made with the customer, and if any collective clearing event occurs to such customer at the time of such calculation, there is an appraisal value resulting in an appraisal loss to such customer at the time of such collective clearing event occurring with regard to any specified financial transaction being conducted under such basic agreement (excluding such loss pertaining to such Currency-Related Derivatives Transaction, etc. or Cryptoasset-related Derivatives Transaction, etc.), the amount of such appraisal loss may be deducted to the extent that it is deemed not to compromise the protection of customers even if a Currency-Related Derivatives Transaction, etc. or a Cryptoasset-related Derivatives Transaction, etc. is settled under such basic agreement.
- (4) The realized amount of principal under paragraph (1), items (xiv) and (xv) means the amount that can be obtained by realizing the trust property pertaining to the segregated customer management trust (limited to the principal portion) (if the segregated customer management trust has principal protection features, the amount of principal).

(Calculation of Individual Amount of Segregated Customer Management)  
Article 143-3 (1) If a financial instruments business operator, etc. manages

money by means of a segregated customer management trust, it must calculate individual amounts of segregated customer management and the required amount of segregated customer management every day.

- (2) If a financial instruments business operator, etc. manages money in accordance with the means specified in Article 143, paragraph (1), item (ii), (c) and (d), it must, on a regular basis, check the amount of the security deposit deposited with the specified business operator, etc.

(Separate Management of Securities)

Article 144 (1) If a financial instruments business operator, etc. manages a security deposit or securities pursuant to the provisions of Article 43-3, paragraph (1) of the Act, and if the security deposit or securities fall under the category of securities, etc. (meaning properties other than money, such as securities; hereinafter the same applies in this Article and the following Article), it must manage such securities, etc. separately from its own properties, by the method specified in the following items in accordance with the categories of the securities, etc. set forth respectively therein:

- (i) securities, etc. managed by the financial instruments business operator, etc. itself by taking custody thereof (excluding those retained by way of commingled custody; the same applies in the following item): a method whereby the place of the custody of the securities, etc. which the financial instruments business operator, etc. is required to manage separately from its proprietary assets pursuant to the provisions of Article 43-3, paragraph (1) of the Act (hereinafter referred to as the "customers' securities, etc." in this Article) is clearly distinguished from the place of the custody of the securities, etc. other than the customers' securities, etc., such as the securities, etc. constituting its proprietary assets (hereinafter referred to as the "own securities, etc." in this paragraph), and by the customers to which such customers' securities, etc. belong is immediately identifiable;
- (ii) securities, etc. managed by the financial instruments business operator, etc. by way of having a third party take custody thereof: a method whereby the financial instruments business operator, etc. causes the third party to make a clear distinction between the place of the custody of the customers' securities, etc. and the place of the custody of the own securities, etc., and to retain custody of the customers' securities, etc. in a manner such that the customers to which such customers' securities, etc. belong are immediately identifiable;
- (iii) securities, etc. managed by the financial instruments business operator, etc. itself by taking custody thereof (limited to those to be retained by way of commingled custody; the same applies in the following item): a manner such that the place of the custody of the customers' securities, etc. is clearly

distinguished from the place of the custody of the own securities, etc., and such that the share of each customer pertaining to the customers' securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc.;

(iv) securities, etc. managed by the financial instruments business operator, etc. by way of having a third party take custody thereof: a method whereby the financial instruments business operator, etc. causes the third party to take custody thereof by segregating the account for such financial instruments business operator, etc. from the account for the customers of the financial instruments business operator, etc. or by any other method, such that the share pertaining to the customers' securities, etc. is immediately identifiable and that the share of each customer pertaining to such customers' securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc. (if the financial instruments business operator, etc. causes a foreign third party to take custody thereof, and if the laws and regulations of the foreign state hinder the financial instruments business operator, etc. from having such third party take custody thereof by separating the share pertaining to the customers' securities, etc. and the share pertaining to the own securities, etc., or if there are any especially unavoidable grounds which prevent such financial instruments business operator, etc. from having a third party take custody of the securities, etc. in a manner which enables immediate identification of the shares pertaining to such customers' securities, etc. based on the books of such financial instruments business operator, etc., a method whereby the financial instruments business operator, etc. causes such third party to take custody thereof in a manner such that the share of each customer pertaining to such customers' securities, etc. is easily identifiable based on the books of such financial instruments business operator, etc.);

(v) Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. managed by the Financial Instruments Business Operator, etc. by itself: the method set forth in sub-items (a) and (b) (with regard to the minimum level of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that are required to be managed by a method other than the method set forth in sub-item (b) for the purpose of securing the convenience of the customers of the Financial Instruments Business (including Registered Financial Institution Business; hereinafter the same applies in this and the following items) and promoting smooth conduct of the Financial Instruments Business, in light of the situation of the Financial Instruments Business that it conducts, the method set forth in sub-item (a)):

(a) a method to manage Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities, etc. by

- clearly separating them from the Own Securities, etc. in a manner to make it immediately identifiable to which customer said Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. belong (including a manner to ensure that the share of each customer pertaining to such Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities, etc. is immediately identifiable based on the books of said Financial Instruments Business Operator, etc.; the same applies in sub-item (a) of the following item); and
- (b) a method to manage information necessary for transferring financial values on which Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities, etc. are indicated by recording it in electronic equipment not always connected to 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;
- (vi) Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that the Financial Instruments Business Operator, etc. cause a third party to manage: the method set forth in sub-items (a) and (b) (with regard to the minimum level of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that are required to be managed by a method other than the method set forth in sub-item (b) for the purpose of securing the convenience of 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 it conducts, the method set forth in sub-item (a)):
- (a) a method to cause the third party to manage Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities, etc. by clearly separating them from the Own Securities, etc. in a manner to make it immediately identifiable to which customer said Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. belong; and
  - (b) 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 Financial Instruments Business Operator, etc. itself with regard to the preservation of Electronically Recorded Transferable Rights to Be Indicated on Securities, etc. that fall under Customers' Securities, etc.;
- (vii) rights regarded as securities under Article 2, paragraph (2) of the Act (excluding those listed in the foregoing items): the methods specified in the following (a) or (b), in accordance with the cases set forth respectively therein:

- (a) if there are documents evidencing the rights pertaining to the securities, etc. or any other document, which are necessary upon the exercise of such rights: to regard those documents as Securities, etc. and manage them in accordance with the categories of the securities as listed in items (i) to (iv); and
  - (b) in the cases other than the case specified in (a): to cause a third party to manage precisely the rights pertaining to the securities, etc. by treating them as the customers' securities, etc., and to manage them in a condition such that status of management thereof is immediately identifiable based on the books of the financial instruments business operator, etc.
- (2) Notwithstanding the provisions of the preceding paragraph, if the securities, etc. are co-owned by the financial instruments business operator, etc. and a customer, and it is impossible to manage them as specified by the provisions of that paragraph, the financial instruments business operator, etc. must manage them in a condition such that the share of each customer pertaining to such customers' securities, etc. is immediately identifiable based on the books of such financial instruments business operator, etc.
- (3) The securities, etc. set forth in the preceding two paragraphs are not to include the securities, etc. which the financial instruments business operator, etc. consume under a contract (limited to those which the financial instruments business operator, etc. possesses or has accepted as deposits from customers, in connection with over-the-counter transaction of derivatives).

(Management of Money and Properties Equivalent to the Value of Financial Instruments)

Article 145 (1) A financial instruments business operator, etc. must manage the properties prescribed in Article 43-3, paragraph (2) of the Act, except for the properties set forth in Article 143 and the preceding Article, in a manner such that the value thereof will not exceed the total of the following amounts;

- (i) money and securities, etc. owned by the financial instruments business operator, etc. (limited to the money and securities managed separately from other money and securities, etc. as money or securities pertaining to derivative transactions, etc. (excluding the transactions which fall under the category of the transactions of securities-related derivatives, etc., commodity-related market transactions of derivatives or brokerage, etc. for commodity-related market transactions of derivatives; hereinafter the same applies in this paragraph));
- (ii) securities, etc. deposited by a customer (limited to those managed separately from other securities, etc., as securities, etc. pertaining to derivative transactions, etc., and excluding those managed under the preceding Article);

- (iii) a deposit or savings account set up at a bank, cooperative financial institution or the Shoko Chukin Bank Limited (limited to those managed separately from others as money pertaining to derivative transactions, etc., and excluding those managed under Article 143); or
  - (iv) a money trust to be created with a financial institution engaged in a trust business, with a contractual agreement for compensation of principal; or a money trust to be created with a trust company or a financial institution engaged in a trust business, for which the customer's assets are secured under the trust agreement (limited to those managed separately from others as money pertaining to derivative transactions, etc., and excluding those managed under Article 143).
- (2) The properties set forth in the preceding paragraph and those listed in the items of that paragraph are not to include the money provided as security by a customer under Article 143, paragraph (2) and the securities, etc. which the financial instruments business operator, etc. can consume under a contract set forth in paragraph (3) of the preceding Article.

(Written Consent to Be Obtained in Case of Furnishing Customer's Securities as Security or in Other Cases)

Article 146 (1) A financial instruments business operator, etc. must obtain from the customer a written consent under Article 43-4, paragraph (1) of the Act, for each occasion if Article 43-4, paragraph (1) of the Act applies.

(2) Notwithstanding the provisions of the preceding paragraph, in the case referred to in Article 140, paragraph (1), a financial instruments business operator, etc. may, subject to fulfillment of all of the requirements listed in the items of that paragraph, obtain in advance from a customer a comprehensive written consent under Article 43-4, paragraph (1) of the Act (limited to a consent which satisfies all of the following requirements):

- (i) that the scope of securities to be furnished as security has been fixed;
- (ii) that the financial instruments business operator, etc. , after the time of receiving the deposit of the securities set forth in the preceding item but before the time of furnishing them as security, confirms with the customer that it has obtained a written consent under this paragraph;
- (iii) that, if the financial instruments business operator, etc. intends to provide as security the securities confirmed pursuant to the provisions preceding item, in accordance with the written consent obtained under this paragraph, it provides to the customer the document describing the types, issue and number of shares of the securities to be furnished as security or an aggregate amount of the face value thereof, or provides such customer with information to be contained in such document by electronic or magnetic means (excluding the means specified in Article 56, paragraph (1), item (i), (d)); and



- (iv) that the customer may at any time revoke the written consent under this paragraph.
- (3) The written consent set forth in Article 43-4, paragraph (1) of the Act must be made by means of the document specified in the following items, in accordance with the categories of the cases set forth respectively therein:
- (i) if securities are to be furnished as security, and if the comprehensive written consent under the preceding paragraph is to be obtained: a written comprehensive consent to the furnishing of security stating the following particulars:
    - (a) that the consent falls under the comprehensive consent set forth in the preceding paragraph, and the details of such consent;
    - (b) information as to whether the securities are to be furnished as security independently or commingling with other customer's securities;
    - (c) the name and address of the customer;
    - (d) the date of the consent; and
    - (e) the scope of the securities to be furnished as security.
  - (ii) cases in which the securities are to be furnished as security, excluding the case specified in the preceding item: a written consent on the creation of security stating the following particulars:
    - (a) information as to whether the securities are to be furnished independently or commingling with other customers' securities;
    - (b) the name and address of the customer;
    - (c) the date of the consent;
    - (d) the grounds for the possession or deposit of the securities; and
    - (e) the types, issues and number of shares of the securities, or the aggregate face value thereof.
  - (iii) if the securities are to be loaned to any other party: a written consent to a loan stating the matters listed in (b) through (e) of the preceding item.
- (4) The provisions of paragraph (1) and the preceding paragraph (excluding item (i)) apply mutatis mutandis to the cases provided in Article 43-4, paragraph (2) of the Act. In this case, the term "securities" in the preceding paragraph is deemed to be replaced with "commodities (including instruments or certificates issued in relation to the commodities deposited)"; and the phrase "the types, issues and number of shares of the securities, or the aggregate face value thereof" in item (ii), (e) of that paragraph is deemed to be replaced with "the types and quantities of the commodities".

#### **Subsection 4 Special Provisions on Electronic Public Offering Services**

Article 146-2 (1) A financial instruments business operator, etc. must make sure that the matters provided in paragraph (3) are clearly and accurately indicated,

in an easily visible location for the counterparty to the electronic public offering services, on the screen of a computer used by the counterparty.

- (2) For the matters provided in the following paragraph, the letters or numerical characters representing the matters specified in Article 37-3, paragraph (1), item (v) of the Act, the matters specified in Article 82, items (iii) and (v) and Article 83, paragraph (1), item (vi) (limited to the part pertaining to item (g)) of the Act are to be indicated in a size which does not differ substantially from the size of the largest letters or numerical characters representing matters other than such matter.
- (3) The matters to be specified by Cabinet Office Order as referred to in Article 43-5 of the Act are the summary of the matters specified in Article 37-3, paragraph (1), item (iv), the matters specified in item (v) of that paragraph, the matters specified in Article 82, items (iii) and (v) and Article 83, paragraph (1), items (iii) through (vii) .
- (4) The means specified by Cabinet Office Order that are referred to in Article 43-5 of the Act are the means whereby the contents of information recorded into the files stored on the computer used by a financial instruments business operator, etc. is made available for counterparties to the electronic public offering services via telecommunications line.

#### **Subsection 5 Special Provisions Concerning Cryptoasset-related Business**

(Cryptoasset-related Acts)

Article 146-3 (1) The Acts of Financial Instruments Transactions specified by Cabinet Office Order as referred to in Article 43-6, paragraph (1) of the Act are the following acts:

- (i) the following acts for a Derivative Transaction prescribed in Article 29-2, paragraph (1), item (ix) of the Act:
  - (a) the acts set forth in Article 2, paragraph (8), items (i) to (iv) of the Act;  
and
  - (b) the acts set forth in Article 2, paragraph (8), item (xi), item (xii) (limited to the part pertaining to sub-section (b)), or item (xiii) of the Act; and
- (ii) the following acts for Cryptoasset-related Securities or for a Derivative Transaction for Cryptoasset-related Securities or Financial Indicators (limited to the prices and interest rates, etc. of Cryptoasset-related Securities and figures calculated based on them):
  - (a) the acts set forth in Article 2, paragraph (8), items (i) to (iv) or items (vii) to (x) of the Act with regard to Cryptoasset-related Securities or the acts set forth in items (i) to (iv) of that paragraph with regard to said Derivative Transaction;

- (b) the acts set forth in Article 2, paragraph (8), item (xi), item (xii) (limited to the part pertaining to sub-section (b)), or item (xiii) of the Act; and
  - (c) the acts set forth in Article 2, paragraph (8), item (xvi) or (xvii) of the Act or Article 1-12, item (ii) of the Cabinet Order with regard to Cryptoasset-related Securities.
- (2) "Cryptoasset-related Securities" under item (ii) of the preceding paragraph are as follows:
- (i) Trust Beneficial Interests, etc. for which trust property is invested mainly in Cryptoassets or the rights pertaining to a Derivative Transaction prescribed in Article 29-2, paragraph (1), item (ix) of the Act; and
  - (ii) Equity in Business subject to Investment for which Business subject to Investment is a business to make investment mainly in Cryptoassets or the rights pertaining to a Derivative Transaction prescribed in Article 29-2, paragraph (1), item (ix) of the Act.
- (3) Trust Beneficial Interests, etc. for which trust property is invested mainly in those set forth in the items of the preceding paragraph (including investment in those set forth in the items of that paragraph and in Cryptoassets or the rights pertaining to a Derivative Transaction prescribed in Article 29-2, paragraph (1), item (ix) of the Act; hereinafter the same applies in this paragraph) are deemed to be the Trust Beneficial Interests, etc. set forth in item (i) of the preceding paragraph, and Equity in Business subject to Investment for which Business subject to Investment is a business to make investment mainly in those set forth in the items of that paragraph is deemed to be the Equity in Business subject to Investment set forth in item (ii) of that paragraph, and the provisions of the preceding paragraph and this paragraph apply to them.

(Explanation Concerning the Nature of Cryptoassets)

- Article 146-4 (1) When a Financial Instruments Business Operator, etc. intends to conduct a Cryptoasset-related Act (meaning the Cryptoasset-related Act prescribed in Article 43-6, paragraph (1) of the Act) vis-a-vis or for a customer (excluding Financial Instruments Business Operators, etc. (limited to those conducting Acts of Financial Instruments Transactions for Cryptoassets in the course of trade) and Cryptoasset Exchange Service Providers, etc.; hereinafter the same applies in this Article) based on the provisions of Article 43-6, paragraph (1) of the Act, the Financial Instruments Business Operator, etc. must provide an explanation concerning the nature of Cryptoassets to the relevant customer in advance by way of delivering a document or by any other appropriate method.
- (2) When providing an explanation under the provisions of the preceding paragraph, a Financial Instruments Business Operator, etc. is to explain the

following matters:

- (i) the fact that Cryptoassets are not the Japanese currency or a foreign currency;
  - (ii) when there is a risk of an accrual of loss directly caused by fluctuations in the value of Cryptoassets, to that effect and the reasons therefor;
  - (iii) 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;
  - (iv) the outline and the characteristics of the Cryptoassets for the Cryptoasset-related Act (in cases where the value of the Cryptoassets has not been guaranteed by a specific person, to that effect, and where the value has been guaranteed by a specific person, the name, trade name or other name of that person and the content of the guarantee); and
  - (v) other matters which should be noted by the customer in relation to the nature of Cryptoassets.
- (3) In cases where a Financial Instruments Business Operator, etc. conducts the Cryptoasset-related Act under paragraph (1) at its business office or other office and provides a customer with an explanation as prescribed in that paragraph, the Financial Instruments Business Operator, etc. is to do so by posting the matters listed in the items of the preceding paragraph at the service counter in a manner easily seen by said customer.

(Matters for which Misleading Representations are Prohibited)

Article 146-5 The matters specified by Cabinet Office Order as referred to in Article 43-6, paragraph (2) of the Act are the matters set forth in Article 78, items (v) to (vii) and item (xiii), sub-items (b) to (e).

### **Subsection 6 Preventive Measures against Adverse Effects**

(Prohibited Acts When Engaging in Two or More Categories of Business)

Article 147 The acts to be specified by Cabinet Office Order as referred to in Article 44, item (iii) of the Act are as follows:

- (i) in connection with the purchase and sale or other transaction of securities, conducted by a customer based on advice pertaining to the investment advisory business, or the purchase and sale or other transaction of securities, conducted as the investment of investment properties in relation to an investment management business, an act of soliciting any customer other than such customer or other than the right holder of such investment properties to conduct the purchase and sale or other transaction of securities., in order to complete any of the first-mentioned transactions or to have such other customer conduct any reversing trade in relation thereto, without

- explaining the reasons therefor to the solicited customer;
- (ii) in connection with investment advisory business or investment management business, an act of giving advice for the benefit of the customer or an act of making an investment for the benefit of the right holder, based on any undisclosed information (limited to information on the issuers of securities or information on customers of businesses other than an investment advisory business or investment management business) (excluding the acts to be conducted with the consent of the relevant issuer of securities or customer pertaining to such undisclosed information (hereinafter referred to as the "issuer, etc."));
- (iii) if the financial instruments business operator, etc. is the lead managing underwriter (meaning a person that, upon the conclusion of a wholesale underwriting contract, holds discussions with the issuer or holder of the securities related to such wholesale underwriting contract in order to finalize the contents thereof (hereinafter referred to as the "managing underwriter" in this item), whose amount of portion of the underwriting out of the aggregate issue price of the securities or the price of solicitation, etc. for secondary distribution of the securities or solicitation for selling, etc. only for professional investors (if the wholesale underwriting contract is the contract listed in Article 15, item (iii) of the Order, including the total amount of the amount to be paid when exercising the share option prescribed in that item) (hereinafter referred to as the "underwriting amount") is not less than that of any other managing underwriters or whose fees, remuneration or any other type of consideration receivable is not less than that receivable by any other managing underwriters; hereinafter the same applies in this Subsection) pertaining to the underwriting of securities, an act of giving advice for the purpose of creating a manipulative quotation which does not reflect actual market status in relation to its investment advisory business, or making an investment for the purpose of creating a manipulative quotation not reflecting actual market status in relation to its investment management business, with a view to having an impact on the conditions of the public offering or secondary distribution of such securities or on the conditions of the solicitation for acquisition only for professional investors or the solicitation for selling, etc. only for professional investors related to such securities;
- (iv) if the financial instruments business operator, etc. conducts the underwriting of securities, etc., and if the amount pertaining to applications for the acquisition or purchase of the securities (in cases of implementing those listed in Article 2, paragraph (6), item (iii) of the Act, the exercise of the share option prescribed in that item by the person that acquired the share option) is likely to be less than the amount scheduled by such financial

instruments business operator, etc., to advise to acquire or purchase such securities (in cases of implementing those listed in that item, securities acquired by the exercise of the share option; hereinafter the same applies in this item), in relation to its investment advisory business, or to make an investment whose purpose is to acquire or purchase such securities, in relation to its investment management business.

(Exemption from Prohibition Applicable to Financial Instruments Business Operators of Becoming Entrusted with Purchase and Sale of Securities Subject to Granting Credit)

Article 148 The act to be specified by Cabinet Office Order as referred to in Article 44-2, paragraph (1), item (i) of the Act is becoming entrusted, etc. with the purchase and sale of securities on the condition that credit is granted to the customer, which fulfills all of the following requirements:

- (i) that it constitutes becoming entrusted, etc. with the purchase and sale of securities from any individual that has presented or given notice of identification cards, etc. (meaning identification cards or any other object, or symbols such as numbers and marks; the same applies in Article 149, item (i), (a), Article 149-2, item (i), (a), Article 150, item (i), (a) and Article 274, item (i)), in which case such individual makes a lump-sum payment of the amount equivalent to the consideration for such securities within a period shorter than two months and such payment is delivered to the financial instruments business operator (limited to an operator engaged in the securities, etc. management business; the same applies in item (iii));
- (ii) that the credit to be granted to the same person does not exceed 100,000 yen;
- (iii) that the purchase and sale of the securities is conducted under the contract for cumulative investment (meaning a contract wherein a financial instruments business operator receives money deposit from a customer and sells securities to that customer continuously on dates designated in advance while receiving a consideration payable out of such money deposit, which satisfies all of the following requirements):
  - (a) that the contract provides for the types of the securities and the method for the appropriation of the deposit for purchasing, as a method of purchasing the securities;
  - (b) that the contract provides, as a method for the management of the deposits, that the fruits derived from the money paid or securities deposited by the customer, and the money which the financial instruments business operator keeps custody due to acceptance of redemption are treated as the cumulative investment deposit, and that accounting of such cumulative investment deposit is managed separately from any other

deposit;

- (c) that the contract provides that, if the securities are to be purchased jointly with another customer or a financial instruments business operator, it is certain that the customer acquires sole ownership in the securities purchased by such customer when the code and number thereof are identified;
- (d) that the contract provides, as a method for the management of the securities, that the deposited securities (limited to those co-owned by the financial instruments business operator and the customer) are managed separately from any other securities; and
- (e) that the contract may be cancelled if the customer so requests.

(Prohibited Acts Pertaining to Other Businesses of Financial Instruments Business Operators)

Article 149 The acts to be specified by Cabinet Office Order as referred to in Article 44-2, paragraph (1), item (iii) of the Act are as follows:

- (i) to conclude or solicit for the conclusion of a financial instruments transaction contract (excluding acts which are conducted through the act specified in Article 117, paragraph (1), item (iii) and also excluding that which satisfies all of the requirements specified in the items of the preceding Article and acts which satisfy all of the following requirements), on the condition that an agency or intermediary service for the conclusion of a contract for loans or for discounting negotiable instrument is concluded, or on the condition that credit is granted to the customer (excluding a money loan or a securities loan to be extended incidentally to the margin transaction set forth in Article 156-24, paragraph (1) of the Act; hereinafter the same applies in this item);
  - (a) that the act is a conclusion of contracts for financial instruments transaction with any individual that has presented or given notice of identification cards, etc. or solicitation therefor, in which case such individual makes a lump-sum payment of the amount equivalent to the obligations under the financial instruments transaction contract within a period shorter than two months and such payment is delivered to the financial instruments business operator (limited to an operator engaged in the securities, etc. management business or Act of management of specified securities, etc.; hereinafter the same applies in this Article); or
  - (b) that the credit to be granted to the same person does not exceed 100,000 yen;
  - (c) that the conclusion of a financial instruments transaction contract or solicitation therefor relates to electronic-based application type electronic public offering services covering any of the following securities or rights:

1. the securities specified in Article 2, paragraph (1), item (ix) of the Act (limited to those not listed on a financial instruments exchange, and excluding those provided in Article 15-10-2, paragraph (1), item (i) of the Cabinet Order);
  2. the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act which are deemed to be securities pursuant to that paragraph (limited to those specified in Article 3, item (iii) of the Act or those not listed on a financial instruments exchange, and excluding those provided in Article 15-10-2, paragraph (1), item (ii) of the Cabinet Order);
- (ii) an act of an officer or employee engaged in financial instruments business to receive from, or provide to, an officer or employee engaged in financial institution agency service operations any undisclosed loan information, etc. of the customer which is the issuer of the securities (excluding an act conducted in a case set forth as follows):
- (a) if the undisclosed loan information, etc. is to be provided with a prior written consent therefor from the customer;
  - (b) if it is deemed necessary that any undisclosed loan information, etc. be received from an officer or employee engaged in financial institution agency service operations, so as to ensure compliance with the laws and regulations applicable to the financial instruments business; or
  - (c) if the undisclosed loan information, etc. is to be provided to an officer or employee supervising the operation of the section in charge of the execution of financial instruments business.

(Exemption from Prohibition Applicable to Registered Financial Institutions of Becoming Entrusted with a Purchase and Sale of Securities Subject to Granting Credit)

Article 149-2 The act to be specified by Cabinet Office Order as referred to in Article 44-2, paragraph (2), item (i) of the Act is becoming entrusted, etc. with the purchase and sale of securities on the condition that credit is granted to the customer, which fulfills all of the following requirements:

- (i) that the act should fall under either of the following:
  - (a) that it constitutes becoming entrusted, etc. with the purchase and sale of securities from any individual that has presented or given notice of identification cards, etc., in which case such individual makes a lump-sum payment of the amount equivalent to the consideration for such securities within a period shorter than two months and such payment is delivered to the registered financial institution (limited to an operator engaged in the securities, etc. management business; hereinafter the same applies in this Article and Article 150, item (i), (a)); or
  - (b) that it constitutes becoming entrusted, etc. with the purchase and sale of



securities from any individual that concludes a contract with the registered financial institution on accepting a deposit or savings account, in which all or part of the amount equivalent to the consideration for such securities is loaned (limited to a loan for which repayment is payable within one month) to such individual under a contract on providing a loan ancillary to such contract;

- (ii) that the credit to be granted to the same person does not exceed 100,000 yen;
- (iii) that the purchase and sale of the securities is conducted under the contract for cumulative investment (meaning a contract wherein a registered financial institution receives money deposit from a customer and sells securities to that customer continuously on dates designated in advance while receiving a consideration payable out of such money deposit, which satisfies all of the following requirements):
  - (a) that the contract provides for the types of the securities and the method for the appropriation of the deposit for purchasing, as a method of purchasing the securities;
  - (b) that the contract provides, as a method for the management of the deposits, that the fruits derived from the money paid or securities deposited by the customer, and the money which the registered financial institution keeps custody due to acceptance of redemption are treated as the cumulative investment deposit, and that accounting of such cumulative investment deposit is managed separately from any other deposit;
  - (c) that the contract provides that, if the securities are to be purchased jointly with another customer or registered financial institution, it is certain that the customer acquires sole ownership in the securities purchased by such customer when the code and number thereof are identified;
  - (d) that the contract provides, as a method for the management of the securities, that the deposited securities (limited to those co-owned by the registered financial institution and the customer) are managed separately from any other securities; and
  - (e) that the contract may be terminated if the customer so requests.

(Prohibited Acts Pertaining to Other Business of the Registered Financial Institution)

Article 150 The acts to be specified by Cabinet Office Order as referred to in Article 44-2, paragraph (2), item (iii) of the Act are as follows:

- (i) to conclude or solicit for the conclusion of a financial instruments transaction contract (excluding that which are conducted through the act specified in Article 117, paragraph (1), item (iii) and also excluding that

which satisfies all of the requirements specified in the items of the preceding Article and which satisfies all of the requirements specified in the following items), as a condition for providing an agency or intermediary service for the conclusion of a contract for loans or for discounting negotiable instrument, or as a condition for granting credit;

- (a) that the act is a conclusion of contracts for financial instruments transaction with any individual that has presented or given notice of identification cards, etc. or solicitation therefor, in which case such individual makes a lump-sum payment of the amount equivalent to the obligations under the financial instruments transaction contract within a period shorter than two months and such payment is delivered to the registered financial institution; or
- (b) that the credit to be granted to the same person does not exceed 100,000 yen;
- (c) that the conclusion of a financial instruments transaction contract or solicitation therefor relates to electronic-based application type electronic public offering services covering any of the following securities or rights:
  - 1. the securities specified in Article 2, paragraph (1), item (ix) of the Act (limited to those not listed on a financial instruments exchange, and excluding those set forth in Article 15-10-2, paragraph (1), item (i) of the Cabinet Order);
  - 2. the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act which are deemed to be securities pursuant to that paragraph (limited to those specified in Article 3, item (iii) of the Act or those not listed on a financial instruments exchange, and excluding those set forth in Article 15-10-2, paragraph (1), item (ii) of the Cabinet Order );
- (ii) to conclude or solicit for conclusion of a financial instruments transaction contract (excluding that which are conducted through the act specified in Article 117, paragraph (1), item (iii) and also excluding that which satisfies all of the requirements specified in the items of the preceding Article and which satisfies all of the requirements specified in (a) through (c) of the preceding item), on the condition that an agency or intermediary service for conclusion of a contract for loans or for discounting negotiable instrument is provided, or that credit is granted;
- (iii) beyond what is set forth in the preceding two items, an act to conclude or solicit for the conclusion of a financial instruments transaction contract, while unjustly taking advantage of one's dominant bargaining position;
- (iv) in the case referred to as follows, an act to provide an intermediary service for the purchase and sale of securities (if the entrusting financial instruments business operator that is to be an underwriter of the securities, implements those listed in Article 2, paragraph (6), item (iii) of the Act,

including securities acquired by the exercise of the share option prescribed in that item; hereinafter the same applies in this item) (limited to a service in a case in which securities are to be sold within the period between the day when the entrusting financial instruments business operator becomes an underwriter and the day on which six months have elapsed therefrom), to deal in the public offering or secondary distribution of securities, to deal in the private placement of securities or to deal in the solicitation for selling, etc. only for professional investors, without explaining to the customer the fact that any of the following provisions is applicable:

- (a) if any person that owes a debt to the party itself is to issue the securities, and it is aware of the circumstance if the proceeds from such securities will be appropriated for payment of such debt;
- (b) if the person whose major lender of the money is the party itself is to issue the securities (but only if the offering disclosure documents prescribed in Article 172-2, paragraph (3) of the Act or the specified information on securities, etc. provided or publicized under Article 27-31, paragraph (2) or (4) of the Act contains a statement or record that the lender is the party itself);
- (v) an act of an officer (if the officer is a corporation, including executive members thereof; hereinafter the same applies in this item) or employee engaged in a financial instruments intermediation operation to receive from, or provide to, an officer or employee engaged in loan business or financial institution agency service operations any undisclosed loan information, etc. of the customer which is the issuer of the securities (excluding an act conducted in the cases specified as follows):
  - (a) if the undisclosed loan information, etc. is to be provided with a prior written consent thereon from the customer (including the customer's written consent set forth in Article 123, paragraph (1), item (xxiv));
  - (b) if it is found to be necessary that any undisclosed loan information, etc. be received from an officer or employee engaged in loan business or financial institution agency service operations, so as to ensure compliance with the laws and regulations applicable to the registered financial institution business; or
  - (c) if the undisclosed loan information, etc. is to be provided to an officer or employee supervising the operation of the section in charge of the execution of the financial instruments intermediation operations.

Articles 151 and 152 deleted

(Restriction of Acts Involving Parent Corporations or Subsidiary Corporations of Financial Instruments Business Operators)

Article 153 (1) The acts to be specified by Cabinet Office Order as referred to in Article 44-3, paragraph (1), item (iv) of the Act are as follows:

- (i) an act to conduct the purchase and sale or any other transactions of assets with the parent corporation, etc. or the subsidiary corporation, etc. of the financial instruments business operator under conditions which differ substantially from those for ordinary transactions;
- (ii) an act to conclude a financial instruments transaction contract with a customer, knowing that the financial instruments business operator's parent corporation, etc. or subsidiary corporation, etc. has conducted any purchase and sale or any other transaction of assets with such customer under conditions more favorable than those for ordinary transactions and on the condition that such customer concludes such financial instruments transaction contract with such financial instruments business operator;
- (iii) the following acts, if the financial instruments business operator is to become an underwriter of the securities (meaning the securities prescribed in Article 117, paragraph (1), item (xxxi); hereinafter the same applies in this item) to be issued by any person owing a debt to the parent corporation, etc. or subsidiary corporation, etc. of the financial instruments business operator, and if the financial instruments business operator or any of its officers or employees is aware of the circumstance if the proceeds from such securities (if the financial instruments business operator implements those listed in Article 2, paragraph (6), item (iii) of the Act, including securities acquired by the exercise of the share option prescribed in that item; hereinafter the same applies in this item) will be appropriated for the payment of such debt:
  - (a) to sell the securities to a customer, without explaining to the customer the aforementioned circumstance;
  - (b) to cause a registered financial institution, a financial instruments intermediary service provider or a financial service intermediary which accepts the financial instruments intermediation operation to conduct any of the following acts, without explaining to such registered financial institution, financial instruments intermediary service provider or a financial service intermediary the aforementioned circumstance (other than if the financial instruments business operator has promised to buy back such securities):
    1. an intermediary service for the purchase and sale of the securities (limited to a service in a case in which the securities are to be sold within the period between the day when the financial instruments business operator becomes the underwriter and the day on which six months have elapsed therefrom); or
    2. dealing in the public offering or secondary distribution of the securities, dealing in the private placement of the securities, or dealing in the

solicitation for selling, etc. only for professional investors in relation to the securities.

(iv) to assume the position of the lead managing underwriter for underwriting of securities (excluding the securities specified as follows) to be issued by the parent corporation, etc. or subsidiary corporation, etc. of the financial instruments business operator:

(a) share certificates which have been continuously listed on the financial instruments exchange for a period of six months or more (including if the share certificates issued by a stock company incorporated through a consolidation-type merger or share transfer (but only if all of the companies extinguished through such consolidation-type merger or companies which implemented such share transfer are stock companies, and if the share certificates issued by those companies had been listed in the financial instruments exchange before they were delisted due to such consolidation-type merger or share transfer) have been continuously listed on the financial instruments exchange since they were listed due to such consolidation-type merger or share transfer, if the period listed is less than six months, and if the total of such period of being listed and the shortest of the periods for which the share certificates delisted due to such consolidation-type merger or share transfer had been continuously listed on the financial instruments exchange until they were delisted is six months or more) or investment securities which have been continuously listed on the financial instruments exchange for a period of six months or more (including if the investment securities issued by an investment corporation incorporated through a consolidation-type merger (but only if the investment securities issued by all of the investment corporations extinguished through such consolidation-type merger had been listed in the financial instruments exchange before they were delisted due to such consolidation-type merger) have been continuously listed on the financial instruments exchange since they were listed due to such consolidation-type merger, if the period listed is less than six months, and if the total of such period of being listed and the shortest of the periods for which the investment securities delisted due to such consolidation-type merger had been continuously listed on the financial instruments exchange until they were delisted is six months or more), and which satisfy any of the following requirements:

1. that, if the listing date (meaning the day when such share certificates come to fall under the categories of share certificates or investment securities listed on the financial instruments exchange; the same applies in 2. and 3.) falls within the day that is or precedes the day three years and six months before the issue date (meaning the day

- when the securities pertaining to the underwriting of the securities are to be issued; the same applies in 2., 3. and (c), 3.), the issued share certificates or issued investment securities of the parent corporation, etc. or the subsidiary corporation, etc. fulfill the following conditions: that the amount derived from dividing the total of the price for the purchase and sale on the financial instruments exchange market (simply referred to as the "purchase and sale price" in 2. and 3.) for three years before any day belonging to the period six months prior to the issue date (referred to as the "calculation base date" in (a) and (c)) by three is ten billion yen or more; and that the amount derived from dividing the total market capitalization (meaning the aggregate market value on the financial instruments exchange market; hereinafter the same applies in 1. and 2.) of such share certificates as of such calculation base date, as of the day corresponding to such calculation base date which falls within the year immediately prior to the year containing such calculation base date (referred to as the "calculation base year" in 2. and 3.), and as of the day corresponding to such calculation base date which falls within the year two years prior to the calculation base year by three is ten billion yen or more;
2. if the listing date falls within the period between the day after the day three years and six months before the issue date and the day that is or precedes the day two years and six months before the issuance date, the amount derived from dividing the total purchase and sale price of the issued share certificates or issued investment securities of the parent corporation, etc. or the subsidiary corporation, etc. for the two years prior to the calculation base date by two is ten billion yen or more, and the amount derived from dividing the total market capitalization of such share certificates as of such calculation base date and the day corresponding to the calculation base date which falls within the year immediately prior to the calculation base year by two is ten billion yen or more; or
  3. if the listing date falls within the day after the day two years and six months before the issuance date, the amount of purchase and sale of the issued share certificates or issued investment securities of the parent corporation, etc. or the subsidiary corporation, etc. for one year prior to the calculation base date is ten billion yen or more, and the market capitalization of such share certificates as of the calculation base date is ten billion yen or more;
- (b) securities that are share option certificates or investment equity subscription rights certificates, if share certificates or investment equity subscription rights certificates that are acquired or underwritten by the

exercise of the share option or investment equity subscription rights correspond to sub-item (a) above;

(c) securities that are corporate bond certificates with share options (limited to those share certificates to be acquired or underwritten by the exercise of share options which correspond to (a) above) or corporate bond certificates (excluding corporate bond certificates with share options; hereinafter the same applies in (c) below) or investment corporation bond certificates, which issuer meets all of the following requirements:

1. with regard to corporate bond certificates or investment corporation bond certificates (limited to those which have been listed for six months or longer continuously on the financial instruments exchange or for which the purchasing and selling price or indicative price quotations has been publicized by the authorized financial instruments firms association for six months or longer continuously; the same applies in 2 and 3 below) that the issuer issued or delivered by submitting registration statements or shelf registration supplements (meaning the shelf registration supplements prescribed in Article 23-8, paragraph (1) of the Act; the same applies in 2. and 3.) pertaining to its public offering or secondary distributions in Japan, the total of trading volume at the financial instruments exchange market over one year before the calculation base date is 10 billion yen or more, or it is publicized by the authorized financial instruments firms association that the total trading volume over one year before the calculation base date is 10 billion yen or more;
2. total face value as of the calculation base date of corporate bond certificates issued or delivered by the issuer in Japan by submitting registration statements or shelf registration supplements pertaining to its public offering or secondary distribution or the total amount of book-entry company bonds (meaning the book-entry company bonds prescribed in Article 66 of the Act on Book-Entry Transfer of Corporate Bonds and Shares; the same applies in 3.) or book-entry transfer investment corporation bonds (meaning the book-entry transfer investment corporation bonds provided in Article 116 of the same Act; the same applies in 3.) is 25 billion yen or more; and
3. total face value of corporate bond certificates or investment corporation bond certificates issued or delivered by the issuer in Japan by submitting registration statements or shelf registration supplements pertaining to its public offering or secondary distribution over five years before the issue date or total amount of book-entry company bonds or book-entry transfer investment corporation bonds is 10 billion yen or more.

(d) share certificates, etc. (meaning share certificates, share option certificates, corporate bond certificates, investment securities, certificates of investment equity subscription rights, investment corporation bond certificates) for which a financial instruments business operator that satisfies all of the following requirements is appropriately involved in the decision as to the issue price (including the amount to be paid at the exercise of share options and issue price of share certificates in cases of issuing the share certificates by the exercise of share options, in cases of share certificates; the amount to be paid upon the exercise of investment equity subscription rights and the issue price of the investment securities in the case of issuing the investment securities by the exercise of the investment equity subscription rights, in cases of certificates of investment equity subscription rights; interest rate, issue price of share options, the amount to be paid at the exercise of share options, and issue price of share certificates in cases of issuing the share certificates by exercise of share options, in cases of corporate bond certificates with share options; and interest rate in cases of bonds (excluding corporate bond certificates with share options)) pertaining to the underwriting or investment corporation bonds as a managing underwriter (meaning a managing underwriter prescribed in Article 147, item (iii)) (excluding those which fall under (a) through (c)):

1. that it has obtained the registration under Article 29 of the Act for engaging in a business pertaining to the acts listed in Article 28, paragraph (1), item (iii), a) of the Act;
2. that it has sufficient experience concerning the business pertaining to the underwriting of securities;
3. that it is not a parent corporation, etc. or a subsidiary corporation, etc. of the lead managing underwriter or an issuer of such share certificates, etc. (hereinafter referred to as the "lead managing underwriter, etc." in (d));
4. that it does not hold subject voting rights (meaning subject voting rights prescribed in Article 29-4, paragraph (2) of the Act and including those which are deemed to be held pursuant to the provisions of paragraph (5) of that Article; the same applies in 5.) in the lead managing underwriter, etc., or a parent corporation, etc. or a subsidiary corporation, etc. thereof in an amount of five percent or more of voting rights held by all the shareholders, etc. thereof;
5. that the lead managing underwriter, etc., or a parent corporation, etc. or a subsidiary corporation, etc. thereof does not hold subject voting rights in it in an amount of five percent or more of voting rights held by all the shareholders, etc. thereof;



6. that the following persons do not constitute a majority of directors and executive officers (including board members, auditors and any other persons equivalent thereto; the same applies in 6. and 7.) of the lead managing underwriter, etc., and directors and executive officers thereof with the authority of representation:
    - i. its officers (if an officer is a corporation, including executive members thereof; hereinafter the same applies in 6.) and major shareholders;
    - ii. relatives of the persons listed in i. (limited to a spouse, and a relative by blood and a relative by affinity within the second degree of kinship);
    - iii. if it or any person listed in 6., i. and 6., ii. holds voting rights in another company, etc. (meaning a company, etc. prescribed in Article 15-16, paragraph (3) of the Order) exceeding fifty percent of voting rights held by all the shareholders, etc. thereof, such other company, etc. and its officers; and
    - iv. persons that were formerly its officers (limited to those that fall under the cases in which two years have not elapsed from the day on which they ceased to be officers) and employees; and
  7. that the majority of its directors and executive officers and directors, and its executive officers with the authority of representation is not constituted by the persons listed in 6., i. through iv. with regard to the lead managing underwriter, etc.;
- (v) an act to sell securities to a customer, within the period between the day when the financial instruments business operator becomes the underwriter of the securities and the day on which six months have elapsed therefrom, knowing that its parent corporation, etc. or subsidiary corporation, etc. has extended a loan or otherwise granted credit to such customer in relation to the purchase price of such securities (if the financial instruments business operator implements those listed in Article 2, paragraph (6), item (iii) of the Act, securities that are acquired by exercising the share options prescribed in that item; hereinafter the same applies in this item);
- (vi) an act to sell securities (excluding national government bond securities and municipal bond securities, and also excluding corporate bond certificates or any other bond certificates for which the government guarantees redemption of principal and interest payments) to its parent corporation, etc. or subsidiary corporation, etc., within the period between the day when it becomes the underwriter of such securities (if the financial instruments business operator implements those listed in Article 2, paragraph (6), item (iii) of the Act, securities that are acquired by exercising the share options prescribed in that item; hereinafter the same applies in this item) and the day on which six months have elapsed therefrom (excluding the sales to be

conducted in the cases specified as follows):

- (a) to have the trust company or the financial institution engaged in the trust business, which is the financial instruments business operator's parent corporation, etc. or subsidiary corporation, etc., acquire the securities, by means of the trust property under the money trust of which means of investment are specified (other than if the settlor of such money trust falls under the category of the financial instruments business operator's parent corporation, etc. or subsidiary corporation, etc.);
- (b) to have the financial instruments business operator's parent corporation, etc. or subsidiary corporation, etc. acquire the securities, with a view to having such parent corporation, etc. or subsidiary corporation, etc. receive orders for the purchase and sale of the securities from a customer of the financial instruments business or registered financial institution business (other than if the customer falls under the category of its parent corporation, etc. or subsidiary corporation, etc.) and effect such purchase and sale wherein the parent corporation, etc. or subsidiary corporation, etc. is the counterparty thereto;
- (c) with regard to the public offering or secondary distribution of the securities, or the solicitation for acquisition only for professional investors or solicitation for selling, etc. only for professional investors in relation to such securities, a case in which the pre-hearing on the investors' demands for such securities to be implemented for the public offering or secondary distribution of the securities or the solicitation for acquisition only for professional investors or solicitation for selling, etc. only for professional investors was implemented pursuant to the provisions of the rules of the financial instruments exchange or of the authorized financial instruments firms association, in which case such pre-hearing appropriately revealed the existence of investors' demands which were adequate for such securities and based upon which the reasonable and fair terms and conditions for the issuance thereof has been determined;
- (vii) an act whereby a financial instruments business operator engaged in a securities-related business (limited to an operator engaged in type I financial instruments business) receives from, or provides to, its parent corporation, etc. or subsidiary corporation, etc. any undisclosed information on issuers, etc. (excluding any acts conducted in the cases specified as follows):
  - (a) if the issuer, etc. has given a prior written consent on the provision of such undisclosed information by the financial instruments business operator or its parent corporation, etc. or subsidiary corporation, etc.;
  - (b) if the financial instruments business operator makes an entrustment pertaining to a financial instruments intermediary service or the securities, etc. intermediary business operations to its parent corporation, etc. or

subsidiary corporation, etc., and it receives the information listed in Article 281, item (xii), (a) through (c) of this Cabinet Office Order or Article 118, item (ix), (a) or (b) of the Cabinet Office Order on Financial Service Intermediary, etc. (Cabinet Office Order No. 35 of 2021) or provides the information listed in Article 123, paragraph (1), item (xviii), (a) through (c);

(c) if the financial instruments business operator makes an entrustment pertaining to financial instruments intermediation operations to its parent bank, etc. or subsidiary bank, etc., and it receives the information specified in Article 123, paragraph (1), item (xxiv), (a) or (b) or provides the information listed in item (xviii), (a) through (c) of that paragraph;

(d) if the financial instruments business operator conducts financial institution agency service based on an entrustment by a principal financial institution which is its parent bank, etc. or subsidiary bank, etc. (the term a "principal financial institution" means the principal bank prescribed in Article 2, paragraph (16) of the Banking Act, the Principal Long-Term Credit Bank prescribed in Article 16-5, paragraph (3) of the Long-Term Credit Bank Act, the Principal Shinkin Bank prescribed in Article 85-2, paragraph (3) of the Shinkin Bank Act, the principal credit cooperative prescribed in Article 6-3, paragraph (3) of the Act on Financial Businesses by Cooperative, the Principal Labor Bank prescribed in Article 89-3, paragraph (3) of the Labor Bank Act, the principal cooperative prescribed in Article 92-2, paragraph (3) of the Agricultural Cooperatives Act, the principal cooperative prescribed in Article 106, paragraph (3) of the Fisheries Cooperatives Act, the Norinchukin Bank, or the counterparty financial institution prescribed in Article 52-45, item (iv) of the Banking Act as applied mutatis mutandis pursuant to Article 29 of the Act on the Provision of Financial Services following the deemed replacement of terms; the same applies hereinafter), and it receives the information specified in 1. or 2. below or provides the information specified in 3. or 4. below:

1. information on the financial institution agency service to be conducted by the financial instruments business operator based on an entrustment by a principal financial institution which is its parent bank, etc. or subsidiary bank, etc.;

2. information which is deemed necessary to be received by the financial instruments business operator, in order to assure its compliance with the laws and regulations applicable to the financial institution agency services to be conducted based on an entrustment by a principal financial institution which is its parent bank, etc. or subsidiary bank, etc.;

3. information which is deemed necessary to be provided from the financial

instruments business operator to a principal financial institution which is its parent bank, etc. or subsidiary bank, etc., for the purpose of the performance of the financial institution agency service to be conducted based upon an entrustment by such principal financial institution;

4. information which may come to the knowledge of the financial instruments business operator in the course of the financial institution agency service it conducts based upon an entrustment from the principal financial institution which is its parent bank, etc. or subsidiary bank, etc., and which is deemed necessary to be provided to such principal financial institution in order to assure such financial instruments business operator's compliance with the laws and regulations;
- (e) if the financial instruments business operator discloses to its parent bank, etc. or subsidiary bank, etc. the amount of the credit, etc. granted to its customers, for the purpose of the calculation of the amount specified in 1. through 5. below:
1. the amount of credit, etc. granted and the consolidated limit for granting of credit, etc. as prescribed in Article 13, paragraph (2) of the Banking Act (including as applied mutatis mutandis pursuant to Article 17 of the Long-Term Credit Bank Act, Article 89, paragraph (1) of the Shinkin Bank Act, Article 94, paragraph (1) of the Labor Bank Act and Article 6, paragraph (1) of the Act on Financial Businesses by Cooperative);
  2. the amount of assets investment prescribed in Article 97-2, paragraph (3) of the Insurance Business Act, and the amount of the sum calculated pursuant to the provisions of Cabinet Office Order as referred to in that paragraph;
  3. the amount of credit, etc. granted and the consolidated limit for granting of credit, etc. as prescribed in Article 58, paragraph (2) of the Norinchukin Bank Act;
  4. the amount of credit, etc. granted and the consolidated limit for granting of credit, etc. as prescribed in Article 11-4, paragraph (2) of the Agricultural Cooperatives Act;
  5. the amount of credit, etc. granted and the consolidated limit for granting of credit, etc. as prescribed in Article 11-14, paragraph (2) of the Fisheries Cooperatives Act;
- (f) if the financial instruments business operator receives or provides the information necessary for the preparation of a confirmation letter as prescribed in Article 24-4-2, paragraph (1) of the Act or an internal control report as prescribed in Article 24-4-4, paragraph (1) of the Act (but only if

- the financial instruments business operator, as well as its parent corporation, etc. or subsidiary corporation, etc. which provides such information to, or receives such information from, the financial instruments business operator, have taken secure measures to prevent the leaking of the undisclosed information from the section in charge of the preparation of such confirmation report and internal control report);
- (g) if the financial instruments business operator receives or provides any information necessary for the maintenance and management of an electronic data processing system (but only if the financial instruments business operator, as well as its parent corporation, etc. or subsidiary corporation, etc. which provides such information to the financial instruments business operator or receives such information from the financial instruments business operator, have taken secure measures to prevent the leaking of the undisclosed information from the section in charge of the maintenance and management of the electronic data processing system);
- (h) if the financial instruments business operator receives or provides undisclosed information under the laws and regulations, etc.; and
- (i) if the financial instruments business operator receives (in cases of receiving information necessary for conducting all or part of the business specified in paragraph (3), item (vii), limited to the case of receiving information from a subsidiary corporation, etc. of the financial instruments business operator), or provides (in cases of providing information necessary for conducting all or part of the businesses specified in that item, limited to the case of providing information to a parent corporation, etc. of the financial instruments business operator) to its person in specified relationship, information necessary for handling all or part of the internal management and operation affairs (but only if measures have been precisely taken by such financial instruments business operator and the person in specified relationship that provides such information to such financial instruments business operator or receives such information from such financial instruments business operator, in order to prevent the leaking of undisclosed information from the sections in charge of the internal management and operation affairs);
- (viii) an act whereby a financial instruments business operator engaged in a securities-related business (limited to such operator engaged in type I financial instruments business) solicits for the conclusion of a financial instruments transaction contract by utilizing the undisclosed information on customers acquired from its parent corporation, etc. or subsidiary corporation, etc. (limited to any information provided by the parent corporation, etc. or subsidiary corporation, etc. without obtaining the

- customer's written consent);
- (ix) an act whereby a financial instruments business operator engaged in a securities-related business (limited to such operator engaged in type I financial instruments business) utilizes the undisclosed information on issuers, etc. acquired from its parent corporation, etc. or subsidiary corporation, etc. (limited to such information acquired in the cases under item (vii), (g) and (i)) for any purpose other than handling affairs related to the maintenance and management of electronic data processing systems and the internal management and operation affairs;
  - (x) an act whereby a financial instruments business operator engaged in a securities-related business (limited to such operator engaged in type I financial instruments business) concludes or solicits for the conclusion of a financial instruments transaction contract by unjustly taking advantage of a dominant bargaining position of its parent bank, etc. or subsidiary bank, etc.;
  - (xi) if the financial instruments business operator visits a customer with its parent bank, etc. or subsidiary bank, etc., and such financial instruments business operator fails to inform the customer that it is a corporation separate from the parent bank, etc. or subsidiary bank, etc. or conducts any act which would mislead the customer into believing that it is the same corporation as such parent bank, etc. or subsidiary bank, etc.;
  - (xii) if the parent corporation, etc. or subsidiary corporation, etc. of the financial instruments business operator is the lead managing underwriter pertaining to the underwriting of securities, an act to give advice for the purpose of creating a manipulative quotation not reflecting actual market status in relation to its investment advisory business, or to make an investment for the purpose of creating a manipulative quotation not reflecting actual market status in relation to its investment management business, with a view to having an impact on the conditions of the public offering or secondary distribution of such securities or on the conditions of the solicitation for acquisition only for professional investors or solicitation for selling, etc. only for professional investors related to such securities;
  - (xiii) if the parent corporation, etc. or subsidiary corporation, etc. of the financial instruments business operator conducts the underwriting of securities, etc., and if the amount pertaining to applications for the acquisition or purchase of the securities made to such parent corporation, etc. or subsidiary corporation, etc. (if the parent corporation, etc. or subsidiary corporation, etc. implements those listed in Article 2, paragraph (6), item (iii) of the Act, exercise of the share option by the person that acquired the share option prescribed in that item) is likely to be less than the amount that such parent corporation, etc. or subsidiary corporation, etc. had scheduled, to advise to acquire or purchase of such securities (if the parent corporation, etc.

- or subsidiary corporation, etc. implements those listed in that item, securities acquired by exercise of the share option; hereinafter the same applies in that item), in relation to its investment advisory business, or to make an investment whose purpose is to acquire or purchase such securities, in relation to its investment management business, upon the request of such parent corporation, etc. or subsidiary corporation, etc.;
- (xiv) to conduct electronic-based application type electronic public offering services, etc. pertaining to securities issued by a parent corporation, etc. or subsidiary corporation, etc. of the financial instruments business operator;
  - (xv) to evade the prohibitions under Article 44-3, paragraph (1) of the Act, irrespective of the name under which the act is to be conducted.
- (2) If the financial instruments business operator, or its parent corporation, etc. or subsidiary corporation, etc. under items (vii) and (viii) of the preceding paragraph appropriately offers to an issuer, etc. (limited to a corporation; hereinafter the same applies in this paragraph) an opportunity to request the suspension of the provision to the parent corporation, etc. or subsidiary corporation, etc., or financial instruments business operator of undisclosed information concerning the issuer, etc. (hereinafter referred to as the "undisclosed information provision" in this paragraph), a written consent from such issuer, etc. is deemed to be in place with regard to the undisclosed information provision until such issuer, etc. requests such suspension.
- (3) The "internal management and operation affairs" under paragraph (1), item (vii), (i), and item (ix) of that paragraph means the following affairs:
- (i) affairs related to compliance management (meaning the judgment on whether the business is compliant with the laws and regulations, etc. (meaning laws and regulations (including the laws and regulations of foreign states), dispositions issued by administrative agencies under the laws and regulations (including similar dispositions issued under the laws and regulations of foreign states), or rules of the financial instruments firms association, financial instruments exchange or commodity exchange (meaning the commodity exchange prescribed in Article 2, paragraph (4) of the Commodity Futures Act) such as its articles of association (including rules in foreign states which are equivalent thereto); hereinafter the same applies in this item), and the assurance of compliance with the laws and regulations, etc. by the officers and employees);
  - (ii) affairs related to risk management concerning loss;
  - (iii) affairs related to an internal audit and internal inspection;
  - (iv) affairs related to finance;
  - (v) affairs related to accounting;
  - (vi) affairs related to tax;
  - (vii) affairs relating to the business management of the subsidiary corporation,

- etc. (excluding those specified in the preceding items); and
- (viii) settlement relating to the purchase and sale of securities, derivative transactions and other transactions, as well as affairs incidental thereto.
- (4) A "person in specified relationship" under paragraph (1), item (vii), (i) means the following person:
- (i) a holding company of which such financial instruments business operator is a subsidiary company (meaning a subsidiary company prescribed in Article 29-4, paragraph (4) of the Act; hereinafter the same applies in this paragraph);
  - (ii) a company that is the parent corporation, etc. of such financial instruments business operator which does not fall under the category of holding company and engages in the business administration of such financial instruments business operator and affairs incidental thereto (excluding those persons listed in the following item through item (v));
  - (iii) the parent bank, etc. or a subsidiary bank, etc. of such financial instruments business operator;
  - (iv) a holding company of which the parent bank, etc. or a subsidiary bank, etc. of such financial instruments business operator is a subsidiary company (excluding the person listed in item (i));
  - (v) the following person which is the parent corporation, etc. or a subsidiary corporation, etc. of such financial instruments business operator:
    - (a) a financial instruments business operator;
    - (b) a trust company; or
    - (c) a money lender as prescribed in Article 2, paragraph (2) of the Money Lending Business Act (Act No. 32 of 1983); or
  - (vi) any other person designated by the Commissioner of the Financial Services Agency.

(Limitation on Acts Involving Registered Financial Institution Parent Corporations or Subsidiary Corporations)

Article 154 The acts to be specified by Cabinet Office Order as referred to in Article 44-3, paragraph (2), item (iv) of the Act are as follows:

- (i) if a registered financial institution has conducted the purchase and sale or other transaction of assets with its customer under conditions more favorable than those for ordinary transactions and on the condition that such customer concludes a financial instruments transaction contract with such registered financial institution's parent corporation, etc. or subsidiary corporation, etc., an act to conduct a financial instruments intermediation operation for such customer, notwithstanding such circumstance;
- (ii) an act to conclude a financial instruments transaction contract with a customer, knowing that the registered financial institution's parent



corporation, etc. or subsidiary corporation, etc. has granted credit to the customer, or has conducted any purchase and sale or other transaction of assets with such customer under more favorable conditions than those for ordinary transactions, on the condition that such customer concludes such financial instruments transaction contract with such registered financial institution;

- (iii) an act of providing the customer with the financial instruments intermediation operation pertaining to securities within the period between the day when the registered financial institution's parent corporation, etc. or subsidiary corporation, etc. becomes the underwriter of such securities and the day on which six months have elapsed therefrom, while promising to extend the loan or otherwise grant credit to such customer in regard to the purchase price of such securities (if the parent corporation, etc. or subsidiary corporation, etc. implements those listed in Article 2, paragraph (6), item (iii) of the Act, securities acquired by exercising the share option prescribed in that item; hereinafter the same applies in that item);
- (iv) to act whereby an officer (if the officer is a corporation, including executive members thereof; hereinafter the same applies in this item and the following item) or employee of the registered financial institution that is engaged in a financial instruments intermediation operation provides undisclosed information on the issuers, etc. (limited to information on ordering trends in the customer's purchase and sale or other transaction of securities. and any other special information) to its parent corporation, etc. (excluding a bank holding company specified in Article 2, paragraph (13) of the Banking Act, a company specified in Article 52-23, paragraph (1), item (x) of that Act (limited to a company engaged in the business specified in (a) of that item), a long-term credit bank holding company specified in Article 16-4, paragraph (1) of the Long Term Credit Bank Act, a company specified in item (x) of that paragraph (limited to a company engaged in the business specified in (a) of that item), an insurance holding company specified in Article 2, paragraph (16) of the Insurance Business Act, a company specified in Article 271-22, paragraph (1), item (xii) of that Act (limited to a company engaged in the business specified in (a) of that item); hereinafter the same applies in this item) or to its subsidiary corporation, etc. (excluding a company specified in Article 16-2, paragraph (1), item (xi) of the Banking Act (limited to a company engaged in the business specified in (a) of that item), a company specified in Article 13-2, paragraph (1), item (xi) of the Long Term Credit Bank Act (limited to a company engaged in the business specified in (a) of that item), a company specified in Article 54-23, paragraph (1), item (x) of the Shinkin Bank Act (limited to a company engaged in the business specified in (a) of that item), a company specified in Article 58-5, paragraph

(1), item (vi) of the Labor Bank Act (limited to a company engaged in the business specified in (a) of that item), a company specified in Article 4-4, paragraph (1), item (vi) of the Act on Financial Businesses by Cooperative (limited to a company engaged in the business specified in (a) of that item), a company specified in Article 106, paragraph (1), item (xii) of the Insurance Business Act (limited to a company engaged in the business specified in (a) of that item), a company specified in Article 72, paragraph (1), item (viii) of the Norinchukin Bank Act (limited to a company engaged in the business specified in (a) of that item), a company specified in Article 11-47, paragraph (1), item (v) of the Agricultural Co-operatives Act (limited to a company engaged in the business specified in (a) of that item), and a company specified in Article 87-2, paragraph (1), item (v) of the Fishery Cooperatives Act (including the case as applied mutatis mutandis pursuant to Article 100, paragraph (1) of that Act) (limited to a company engaged in the business specified in (a) of that item); hereinafter the same applies in this item), or to receive from its parent corporation, etc. or subsidiary corporation, etc. any undisclosed loan information, etc. on the customer which is the issuer of the securities (excluding the securities specified in Article 33, paragraph (2), item (i) of the Act and also excluding the securities specified in Article 2, paragraph (1), item (xvii) of the Act which has natures specified in items (i) and (ii) of that paragraph) (excluding the act conducted in the cases specified as follows):

- (a) if the issuer, etc. has given its prior written consent to the provision of undisclosed information by the registered financial institution, or by the registered financial institution's parent corporation, etc. or subsidiary corporation, etc.;
- (b) if the registered financial institution makes an entrustment pertaining to a financial instruments intermediary service or a securities, etc. intermediary business operations to its parent corporation, etc. or subsidiary corporation, etc., and the information listed in Article 281, item (xii), (a) through (c) of this Cabinet Office Order or Article 118, item (ix), (a) or (b) of the Cabinet Office Order on Financial Service Intermediary, etc. is received or if the information listed in Article 123, paragraph (1), item (xviii), (a) or (b) is to be provided;
- (c) if the registered financial institution's parent corporation, etc. or subsidiary corporation, etc. is an entrusting financial instruments business operator, and if the information specified in Article 123, paragraph (1), item (xviii), (a) through (c) is to be received or if the information specified in item (xxiv), (a) or (b) of that paragraph is to be provided;
- (d) if the registered financial institution conducts a financial institution agency service as entrusted by a principal financial institution which is its

parent corporation, etc. or subsidiary corporation, etc., and if the information specified in 1. or 2. below is to be received, or if the information specified in 3. or 4. below is to be provided:

1. information on the financial institution agency service to be conducted by the registered financial institution based on an entrustment by a principal financial institution which is its parent corporation, etc. or subsidiary corporation, etc.;
  2. information which is deemed necessary to be received by the registered financial institution, in order to assure its compliance with the laws and regulations applicable to the financial institution agency service to be conducted based on an entrustment by a principal financial institution which is its parent corporation, etc. or subsidiary corporation, etc.;
  3. information which is deemed necessary to be provided from the registered financial institution to a principal financial institution which is its parent bank, etc. or subsidiary bank, etc., for the purpose of the performance of the financial institution agency service to be conducted based upon an entrustment by such principal financial institution;
  4. information which may come to knowledge of the registered financial institution in the course of the financial institution agency service conducted based on an entrustment from the principal financial institution which is its parent bank, etc. or subsidiary bank, etc., and which is deemed necessary to be provided to such principal financial institution in order to assure such registered financial institution's compliance with the laws and regulations.
- (e) if the amount of the credit, etc. granted by the registered financial institution's parent bank, etc. or subsidiary bank, etc. is to be received from such parent bank, etc. or subsidiary bank, etc., for the purpose of the calculation of the amount specified in 1. through 5. below:
1. the amount of the credit, etc. granted and the amount of the consolidated limit of granting of credit, etc. as specified in Article 13, paragraph (2) of the Banking Act (including as applied mutatis mutandis pursuant to Article 17 of the Long-Term Credit Bank Act, Article 89, paragraph (1) of the Shinkin Bank Act, Article 94, paragraph (1) of the Labor Bank Act and Article 6, paragraph (1) of the Act on Financial Businesses by Cooperative);
  2. the amount of assets investments specified in Article 97-2, paragraph (3) of the Insurance Business Act, and the amount of the sum calculated pursuant to the provisions of Cabinet Office Order as referred to in that paragraph;

3. the amount of the credit, etc. granted and the amount of the consolidated limit for granting of credit, etc. as specified in Article 58, paragraph (2) of the Norinchukin Bank Act;
  4. the amount of the credit, etc. granted and the amount of the consolidated limit for granting of credit, etc. as specified in Article 11-4, paragraph (2) of the Agricultural Cooperatives Act;
  5. the amount of the credit, etc. granted and the amount of the consolidated limit for granting of credit, etc. as specified in Article 11-14, paragraph (2) of the fisheries cooperatives Act;
- (f) if information necessary for the preparation of a confirmation letter as prescribed in Article 24-4-2, paragraph (1) of the Act or an internal control report as prescribed in Article 24-4-4, paragraph (1) of the Act is to be provided (but only if the parent corporation, etc. or subsidiary corporation, etc. which receives such information from the officer or employee has taken secure measures to prevent the leaking of the undisclosed information from the section in charge of the preparation of such confirmation report and internal control report);
- (g) if any information necessary for the maintenance and management of an electronic data processing system is to be provided (but only if the parent corporation, etc. or subsidiary corporation, etc. which receives such information from the officer or employee have taken secure measures to prevent the leaking of the undisclosed information from the section in charge of the maintenance and management of the electronic data processing system);
- (h) if the undisclosed information is to be received or provided under the laws and regulations, etc.;
- (i) if information necessary for handling all or part of the internal management and operation affairs (meaning the internal management and operation affairs prescribed in paragraph (3) of the preceding Article; hereinafter the same applies in (i)) is to be provided to a person in specified relationship (meaning, if the registered financial institution is the parent corporation, etc. or a subsidiary corporation, etc. of a financial instruments business operator engaged in securities-related business (limited to such operator engaged in type I financial instruments business), or if the financial instruments business operator is the parent corporation, etc. or a subsidiary corporation, etc. of such registered financial institution, such financial instruments business operator, and a person listed in the respective items of paragraph (4) of that Article with regard to such financial instruments business operator that is the parent corporation, etc. or a subsidiary corporation, etc. of such registered financial institution (in cases of providing information necessary for conducting all or part of the

- businesses specified in paragraph (3), item (vii) of that Article, limited to a parent corporation, etc. of the registered financial institution); hereinafter the same applies in (i)) (but only if measures have been precisely taken by the person in specified relationship that receives such information from such officer or employee, in order to prevent the leaking of the undisclosed information from the sections in charge of the internal management and operation affairs); and
- (j) if information necessary for the registered financial institution or a parent bank, etc. or a subsidiary bank, etc. of such registered financial institution to comply with the applicable provisions (meaning the applicable provisions prescribed in Article 123, paragraph (1), item (xviii), (d); hereinafter the same applies in (j)) is to be provided to the parent bank, etc. or subsidiary bank, etc. (but only if measures have been precisely taken by the parent bank, etc. or subsidiary bank, etc. that receives such information from such officer or employee, in order to prevent the leaking of the undisclosed information from the sections in charge of affairs related to the compliance with the applicable provisions);
  - (v) an act whereby an officer or employee engaged in financial instruments intermediation operations of the registered financial institution solicits for the conclusion of a financial instruments transaction contract by utilizing the undisclosed information on customers acquired from the registered financial institution's parent corporation, etc. or subsidiary corporation, etc. (limited to any information provided by the parent corporation, etc. or subsidiary corporation, etc. without obtaining the customer's written consent);
  - (vi) if the parent corporation, etc. or subsidiary corporation, etc. of the registered financial institution is the lead managing underwriter pertaining to the underwriting of securities, an act of providing advice service for the purpose of creation of manipulative quotation not reflecting actual market status in relation to its investment advisory business, or to make an investment for the purpose of creation of manipulative quotation not reflecting actual market status in relation to its investment management business, with a view to having an impact on the conditions of the public offering or secondary distribution of such securities or on the conditions of the solicitation for acquisition only for professional investors or the solicitation for selling, etc. only for professional investors related to such securities;
  - (vii) if the parent corporation, etc. or subsidiary corporation, etc. of the registered financial institution conducts the underwriting of securities, etc., and if the amount pertaining to applications for the acquisition or purchase of the securities (if the parent corporation, etc. or subsidiary corporation, etc. implements those listed in Article 2, paragraph (6), item (iii) of the Act,

- exercise of the share option prescribed in that item by the person that acquired the share option) made to such parent corporation, etc. or subsidiary corporation, etc. is likely to be less than the amount that such parent corporation, etc. or subsidiary corporation, etc. had scheduled, to advise to acquire or purchase such securities (if the parent corporation, etc. or subsidiary corporation, etc. implements those listed in that item, securities acquired by exercising the share option; hereinafter the same applies in that item), in relation to its investment advisory business, or to make an investment whose purpose is to acquire or purchase such securities, in relation to its investment management business, upon the request of such parent corporation, etc. or subsidiary corporation, etc.;
- (viii) to conduct electronic-based application type electronic public offering services, etc. pertaining to securities issued by a parent corporation, etc. or subsidiary corporation, etc. of the registered financial institution;
  - (ix) to evade the prohibitions under Article 44-3, paragraph (2) of the Act, irrespective of the name under which the act is to be conducted.

(Means of Using Information Communication Technology)

- Article 155 (1) A financial instruments business operator, etc. may, pursuant to the provisions of the following paragraph and subject to the approval of the relevant issuer, etc., obtain consent from the issuer, etc. by electronic or magnetic means, in lieu of the written consent of the issuer, etc. as prescribed in Article 153, paragraph (1), item (vii), (a) and Article 154, item (iv), (a). In this case, such financial instruments business operator, etc. is deemed to have obtained the written consent from the issuer, etc.
- (2) If a financial instruments business operator, etc. intends to obtain the consent from the relevant issuer, etc. under the preceding paragraph, it must, in advance, present to the issuer, etc. the types and particulars of the following electronic or magnetic means used by such financial instruments business operator, etc. and obtain the approval from such issuer, etc. in writing or by electronic or magnetic means:
    - (i) the means to be used by the financial instruments business operator, etc., from among the means specified in the items of Article 56, paragraph (1); and
    - (ii) the format for recording information into files.
  - (3) If the issuer, etc. has advised in writing or by electronic or magnetic means that it refuses to give its consent by electronic or magnetic means, the financial instruments business operator, etc. which has obtained the approval under the preceding paragraph may not obtain such consent from the issuer, etc. by electronic or magnetic means; provided, however, that this does not apply if such issuer, etc. has newly given its approval under that paragraph.

## **Subsection 7 Miscellaneous Provisions**

Article 156 The cases specified by Cabinet Office Order as prescribed in the proviso to Article 45 of the Act are those specified in the following items, with regard to the application of the provisions set forth respectively therein:

- (i) Article 37-4: if the financial instruments business operator, etc. has not established a system which enables prompt responses to the customer's inquiries on an individual transaction;
- (ii) Article 37-5: if the financial instruments business operator, etc. has not established a system which enables prompt responses to the customer's inquiries on the receipt of an individual security deposit;
- (iii) Article 41-4 and Article 42-5: if the financial instruments business operator, etc. has not established a system for managing the deposited money and securities separately from its proprietary assets and from other customers' assets (meaning the system for segregating such money and securities from its proprietary assets and from other customers' assets, as well as for managing such money and securities in a condition which enables the identification of the customer that has deposited such money and securities, by means such as segregating the place of the custody of such money and securities); and
- (iv) Article 42-7: if the financial instruments business operator, etc. has not established a system which enables prompt responses to the customers' inquiries on the matters to be stated in an investment report under paragraph (1) of that Article.

## **Section 3 Accounting**

### **Subsection 1 Financial Instruments Business Operators Engaged in Type-I Financial Instruments Business**

(Books and Documents Related to Business)

Article 157 (1) The books and documents to be prepared by a financial instruments business operator (limited to an operator engaged in type I financial instruments business; hereinafter the same applies in this Subsection) pursuant to the provisions of Article 46-2 of the Act are as follows:

- (i) copies of the following documents:
  - (a) the documents set forth in the following provisions:
    1. Article 34-2, paragraph (3) of the Act;
    2. Article 34-4, paragraph (2) of the Act;
    3. Article 37-3, paragraph (1) of the Act;
    4. Article 37-4, paragraph (1) of the Act;

- 5. Article 40-2, paragraph (5) of the Act; and
- 6. Article 40-5, paragraph (2) of the Act;
- (b) an explanatory document on listed securities, etc.;
- (c) a prospectus as prescribed in Article 80, paragraph (1), item (iii) (if there is any document to be delivered as an integral part of such prospectus pursuant to the provisions of that item, such prospectus and such document); and
- (d) an explanatory document on change to contract information;
- (ii) the documents set forth in the following provisions:
  - (a) Article 34-3, paragraph (2) of the Act (including as applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act);
  - (b) Article 43-4, paragraph (1) of the Act; and
  - (c) Article 153, paragraph (1), item (vii), (a);
- (iii) order forms;
- (iii)-2 records on confirmation of the settlement measures;
- (iii)-3 record on confirmation of a transaction exempted from requirement of settlement measures;
- (iii)-4 record on the confirmation set forth in Article 117, paragraph (1), item (xxiv)-5;
- (iv) a transaction diary;
- (v) transaction records for intermediary or agency services;
- (vi) transaction records for brokerage for clearing of securities, etc.;
- (vii) transaction records for the public offering or secondary distribution, or the private placement or solicitation for selling, etc. only for professional investors;
- (viii) transaction records for dealing in the public offering or secondary distribution, or dealing in the private placement or solicitation for selling, etc. only for professional investors;
- (ix) the customer ledger;
- (x) the book on the serial numbers of the delivered securities;
- (xi) the book on the description of the securities, etc. in safe custody;
- (xii) record on the results of the audit of separate management;
- (xiii) the trading products ledger;
- (xiv) the transactions with a repurchase/resale agreement ledger;
- (xv) if the financial instruments business operator is engaged in a proprietary trading system operation, transaction records for such operation;
- (xv)-2 if the financial instruments business operator is engaged in electronic trading platform management services, records of the contents of customers' orders (including orders pertaining to changes and cancellations) and other transaction records for services;
- (xvi) if the financial instruments business operator is engaged in an



- investment advisory and agency business, the following documents:
- (a) a document stating the contents of the investment advisory contracts concluded by such financial instruments business operator;
  - (b) a document stating the contents of the advice given under the investment advisory contracts;
  - (c) if any financial instruments transaction contract has been cancelled pursuant to the provisions of Article 37-6, paragraph (1) of the Act, a written notice of the cancellation thereof; and
  - (d) transaction records for agency or intermediation for the conclusion of an investment advisory contract or a discretionary investment contract;
- (xvii) if the financial instruments business operator is engaged in an investment management business, the following documents:
- (a) a document stating the contents of the contract or any other juridical act listed in the items of Article 42-3, paragraph (1) of the Act (if an entrustment under that paragraph has been made, including the contract for such entrustment);
  - (b) a copy of the investment report under Article 42-7, paragraph (1) of the Act (in the case of a settlor company of investment trust (meaning a settlor company of an investment trust under Article 2, paragraph (11) of the Act on Investment Trust and Investment Corporations, and including the issuer of beneficiary certificates of a foreign investment trust prescribed in paragraph (24) of that Article similar to the investment trust managed under instructions from the settlor as prescribed in paragraph (1) of that Article; the same applies in (e), including an investment reports under Article 14, paragraph (1) of that Act (including cases as applied mutatis mutandis in Article 59 of that Act) and a document under Article 14, paragraph (4) of the same Act (including as applied mutatis mutandis pursuant to Article 59 of the same Act);
  - (c) an investment statements;
  - (d) an order placement form;
  - (e) in the case of a settlor company of an investment trust, the following books:
    - 1. a book on the description of the settlor's remuneration which has not been collected;
    - 2. a book on the description of unpaid dividends;
    - 3. a book on the description of unpaid redemption; and
    - 4. a book on the description of unpaid fees;
- (xviii) in cases of a person conducting electronic public offering services, the following records:
- (a) records of examination under the measures provided in Article 70-2, paragraph (2), item (iii); and

- (b) records of information displayed on a screen of a computer pursuant to Article 146-2, paragraph (1).
- (2) The books and documents specified in item (i), item (ii), item (xvi), (c) and item (xviii), (b) of the preceding paragraph must be kept for five years from the day of the preparation thereof (in the case of the book specified in item (ii) of that paragraph, from the day when it ceases to be effective); the books and documents specified in items (iii) through (iii)-4 and item (xvii), (d) of that paragraph must be kept for seven years from the day of the preparation thereof ; and the books and documents specified in items (iv) through (xv)-2, item (xvi) (excluding (c) of that item), item (xvii) (excluding (d) of that item) and item (xviii), (a) of that paragraph must be kept for ten years from the day of the preparation thereof (in the case of the books and documents specified in item (xvi), (a) and item (xvii), (a) of that paragraph, from the day of the termination of the business pertaining to the contract or any other juridical act).
- (3) The books and documents specified in the items of paragraph (1) must be kept in Japan; provided, however, that this does not apply if the books and documents are prepared in a business office or other office established in a foreign state and if the copies thereof are kept in Japan without delay after the preparation thereof, or if the books and documents are prepared by means of an electronic or magnetic records and a document indicating matters recorded in the electronic or magnetic records is made available for inspection without delay at a business office or other office established in Japan.

(Order Forms)

Article 158 (1) The following matters, with regard to the acts listed in Article 2, paragraph (8), items (i) through (iv) of the Act (those pertaining to an intermediary or agency service, or those pertaining to an act listed in item (viii) of that paragraph (limited to an act conducted by specifying a period of sales or offer for purchase of securities pertaining to the act) are excluded) and commodity-related market transactions of derivatives, must be stated in an order form set forth in Article 157, paragraph (1), item (iii):

- (i) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer (dealing, in the case of the placement of an order for a self-transaction);
- (ii) in the case of a customer's order, the name of such customer;
- (iii) the type of the transaction (in the case of a transaction listed in (a) through (h) below, including the information set forth respectively therein; hereinafter the same applies in this Section):
- (a) a margin transaction or when-issued transaction: to that effect, and in the case of a margin transaction, the due date thereof;

- (b) a transaction with a repurchase/resale agreement: the following information:
  - 1. to that effect;
  - 2. information as to whether it is a transaction for starting (meaning a transaction wherein the seller sells the securities subject to a transaction with a repurchase/resale agreement to the purchaser; the same applies hereinafter) or a transaction for ending (meaning a transaction wherein the purchaser resells to the seller the same type and volume of securities as the securities which were the subject of the transaction with a repurchase/resale agreement; the same applies hereinafter);
  - 3. information as to whether it is a transaction with a repurchase/resale agreement based on an entrustment by customer or a transaction with a repurchase/resale agreement on dealer basis; and
  - 4. the yield for the term;
- (c) short selling of securities: to that effect;
- (d) a transaction specified in Article 2, paragraph (21), items (i) and (ii) of the Act (including the foreign market derivatives transactions similar thereto) and a transaction specified in Article 2, paragraph (22), items (i) and (ii) of the Act: the following information:
  - 1. the contract month or delivery date;
  - 2. whether it is a new transaction, or a settlement or cancellation;
- (e) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including the foreign market derivatives transactions similar thereto), a transaction specified in Article 2, paragraph (22), items (iii) and (iv) of the Act, and the trading of bonds with options: the following information:
  - 1. the exercise period and exercise price;
  - 2. information as to whether it is a put option or a call option;
  - 3. information as to whether it is a new transaction, or a transaction for the exercise of rights, a resale, buy-back or set-off;
  - 4. the contract month; and
  - 5. in the case of a transaction specified in Article 2, paragraph (22), items (iii) and (iv) of the Act, the details of the transaction to be effected by the exercise of options;
- (f) a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including the foreign market derivatives transactions similar thereto), a transaction specified in item (iv)-2 of that paragraph and a transaction specified in Article 2, paragraph (22), item (v) of the Act: the transaction period and delivery date;
- (g) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including the foreign market derivatives transactions similar thereto), and

a transaction specified in Article 2, paragraph (22), item (vi) of the Act: the following information:

1. the exercise period;
  2. information as to whether it is a new transaction, or a transaction for the exercise of rights, a resale or buy-back; and
  3. in the case of a transaction specified in Article 2, paragraph (22), item (vi) of the Act, the events agreed by the parties in advance (meaning any of the events specified in that item; the same applies in Article 159, paragraph (1), item (xiii), (d)), the amount of money payable upon the occurrence of such events or the method of the calculation thereof, and the financial instruments, rights pertaining to the financial instruments or monetary claims (excluding claims that are the financial instruments or rights pertaining to the financial instruments) which the parties promised to transfer between the parties;
- (h) a strategy trading prescribed by the rules of the financial instruments exchange (meaning the market transaction of derivatives to be conducted on the financial instruments market established by such financial instruments exchange, wherein two or more transactions are effected simultaneously; the same applies in Article 283, paragraph (1), item (iii), (h)): the type thereof;
- (iv) issues (including the financial instruments or financial indicators which are to be the subject of the transaction, or any information which identifies the subject of a transaction including the contract number specified in the contract which provides for the conditions of the transaction; hereinafter the same applies in this Section);
- (v) information as to whether the type of the transaction is a sale or purchase transaction (in the case of a transaction specified in (a) through (e) below, the type of such transaction as set forth respectively therein; hereinafter the same applies in this Section except in Article 170 and Article 171):
- (a) a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including foreign market derivatives transactions similar thereto) and a transaction specified in Article 2, paragraph (22), item (ii) of the Act: whether it is the transaction wherein, if the actual figure exceeds the agreed figure, the customer (the financial instruments business operator itself, in the case of the placement of an order for a self-transaction; hereinafter the same applies in this item) becomes a party paying money, or a party receiving money;
  - (b) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including foreign market derivatives transactions similar thereto) and transactions specified in Article 2, paragraph (22), items (iii) and (iv) of the Act: whether it is the transaction wherein the customer becomes a party

- granting options, or a party acquiring options;
- (c) a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including foreign market derivatives transactions similar thereto) and a transaction specified in Article 2, paragraph (22), item (v) of the Act: whether it is the transaction wherein, when the interest rate, etc. of the financial products or financial indicators as agreed between the customer and the counterparty increase in the agreed period, the customer becomes a party paying money, or a party receiving money; and
  - (d) a transaction specified in Article 2, paragraph (21), item (iv)-2 of the Act: a party becomes a money-paying or receiving party when a financial indicator for the instruments agreed between the customer and the counterparty rises in the agreed period;
  - (e) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including foreign market derivatives transactions similar thereto) and a transaction specified in Article 2, paragraph (22), item (vi) of the Act: whether it is the transaction wherein, when any event agreed by the parties in advance (meaning any of the events specified in Article 2, paragraph (21), item (v) or Article 2, paragraph (22), item (vi) of the Act; the same applies in item (xi), (d)) occurs, the customer becomes a party paying money, or a party receiving money;
  - (vi) volumes of order received (if there is no volume, the number of orders received or any other particular equivalent to volume; the same applies in paragraph (3), item (iii));
  - (vii) agreed volume (if there is no volume, the number of agreed orders or any other particular equivalent to volume; the same applies in paragraph (3), item (iii));
  - (viii) information as to whether it is a limit order or a market order (in the case of a limit order, the price and valid period of the order (excluding any order of which valid period is the day of such order) are included);
  - (ix) the date and time of receipt of the order;
  - (x) the date and time of the contract;
  - (xi) contract price (in the case of a transaction specified in sub-items (a) through (d) below, the information set forth respectively therein; hereinafter the same applies in this Section):
    - (a) a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including foreign market derivatives transactions similar thereto) and a transaction specified in Article 2, paragraph (22), item (ii) of the Act: the agreed figure;
    - (b) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including foreign market derivatives transactions similar thereto), the transactions specified in Article 2, paragraph (22), items (iii) and (iv) of the

- Act, and the trading of bonds with options: the amount of the consideration for the options or option premiums;
- (c) a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including foreign market derivatives transactions similar thereto), a transaction specified in item (iv)-2 of that paragraph and a transaction specified in Article 2, paragraph (22), item (v): the contracted interest rate, etc. of the financial products or the contracted financial indicators; or
  - (d) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including foreign market derivatives transactions similar thereto), and a transaction specified in Article 2, paragraph (22), item (vi) of the Act: the amount of the consideration for the right to receive money upon the occurrence of the event agreed to by the parties in advance.
- (2) An order form set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) that an order form is prepared immediately upon receipt of the order, in case of an order from a customer, or immediately upon the placement of an order, in the case of the placement of an order for a self-transaction; provided, however, that this does not apply if it is difficult to prepare such forms immediately upon receipt of orders, such as in a case in which orders for two or more securities of different issues are received at the same time;
  - (ii) if the transaction did not come into effect, that an order form contains such fact;
  - (iii) if an order form is to be prepared by means of an electronic or magnetic record, such record is prepared in accordance with the following, beyond what is set forth in the items of the preceding paragraph:
    - (a) that the information specified in the items of the preceding paragraph (excluding items (vii), (x) and (xi)) is entered on a computer upon receipt of orders (in the case of the placement of an order for a self-transaction, before placing such order); and
    - (b) that the date and time when the details of the customer's order or the proprietary transaction orders were entered on a computer are automatically recorded;
  - (iv) that the order forms are preserved in accordance with the following:
    - (a) that the order forms are classified into the customer's orders and proprietary orders, and are preserved in files in date order;
    - (b) that the order forms for transactions with a repurchase/resale agreement are preserved in separate files; provided, however, that this does not apply to the business office or any other office which handles only a small quantity of transactions;
    - (c) that the order forms pertaining to the proprietary trading system operations are preserved in a distinctive manner;

- (d) that the order forms pertaining to electronic trading platform management services are kept in a manner which enables identification thereof;
  - (v) that, in cases of the order pertaining to a transaction for which a give-up was effected, such fact is stated;
  - (vi) in the case of a transaction for which a give-up was effected, the order executing member, etc. need not specify information as to whether it is a new transaction or a settlement transaction, or information as to whether it is a new transaction or a transaction for the exercise of rights, a resale or buy-back;
  - (vii) in the case of a transaction for which a give-up was effected, the clearance executing member, etc. need not prepare order forms therefor.
  - (viii) with regard to a case in which a member, etc. which, pursuant to the rules of the financial instruments exchange, regularly presents quotes for the sale or purchase of securities of specified issues, or of the financial products or the financial indicators pertaining to market transactions of derivatives of specified issues, on the financial instruments exchange market established by such financial instruments exchange, there is no requirement to prepare order forms for the orders placed by such member, etc. as such quotes;
  - (ix) with regard to a case in which a member of the authorized financial instruments firms association, pursuant to the rules of the authorized financial instruments firms association, regularly presents quotes for the sale or purchase of the securities of specified issues on the over-the-counter securities market established by such authorized financial instruments firms association, there is no requirement to prepare order forms for the orders placed by such member as such quotes.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the matters listed in the following items may be stated in accordance with the manners set forth respectively therein:
- (i) the matters specified in paragraph (1), items (iv) and (xi) which are related to a pre-auction trading of government bonds: the fact that the transaction is a pre-auction trading of government bonds, the scheduled redemption date and the contracted yield may be specified, in lieu of the matters specified in items (iv) and (xi) of that paragraph;
  - (ii) the matters listed in the items of paragraph (1) which are related to a transaction with a repurchase/resale agreement: a transaction for starting and a transaction for ending for the same customer may be stated on one order form;
  - (iii) the matters specified in the items of paragraph (1) which are related to investment trust beneficiary certificates, etc. without price fluctuation on the same day (the "investment trust beneficiary certificates, etc." mean the

- beneficiary certificates of an investment trust or a foreign investment trust, investment securities, or foreign investment securities similar to the investment securities; hereinafter the same applies except in Article 281, item (vi)): the customer's name, the issues, whether the transaction is a sale or purchase transaction, volumes of order received, the contracted volume, the date of the receipt of the order and the contract date may be specified, in lieu of the matters specified in the relevant items;
- (iv) the matter specified in paragraph (1), item (ii): if the customer is the one that a document for delivery upon conclusion of contract is not required to be delivered to pursuant to the provisions of Article 110, paragraph (1), item (v) or (vi), and if the customer is different from the person authorized to give investment instructions pertaining to the customer's assets, the person authorized to give investment instructions may be treated as the customer set forth in paragraph (1), item (ii), with regard to a purchase and sale transaction ordered by such person authorized to give investment instructions. In such case, the aforementioned fact must be stated in the order form;
  - (v) the matters specified in paragraph (1), item (iii), (d), 2., (e), 3. and (g), 2.: a statement of any of those matters not required to be instructed at the time of order pursuant to the rules of the financial instruments exchange may be omitted;
  - (vi) information prepared by means of an electronic or magnetic record pursuant to the provisions of item (iii) of the preceding paragraph: if such information prepared by means of an electronic or magnetic record is to be displayed on the computer screen or to be printed out on paper, such information may be displayed or printed in the form of lists.
- (4) With regard to the order forms under paragraph (1) which relates to the high-speed trading, the provisions of paragraph (2), items (iii) and (iv), and item (vi) of the preceding paragraph do not apply, and the provisions of Article 338, paragraphs (6) and (7) apply *mutatis mutandis*. In this case, the term "in accordance with the following" in those paragraphs is deemed to be replaced with "in a way to enable the identification as transactions relating to high-speed trading and in accordance with the following".
- (5) Beyond the provisions of paragraph (1) and paragraph (3), the following matters must be stated in the order forms under paragraph (1) related to the brokerage prescribed in Article 70-2, paragraph (7) that is implemented by using the intra-company transaction system (excluding brokerage not for the main purpose of operating it at a price equivalent to or more favorable than the price (including matters equivalent to the price; the same applies hereinafter in this paragraph) at the financial instruments exchange, etc. (meaning the financial instruments exchange or a private transaction system prescribed in



Article 26-2-2, paragraph (7) of the Order; the same applies in item (iii)):

- (i) name of the intra-company transaction system;
  - (ii) the price that is determined by the intra-company transaction system and the time; and
  - (iii) the financial instruments exchange, etc. that was compared when using the intra-company transaction system and the price on the intra-company transaction system, and the time.
- (6) Beyond the provisions of paragraphs (2) and (3), the order forms under paragraph (1) related to the brokerage as set forth in the preceding paragraph must be completed in a manner which enables the identification that it is related to the brokerage.

Article 158-2 Records on confirmation of the settlement measures referred to in Article 157, paragraph (1), item (iii)-2 must contain the following matters concerning the details confirmed pursuant to the provisions of Article 26-2-2, paragraph (1) or (2) of the Order (including as applied mutatis mutandis pursuant to paragraphs (6) and (7) of that Article):

- (i) the name of the customer;
- (ii) the date of confirmation;
- (iii) the name of the party that has provided the securities pertaining to the settlement measures; and
- (iv) the details of the settlement measures confirmed pursuant to the provisions of Article 26-2-2, paragraph (1) or (2) of the Cabinet Order (including as applied mutatis mutandis pursuant to paragraphs (6) and (7) of that Article).

(Record on Confirmation of a Transaction Exempted from Requirement of Settlement Measures)

Article 158-3 A record on confirmation of a transaction exempted from requirement of settlement measures as referred to in Article 157, paragraph (1), item (iii)-3 must contain the following matters concerning the details of a short selling of entrusted securities (limited to securities designated by the Commissioner of the Financial Services Agency as prescribed in Article 26-2-2, paragraph (1) of the Cabinet Order (including as applied mutatis mutandis pursuant to paragraphs (6) and (7) of that Article)) when confirming that such short selling is conducted as a transaction specified in Article 9-3, paragraph (1), items (xx) through (xxxvi), paragraph (2), items (vii) through (ix), or paragraph (3), items (vii) through (x) of the Order on Restrictions on Transactions, etc.:

- (i) the name of the customer;
- (ii) the date of confirmation; and

(iii) the specific details of the transaction.

(Record on the Confirmation Set forth in Article 117, Paragraph (1), Item (xxiv)-5)

Article 158-4 A record on the confirmation set forth in Article 117, paragraph (1), item (xxiv)-5 as referred to in Article 157, paragraph (1), item (iii)-4 must contain the following matters concerning the details confirmed as set forth in Article 117, paragraph (1), item (xxiv)-5:

- (i) the name of the customer;
- (ii) the date of confirmation; and
- (iii) the management method of securities.

(Transaction Diary)

Article 159 (1) The following matters must be stated in the transaction diary set forth in Article 157, paragraph (1), item (iv), with regard to the acts specified in Article 2, paragraph (8), items (i) through (v) of the Act (excluding the act which falls under item (ii), paragraph (27) of that Article) and Article 2, paragraph (8), items (viii) and (ix) of the Act (excluding an act pertaining to an intermediary or agency service) and commodity-related market transactions of derivatives:

- (i) the date of the contract;
- (ii) the name of the customer who has made the entrustment;
- (iii) information as to whether it is a sale or purchase, or dealing in a public offering or secondary distribution, dealing in a private placement or solicitation for selling, etc. only for professional investors, or a cancellation or refund;
- (iv) issues;
- (v) the volume (if there is no volume, the number of transactions or any other particular equivalent to volume);
- (vi) the contract price or unit price, and the amount;
- (vii) the delivery date;
- (viii) the name of the counterparty (but only if a purchase and sale or other transaction of securities, etc. is to be conducted by means other than on the financial instruments exchange market or the over-the-counter securities market);
- (ix) in the case of a transaction with a repurchase/resale agreement, the following matters:
  - (a) the fact that the transaction falls under the category of a transaction with a repurchase/resale agreement;
  - (b) information as to whether it is a transaction for starting or a transaction for ending;

- (c) information as to whether it is a transaction with a repurchase/resale agreement based on an entrustment by a customer a transaction with a repurchase/resale agreement on dealer basis;
- (x) with regard to the transactions specified in Article 2, paragraph (21), items (i) and (ii), and Article 2, paragraph (22), items (i) and (ii) of the Act, the following matters:
  - (a) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer (with regard to the transactions specified in Article 2, paragraph (21), items (i) and (ii) of the Act, information as to whether it is a futures transaction based on an entrustment by a customer or a futures transaction on dealer basis);
  - (b) the contract month or delivery date;
  - (c) information as to whether it is a new transaction, or a transaction for a settlement or cancellation; and
  - (d) in cases of the transactions specified in Article 2, paragraph (21), items (i) and (ii) of the Act which relate to the securities other than trading account securities, to that effect;
- (xi) with regard to the transactions specified in Article 2, paragraph (21), item (iii) and Article 2, paragraph (22), items (iii) and (iv) of the Act, and the trading of bonds with options, the following matters:
  - (a) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer;
  - (b) the exercise period and exercise price;
  - (c) information as to whether it is a put option or call option;
  - (d) information as to whether it is a new transaction, or a transaction for the exercise of rights, a resale, buy-back or set-off;
  - (e) the contract month;
  - (f) in the case of a transaction specified in Article 2, paragraph (22), items (iii) and (iv) of the Act, the detail of the transaction to be effected by the exercise of options;
- (xii) with regard to the transactions specified in Article 2, paragraph (21), items (iv) and (iv)-2 and Article 2, paragraph (22), item (v) of the Act, the following matters:
  - (a) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer; and
  - (b) the transaction period and delivery date;
- (xiii) in cases of the transactions specified in Article 2, paragraph (21), item (v) and Article 2, paragraph (22), item (vi) of the Act, the following matters:

- (a) information as to whether the financial instruments business operator, etc. itself is dealing or it is a transaction based on entrustment by the customer;
  - (b) the exercise period;
  - (c) information as to whether it is a new transaction, or a transaction for the exercise of rights, resale or buy-back;
  - (d) in the case of a transaction specified in Article 2, paragraph (22), item (vi) of the Act, the following matters:
    - 1. the events determined by the parties in advance;
    - 2. the amount of money payable upon the occurrence of any event determined by the parties in advance, or the means of the calculation thereof; and
    - 3. the financial instruments, the rights pertaining to the financial instruments, or monetary claims (such monetary claims exclude those which are financial instruments or the rights pertaining to the financial instruments), which the parties had agreed to transfer between the parties.
- (2) The transaction diary set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) that information as to whether the type of the transaction is dealing in a public offering or secondary distribution, dealing in a private placement or solicitation for selling, etc. only for professional investors, or a cancellation or refund (referred to as the "public offering, etc." in the following item) is itemized by each category of transaction;
  - (ii) that information on transactions other than the public offering, etc. is classified into trading on own account and trading based on an entrustment by a customer, and is itemized by purchase and sale under a market transaction (meaning a transaction on the financial instruments exchange market or over-the-counter securities market; hereinafter the same applies in this item and the following item) and purchase and sale under a transaction other than market transaction;
  - (iii) that information on market transactions is stated by each market;
  - (iv) with regard to the delivery date, the day when the delivery was actually completed is stated; provided, however, that this does not apply to the transactions on the financial instruments exchange market which are related to the regular transactions prescribed by the rules of the financial instruments exchange;
  - (v) that, in the case of a cross transaction (meaning a sale or purchase on the financial instruments exchange market (limited to that to be conducted by the methods specified by the financial instruments exchange which operates the financial instruments exchange market), wherein the same member, etc.

- simultaneously effects a matching sale or purchase), such fact is stated;
- (vi) that, in the case of a pre-auction trading of government bonds, if it is impossible to state the issue, unit price, amount and delivery date (hereinafter referred to as the "issues, etc." in this item) at the time of the effectuation of such pre-auction trading, the fact that it is a pre-auction trading of government bonds, the scheduled redemption date and the contracted yield are stated, and that such issues, etc. are stated when they are identified. In such case, a diary is prepared so as to enable the identification of the date when the aforementioned matters were stated and the background thereof.
  - (vii) that information on transactions pertaining to the proprietary trading system operations is kept in a separate file, or is recorded in a manner which enables the identification that such information pertains to the proprietary trading system operations;
  - (viii) with regard to a transaction for which a give-up was effected, the order executing member, etc. need not state whether it is a new transaction, or a transaction for the exercise of rights, a resale or buy-back;
  - (ix) that information on transactions pertaining to the electronic trading platform management services is kept in a separate file, or is recorded in a manner which enables the identification that such information pertains to the electronic trading platform management services.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the information listed in the following items may be stated in accordance with the manners set forth respectively therein:
- (i) the matters listed in the items of paragraph (1) which are related to brokerage for clearing of securities, etc.: the transaction diary may be prepared by way of preserving the forms or data sent by financial instruments clearing organizations (if the financial instruments clearing organization engages in collaborative financial instruments obligation assumption services, including the collaborating clearing organization, etc.), foreign financial instruments clearing organizations, or entrustors (limited to forms or data which include the entrustor's name, issues, volumes, amount, and the date of contract);
  - (ii) the matters specified in paragraph (1), items (ii) and (viii): in case of a customer or counterparty that a document for delivery upon conclusion of contract is not required to be delivered to pursuant to the provisions of Article 110, paragraph (1), item (v) or (vi), and such customer or counterparty is different from the person authorized to give investment instructions pertaining to such customer or counterparty's assets, the person authorized to give investment instructions will be treated as the customer specified in paragraph (1), item (ii) or the counterparty specified in item (viii)

of that paragraph, with regard to the purchase and sale transaction ordered by and concluded with such person authorized to give investment instructions. In such case, the aforementioned fact must be specified in a transaction diary.

- (4) With regard to the transaction diary under paragraph (1) which relates to the high-speed trading, the provisions of paragraph (2), items (vii) and (ix), and item (ix) of the preceding paragraph do not apply, and the provisions of Article 338, paragraph (7) (excluding item (i)) apply mutatis mutandis. In this case, the term "in accordance with the following" in that paragraph is deemed to be replaced with "in a way to enable the identification as transactions relating to high-speed trading and in accordance with the following".

(Transaction Records for Intermediary or Agency Services)

Article 160 The transaction records for intermediary or agency services as referred to in Article 157, paragraph (1), item (v) must include the following matters, in connection with the acts specified in Article 2, paragraph (8), items (ii) through (iv) of the Act (limited to acts pertaining to intermediary or agency services):

- (i) the date when the intermediary or agency service was provided;
- (ii) the customer's name;
- (iii) information as to whether the type of service was intermediary or agency;
- (iv) the contents of the intermediary or agency service; and
- (v) the amount of the fees, remuneration or any other consideration receivable in connection with the intermediary or agency services.

(Transaction Records for the Brokerage for Clearing of Securities)

Article 161 The transaction records for brokerage for clearing of securities, etc. referred to in Article 157, paragraph (1), item (vi) must include the following matters, in connection with brokerage for clearing of securities, etc. (excluding brokerage for clearing of securities, etc. prescribed in Article 2, paragraph (27), item (ii) of the Act):

- (i) the name of the entrusting person;
- (ii) the issues;
- (iii) the volumes (if there is no volume, the number of transactions or any other information equivalent to volumes);
- (iv) the delivery price;
- (v) the delivery date; and
- (vi) the party receiving the delivery.

(Transaction Records for Public Offering or Secondary Distribution, or Private Placement or Solicitation for Selling, etc. Only for Professional Investors)

- Article 162 (1) The transaction records for a public offering or secondary distribution, or a private placement or solicitation for selling, etc. only for professional investors as referred to in Article 157, paragraph (1), item (vii) must include the following matters, in connection with the act specified in Article 2, paragraph (8), item (vii) of the Act and the act specified in item (viii) of that paragraph (limited to those conducted by specifying a period of offer for purchase or sales of securities pertaining to those acts) and the act specified in Article 1-12, item (i) of the Order:
- (i) the customer's name;
  - (ii) the issues;
  - (iii) information as to whether the type of the transaction is a public offering or secondary distribution, a private placement or solicitation for selling, etc. only for professional investors, or a purchase, cancellation or refund (referred to as the "public offering, etc." in the following paragraph);
  - (iv) the volumes of order received (if there is no volume, the number of orders received or any other particular equivalent to volume; the same applies in paragraph (3), item (i)), the unit price and the amount of order received;
  - (v) the agreed volume (if there is no volume, the number of agreed orders or any other particular equivalent to volume; the same applies in paragraph (3), item (i)), the contracted unit price and the contract amount;
  - (vi) the date and time of receipt of the orders; and
  - (vii) the date and time of the contract.
- (2) The transaction records for the public offering or secondary distribution, or the private placement or solicitation for selling, etc. only for professional investors as set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) that the record is, in principle, prepared promptly upon the receipt of applications pertaining to the public offering, etc.;
  - (ii) that, if the contract has not been effected, such fact is stated;
  - (iii) that, if the transaction records for the public offering or secondary distribution, or the private placement or solicitation for selling, etc. only for professional investors is to be prepared by means of an electronic or magnetic record, it is, beyond what is set forth in the preceding two items, prepared in accordance with the following:
    - (a) that the matters specified in the items of the preceding paragraph (excluding items (v) and (vii)) are entered on a computer upon the receipt of an application pertaining to the public offering, etc.; and
    - (b) that the date and time when the application pertaining to the public offering, etc. was entered on the computer are automatically recorded.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the information listed in the following items may be stated in accordance with the

matters set forth respectively therein:

- (i) the matters specified in paragraph (1), items (iv) through (vii) which pertain to investment trust beneficiary certificates, etc. without price fluctuation on the same day: volume of order received, contracted volume, the date of the receipt of the order and the date of contract may be specified in lieu of the matters specified in the such items;
- (ii) information prepared by means of an electronic or magnetic record pursuant to the provisions of item (iii) of the preceding paragraph: if such information prepared by means of an electronic or magnetic record is to be displayed on the computer screen or to be printed out on paper, such information may be displayed or printed in the form of lists.

(Transaction Records for Dealing in Public Offering or Secondary Distribution, or Dealing in Private Placement or Solicitation for Selling, etc. Only for Professional Investors)

Article 163 (1) In the transaction records for dealing in a public offering or secondary distribution, or dealing in a private placement or solicitation for selling, etc. only for professional investors as set forth in Article 157, paragraph (1), item (viii), the following matters in relation to the acts specified in Article 2, paragraph (8), item (ix) of the Act must be stated:

- (i) the customer's name;
  - (ii) the issues;
  - (iii) information as to whether the type of the transaction is dealing in a public offering or secondary distribution, dealing in a private placement or solicitation for selling, etc. only for professional investors, or a cancellation or a refund (referred to as the "public offering, etc." in the following paragraph);
  - (iv) the volume of order received (if there is no volume, the number of orders received or any other information equivalent to volume; the same applies in paragraph (3), item (i)), the unit price of order received, and the amount of order received;
  - (v) the agreed volume (if there is no volume, the number of agreed orders or any other information equivalent to volume; the same applies in paragraph (3), item (i)), the contracted unit price and the contract amount;
  - (vi) the date and time of receipt of the orders; and
  - (vii) the date and time of the contract.
- (2) The transaction records for dealing in a public offering or secondary distribution, or dealing in a private placement or solicitation for selling, etc. only for professional investors as set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) that it is, in principle, prepared promptly upon the receipt of an application



- pertaining to the public offering, etc.;
- (ii) that, if the contract was not effected, such fact is stated;
  - (iii) that, if the transaction records for dealing in a public offering or secondary distribution, or dealing in a private placement or solicitation for selling, etc. only for professional investors is to be prepared by means of an electronic or magnetic record, such record is, beyond what is set forth in the preceding two items, prepared in accordance with the following:
    - (a) that the matters specified in the items of the preceding paragraph (excluding items (v) and (vii)) are entered on a computer upon the receipt of an application pertaining to the public offering, etc.; and
    - (b) that the date and time when the application pertaining to the public offering, etc. was entered on the computer are automatically recorded.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the information listed in the following items may be stated in accordance with the manners set forth respectively therein:
- (i) the matters specified in paragraph (1), items (iv) through (vii) which pertain to investment trust beneficiary certificates, etc. without price fluctuation on the same day: the volume of order received, the contracted volume, the date of the acceptance of the order and the contract date may be specified in lieu of the matters specified in such items;
  - (ii) information prepared by means of an electronic or magnetic record pursuant to the provisions of item (iii) of the preceding paragraph: if such information prepared by means of an electronic or magnetic record is to be displayed on the computer screen or to be printed out on paper, such information may be displayed or printed in the form of lists.

(Customer Ledgers)

Article 164 (1) The customer ledger referred to in Article 157, paragraph (1), item (ix) must contain the matters specified in the following items with regard to the customer's transactions (excluding transactions related to an intermediary or agency service, and also excluding brokerage for clearing of securities, etc.), in accordance with the categories of the transactions set forth respectively therein:

- (i) a margin transaction, when-issued transaction (excluding when-issued transaction of government bonds), trading of bonds with options, market transactions of derivatives and over-the-counter transactions of derivatives (referred to as the "margin transactions, etc." in item (ii) of the following paragraph): the following matters:
  - (a) the customer's name;
  - (b) the serial number of the agreement;
  - (c) the issues;

- (d) the type of transactions (excluding Article 158, paragraph (1), item (iii), sub-items (b), (c), (d), 2., (e), 3. and (g), 2.);
  - (e) information as to whether it is a sale or purchase transaction;
  - (f) the date of the contract;
  - (g) volumes (if there is no volume, the number of transactions or any other information equivalent to volume);
  - (h) the contract price or unit price, and the amount;
  - (i) the amount of commission;
  - (j) interest payable in relation to the margin transactions, etc. or interest receivable in relation to the margin transactions, etc., or the share-borrowing commission or the share-lending commission;
  - (k) the withdrawal and depositing of money, and the outstanding balance;
  - (l) information on deposited security money, customer margins, trading margins or any other types of security (information as to whether the security is money or substitute securities or others, the date of the receipt thereof, the return date, and the issues, volumes and amount thereof);
  - (ii) a transaction other than those listed in the preceding item: the following information:
    - (a) the customer's name;
    - (b) the date of the contract;
    - (c) the issues;
    - (d) the volumes (if there is no volume, the number of transactions or any other information equivalent to volume), the unit price, and the price;
    - (e) the delivery date;
    - (f) the amounts of the debit, credit and outstanding balance;
    - (g) information as to whether it is a transaction for starting or a transaction for ending;
    - (h) in the case of a transaction with a repurchase/resale agreement, to that effect.
- (2) The customer ledger set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) that the ledger is divided in accordance with the categories of the transactions specified in the items of the preceding paragraph (in the case of market transactions of derivatives and over-the-counter transactions of derivatives, in accordance with the categories of the transactions listed in the items of Article 2, paragraph (21) and paragraph (22) of the Act), and contains the status of the transactions for each of the customers;
  - (ii) that the profit or loss and the amount corresponding to a dividend accrued from the margin transaction, etc. are transferred to the customer ledger pertaining to any other transactions;
  - (iii) that, if the serial number of the consent letter may be separately searched

- for by each customer, the statement of such numbers may be omitted;
- (iv) that, with regard to the commission for the transaction for which a give-up was effected, the commission which the clearance executing member, etc. received directly from the customer is stated; and
  - (v) that the ordering member, etc. need not prepare the customer ledger with regard to the transactions for which a give-up was effected; provided, however, that if the order executing member, etc. received directly from the customer any commissions, the customer's name, the serial number of the consent letter, the amount of commissions, the amount of the deposit and withdrawal of money and the outstanding balance are stated.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the information listed in the following items may be stated in accordance with the manners set forth respectively therein:
- (i) the matters listed in the items of paragraph (1) which pertain to the handling of problematic conduct: with regard to the matters listed in such items, the status of a transaction may be itemized by each handling of problematic conduct. In such case, the customer ledger on handling of problematic conduct may be prepared and preserved separately;
  - (ii) the contract price or unit price specified in paragraph (1), item (i), (h), or the unit price specified in item (ii), (d) of that paragraph: if there is no requirement to deliver a document for delivery upon conclusion of contract to any customer pursuant to the provisions of Article 110, paragraph (1), item (v) or (vi), and, with regard to the packaging of the orders placed for the same issues on a same day, such customer's prior consent has been obtained, the average of the contract price or unit price for the transaction of such issue on the same day may be stated. In such case, the aforementioned fact must be specified in the customer ledger.

(Book on Serial Numbers of Delivered Securities)

Article 165 (1) The book on the serial numbers of delivered securities referred to in Article 157, paragraph (1), item (x) must include the following matters in connection with any and all delivered securities (meaning the instruments or certificates specified in the items of Article 2, paragraph (1) of the Act, Electronically Recorded Transferable Rights, or the rights prescribed in Article 1-12, item (ii) of the Cabinet Order for which delivery was completed, and excluding those entered in the book on the description of securities in safe custody referred to in Article 157, paragraph (1), item (xi), the foreign securities whose code or number cannot be specified as of the time of delivery thereof, registered national government bonds, and the corporate bonds, etc. specified in Article 2, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares dealt by a book-entry transfer institution

specified in paragraph (2) of that Article):

- (i) the date of receipt;
  - (ii) the name of the recipient;
  - (iii) the issues, volume, face value, code, number and any other information necessary for the identification of the relevant securities or certificates, Electronically Recorded Transferable Rights, or the rights;
  - (iv) in the case of the registered securities or certificates, the name of the holder;
  - (v) the date of delivery; and
  - (vi) the name of the party to receive the delivery.
- (2) The book on the serial numbers of delivered securities may be prepared in accordance with the following:
- (i) a statement of the matters listed in the items of the foregoing paragraph may be substituted by use of microfilm; and
  - (ii) if the matters listed in the items of the foregoing paragraph were entered into a form, and such forms were filed in date order, such file of forms may be treated as the book on the serial numbers of delivered securities.

(Book on the Description of Securities in Safe Custody)

Article 166 (1) The book on the description of the securities in safe custody as referred to in Article 157, paragraph (1), item (xi) must include the following matters in connection with the instruments or certificates specified in the items of Article 2, paragraph (1) of the Act, or Electronically Recorded Transferable Rights, or the rights which were deposited by the customer as the act specified in Article 2, paragraph (8), item (xvi) of the Act (in cases of conducting commodity-related business, including the commodities deposited by customers as part of an act specified in item (xvi), paragraph (8) of that Article of the instruments or certificates issued in relation to the commodities deposited), and the rights prescribed in Article 1-12, item (ii) of the Cabinet Order which were deposited by the customer as the act specified in that item:

- (i) the date of acceptance of the deposit;
  - (ii) the name of the depository;
  - (iii) the issues, volumes, face value, codes and numbers and any other information necessary for the identification of the relevant securities or certificates, Electronically Recorded Transferable Rights, or the rights;
  - (iv) in the case of the registered securities or certificates, the name of the holder;
  - (v) the method of custody;
  - (vi) the date of withdrawal; and
  - (vii) the grounds for withdrawal.
- (2) The book on the description of the securities, etc. in safe custody set forth in

the preceding paragraph must be prepared in accordance with the following:

- (i) that such book is prepared for each customer;
- (ii) that the grounds for withdrawal are stated in a manner such that the details thereof, such as the customer's request for restitution, the customer's request for selling and the customer's instruction on replacement with securities to be substituted for cash security deposits, are identifiable precisely;
- (iii) in the case of the sale or purchase of securities kept by way of commingled custody, the matters other than face value, code, number and holder's name are to be stated, and the fact that the securities are kept by way of commingled custody must be clearly indicated.

(Trading Products Ledgers)

Article 167 (1) A trading products ledger referred to in Article 157, paragraph (1), item (xiii) must include the following matters:

- (i) with regard to a ledger on the trading account securities, etc. (meaning the trading account securities, etc. listed among the items of the balance sheet; the same applies in items (i) and (iii) of the following paragraph), the following matters:
  - (a) the issues;
  - (b) the date of the contract;
  - (c) the delivery date;
  - (d) the counterparty's name (but only if the purchase and sale or any other transaction of securities is to be conducted by means other than on the financial instruments exchange market or over-the-counter securities market);
  - (e) the classification of debit or credit;
  - (f) volumes (if there is no volume, the number of transactions or any other information equivalent to volumes), the unit price and the amount; and
  - (g) the outstanding volume and outstanding amount;
- (ii) with regard to a ledger on option transactions (meaning a trading of bonds with options, a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including the foreign market derivatives transactions similar thereto), transactions specified in paragraph (22), items (iii) and (iv) of that Act.; the same applies in item (i) of the following paragraph), the following matters:
  - (a) the issues;
  - (b) the exercise period and exercise price;
  - (c) information as to whether it is a put option or call option;
  - (d) the details of the transaction to be effected by the exercise of options;
  - (e) the date of the contract;

- (f) the delivery date;
  - (g) the counterparty's name (limited to the case of the trading of bonds with options and the transactions specified in Article 2, paragraph (22), items (iii) and (iv) of the Act);
  - (h) information as to whether it is a new transaction, or an exercise of rights, a waiver of rights, resale, buy-back or set-off;
  - (i) the classification of debit or credit;
  - (j) volumes (if there is no volume, the number of transactions or any other information equivalent to volume), the unit price, and the amount of the consideration or option premium; and
  - (k) the outstanding volume and outstanding amount;
- (iii) with regard to a ledger on a futures transaction (meaning a transaction specified in Article 2, paragraph (21), items (i) and (ii) of the Act (including foreign market derivatives transactions similar thereto); hereinafter the same applies in this Article) and a forward transaction (meaning transactions specified in paragraph (22), items (i) and (ii) of that Article; hereinafter the same applies in this Article), the following matters:
- (a) the issues;
  - (b) the contract month;
  - (c) the date of the contract;
  - (d) the delivery date;
  - (e) the counterparty's name (limited to a case of a forward transaction);
  - (f) information as to whether it is a new transaction, or a transaction for resale, buy-back or settlement (in the case of a forward transaction, information as to whether it is a new transaction, settlement transaction or cancellation);
  - (g) information as to whether it is a sale or purchase transaction;
  - (h) volume (if there is no volume, the number of transactions or any other information equivalent to volume), the amount of the contract, contracted unit price and settlement price; and
  - (i) the outstanding volume, unsettled contract amount, market value, market unit price and the amount of deemed profit and loss equivalents;
- (iv) with regard to a ledger on a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including foreign market derivatives transactions similar thereto), a transaction specified in item (iv)-2 of that paragraph and a transaction specified in Article 2, paragraph (22), item (v) of the Act, the following matters:
- (a) the issues;
  - (b) the contracted interest rate, etc. of the financial instruments, or the contracted financial indicators;
  - (c) the date of the contract;

- (d) the transaction period;
- (e) the counterparty's name (limited to the case of a transaction specified in Article 2, paragraph (22), item (v) of the Act);
- (f) the amount fixed as the principal (excluding the cases of the transaction specified in Article 2, paragraph (21), item (iv)-2 of the Act) or the quantity fixed for commodities (limited to the case of the transaction specified in that item);
- (g) information as to whether it is a new transaction, or a transaction for a resale, buy-back or settlement;
- (h) the amount of deemed profit and loss equivalents; and
- (i) the discount interest rate (excluding the case of the transaction specified in Article 2, paragraph (21), item (iv)-2 of the Act);
- (v) with regard to a ledger on a transaction specified in Article 2, paragraph (21), item (v) of the Act (including foreign market derivatives transactions similar thereto) and a transaction specified in Article 2, paragraph (22), item (vi) of the Act, the following matters:
  - (a) the issues;
  - (b) the date of the contract;
  - (c) the counterparty's name (limited to the case of a transaction specified in Article 2, paragraph (22), item (vi) of the Act);
  - (d) the exercise period;
  - (e) the event determined by the parties in advance (meaning any of the events specified in Article 2, paragraph (21), item (v) and Article 2, paragraph (22), item (vi) of the Act; the same applies in (f));
  - (f) the amount of money payable upon the occurrence of any event determined by the parties in advance, or the method of the calculation thereof;
  - (g) the financial instruments, the rights pertaining to the financial instruments, or monetary claims (such monetary claims exclude the claims which is the financial instruments or the rights pertaining thereto) which the parties had promised to transfer;
  - (h) information as to whether it is a new transaction, or a transaction for the exercise of rights, resale or buy-back; and
  - (i) the amount of the consideration;
- (vi) with regard to a ledger on a transaction similar to those specified in items (ii) through (v), the following information:
  - (a) the issues;
  - (b) the date of the contract;
  - (c) the delivery date;
  - (d) the name of the counterparty; and
  - (e) the matters equivalent to those specified in items (ii) through (v).

- (2) The trading products ledger set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) with regard to the ledger on trading account securities, etc., option transactions, futures transactions or forward transactions, the progress of each transaction is itemized by issue (other than if information is to be collectively entered into a ledger on underwriting of securities, based on a separate statement containing the matters to be stated);
  - (ii) that, with regard to the transaction specified in item (vi) of the preceding paragraph, the ledger is stated by appropriately categorizing the information by type of transaction, indicators for transaction or transaction period, etc.; and
  - (iii) with regard to the trading account securities, etc., information on a transaction with a repurchase/resale agreement is not included, and such information is stated in the ledger on transactions with a repurchase/resale agreement set forth in Article 157, paragraph (1), item (xiv).
- (3) Notwithstanding the provisions of the preceding two paragraphs, the information listed in the following items may be stated in accordance with the manners set forth respectively therein:
- (i) from among the matters specified in the items of paragraph (1), information as to whether the transaction is a new transaction, or a cancellation or resale, and the settlement amount: the statement of those matters may be omitted, by setting up a separate account for such settlement amount;
  - (ii) the matters specified in paragraph (1), item (i), (a) which pertain to a pre-auction trading of government bonds: the fact that the transaction is a pre-auction trading of government bonds and the scheduled redemption date may be specified in lieu of the matters specified in (a) of that item;
  - (iii) the matters specified in paragraph (1), item (i), (d), item (ii), (g), item (iii), (e), item (iv), (e), item (v), (c) and item (vi), (d): if the counterparty is the one that a document for delivery upon conclusion of contract is not required to be delivered to pursuant to the provisions of Article 110, paragraph (1), items (v) and (vi), and if the counterparty is different from the person authorized to give investment instructions pertaining to the counterparty's assets, the person authorized to give investment instructions may be treated as the counterparty specified in the items of paragraph (1), with regard to a purchase and sale transaction ordered by and concluded with such person authorized to give investment instructions. In such case, the aforementioned fact must be specified in the trading products ledger;
  - (iv) the matters specified in paragraph (1), item (iii): if the financial instruments business operator separates the transactions set forth in that item which fall under the category of principal transaction and prepares a transaction diary therefor as set forth in Article 157, paragraph (1), item (iv),



it may state the matters specified in paragraph (1), item (iii) into such transaction diary, in lieu of the trading products ledger;

(v) the matters specified in paragraph (1), item (iii), (i); the matters specified in item (iv), (h) and (i) of that paragraph; the matters specified in item (vi), (e) of that paragraph which are equivalent to the matters specified in item (iii), (i) of that paragraph; and the matters specified in item (vi), (e) of that paragraph which are equivalent to the matters specified in item (iv), (h) and (i) of that paragraph: the statement of those matters may be omitted, except for the information as of the end of each month or as of the end of each business year.

(Ledger on Transactions with a Repurchase/Resale Agreement)

Article 168 (1) The following matters must be contained in a ledger on transactions with a repurchase/resale agreement as referred to in Article 157, paragraph (1), item (xiv), in connection with the trading account securities which pertain to transactions with a repurchase/resale agreement:

- (i) the date of delivery;
  - (ii) the date of contract;
  - (iii) the issues;
  - (iv) the name of the counterparty;
  - (v) information as to whether it is a transaction for starting or transaction for ending;
  - (vi) the classification for debit or credit;
  - (vii) the volumes, unit price, accrued interest, amount and Gensaki rate;
  - (viii) the outstanding volumes and outstanding amount included in the debit section;
  - (ix) the outstanding volumes and the outstanding amount included in the credit section.
- (2) In preparation of the ledger on transactions with a repurchase/resale agreement set forth in the preceding paragraph, the progress of transactions with a repurchase/resale agreement must be specified respectively for each transaction.
- (3) Notwithstanding the provisions of the preceding two paragraphs, a description of the matters specified in paragraph (1), items (viii) and (ix) may omitted, except for the relevant information as of the end of each month and as of the end of each business year.

(Transaction Records for Agency or Intermediation for Conclusion of Investment Advisory Contract or Discretionary Investment Contract)

Article 169 The following matters must be contained in a transaction records for an agency or intermediation for the conclusion of an investment advisory

contract or a discretionary investment contract as referred to in Article 157, paragraph (1), item (xvi), (d), in connection with the act specified in Article 2, paragraph (8), item (xiii) of the Act:

- (i) the date when the agency or intermediation was provided;
- (ii) the customer's name;
- (iii) information as to whether the type of service was agency or intermediation;
- (iv) the contents of the agency or intermediation; and
- (v) the amount of the fees, remuneration or any other consideration receivable in connection with the agency or intermediation.

(Investment Statements)

Article 170 (1) The following matters relating to an investment (including an investment by a person that has been entrusted all or part of the authority to make an investment) of investment properties (excluding investment trust property specified in Article 3, item (ii) of the Act on Investment Trust and Investment Corporations) must be contained in an investment statements as referred to in Article 157, paragraph (1), item (xvii), (c):

- (i) the date of transaction;
- (ii) the type of transaction;
- (iii) the issues;
- (iv) information as to whether the transaction was a sale or purchase transaction (in the case of a transaction specified in (a) through (e) below, the type of such transaction as set forth respectively therein; hereinafter the same applies in the following Article):
  - (a) a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including foreign market derivatives transactions similar thereto) and a transaction specified in Article 2, paragraph (22), item (ii) of the Act: the party to be paying money or receiving money if the actual figure exceeds the agreed figure;
  - (b) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including foreign market derivatives transactions similar thereto), and a transaction specified in Article 2, paragraph (22), items (iii) and (iv) of the Act: the party to be granting options or acquiring options;
  - (c) a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including foreign market derivatives transactions similar thereto), and a transaction specified in Article 2, paragraph (22), item (v) of the Act: the party to be paying money, or receiving money when the interest rate, etc. of the financial instruments or financial indicators as agreed with the counterparty increase in the agreed period; and
  - (d) a transaction specified in Article 2, paragraph (21), item (iv)-2 of the Act:

a party becomes a money-paying or receiving party when a financial indicator for the instruments agreed with the counterparty rises in the agreed period;

- (e) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including foreign market derivatives transactions similar thereto), and a transaction specified in Article 2, paragraph (22), item (vi) of the Act: the party to be paying money, or receiving money when any event agreed by the parties in advance (meaning any of the events specified in Article 2, paragraph (21), item (v) and Article 2, paragraph (22), item (vi) of the Act) occurs;
  - (v) volumes (if there is no volume, the number of transactions or any other information equivalent to volume);
  - (vi) the contract price;
  - (vii) the name of the counterparty to the transaction; and
  - (viii) if any other person keeps custody of the investment property, the trade name or name of such other person, and the day when such person was informed of the details of the investment.
- (2) The investment statements set forth in the preceding paragraph must be prepared for each investment property.
- (3) With regard to the investment statement under paragraph (1) which relates to the high-speed trading, the provisions of Article 338, paragraph (7) (excluding item (i)) apply *mutatis mutandis*. In this case, the term "in accordance with the following" in that paragraph is deemed to be replaced with "in a way to enable the identification as transactions relating to high-speed trading and in accordance with the following".

#### (Order Placement Forms)

Article 171 (1) In an order placement form referred to in Article 157, paragraph (1), item (xvii), (d), the following matters in connection with the transaction to be effected as the investment of the investment property and the act specified in Article 16, paragraph (1), item (ii) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act:

- (i) the name of the investment property, the name of the property pertaining to the investment specified in Article 16, paragraph (1), item (ii) of the "Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act" (hereinafter referred to as the "foreign investment property"), or any other information necessary for the identification of the investment property or foreign investment property;
- (ii) the type of transaction;
- (iii) the issues;
- (iv) information as to whether the type of transaction is a sale or purchase

- transaction;
- (v) volumes of orders placed (if there is no volume, the number of orders placed or any other information equivalent to volumes);
  - (vi) agreed volumes (if there is no volume, the number of agreed orders or any other information equivalent to volumes);
  - (vii) information as to whether it is a limit order or a market order (in the case of a limit order, the price and valid period of the order (excluding an order of which valid period is the day such order is placed) are included);
  - (viii) the date and time of the placement of the orders (if an act specified in Article 16, paragraph (1), item (ii) of the "Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act" is to be conducted, the date and time of the placement of orders and the date and time of the receipt of orders);
  - (ix) the date and time of the contract;
  - (x) the contract price; and
  - (xi) if any other person keeps custody of the investment property, the trade name or name of such person.
- (2) An order placement form set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) that such form is prepared upon the placement of an order;
  - (ii) that such forms are filed and preserved in date order;
  - (iii) that, if two or more investment properties (excluding the investment property pertaining to the business of conducting an act specified in Article 2, paragraph (8), item (xiv) of the Act) are jointly invested, the agreed volume for the respective investment properties as well as the criteria for the allocation is stated;
  - (iv) that, if orders for the same issues pertaining to two or more investment properties or foreign investment properties are to be placed to a financial instruments business operator in bulk (referred to as the "bulk order placement" in the following paragraph), the order placement forms therefor are filed and preserved in date order;
  - (v) if an order placement form is to be prepared by means of an electronic or magnetic record, such records are prepared in accordance with the following, beyond what is set forth in the preceding items:
    - (a) that the matters specified in the items of the preceding paragraph (excluding item (vi), and items (viii) through (x)) are entered on a computer prior to the placement of an order, and that the matters specified in item (viii) of the preceding paragraph are entered on a computer upon the placement of an order;
    - (b) that the date and time when the details of the placed order were entered on a computer are automatically recorded.

- (3) Notwithstanding the provisions of the preceding two paragraphs, the information listed in the following items may be stated in accordance with the manners set forth respectively therein:
- (i) the names of the investment property or foreign investment property or any other matters necessary for the identification of the investment property or foreign investment property pertaining to the bulk order placement, and the trade name and name of a person that keeps custody of such investment property or foreign investment property: the statement of those matters may be omitted; provided, however, that in such cases, a document clarifying the contents of the matters to be stated in an order placement form with regard to each Investment property or foreign investment property is to be attached;
  - (ii) the contract price: if there is any prior agreement with the financial instruments business operator with which orders are placed that, with regard to a transaction of a same issue to be concluded on a same day, the average of the unit prices for such transaction is the contract price, such average amount may be stated;
  - (iii) the time of the contract: if the contract price was stated pursuant to the preceding item, the statement of the contract time may be omitted;
  - (iv) the matters listed in the items of paragraph (1) which pertain to investment trust beneficiary certificates, etc. without price fluctuation on the same day: the issues, information as to whether the type of transaction is a public offering or a partial cancellation, information as to whether the type of transaction is a purchase or sale transaction, the volume of orders placed, the day when the orders were placed and the contract date may be specified in lieu of the matters specified in the relevant items;
  - (v) information prepared by means of an electronic or magnetic record pursuant to the provisions of item (v) of the preceding paragraph: if such information prepared by means of an electronic or magnetic record is to be displayed on the computer screen or to be printed out on paper, such information may be displayed or printed in the form of lists.
- (4) Notwithstanding the provisions of the preceding three paragraphs, a transaction contract pertaining to a transaction to be effected as an investment of the investment property (limited to a contract containing the name of the investment property or any other information necessary for the identification of the investment property, and the contract date and any other information necessary for the identification of the details of the investment) may be substituted for the order placement form set forth in paragraph (1).
- (5) With regard to the order forms under paragraph (1) which relates to the high-speed trading, the provisions of paragraph (2), items (ii), (iv) and (v), paragraph (3), item (v) and the preceding paragraph do not apply, and the provisions of Article 338, paragraphs (6) and (7) apply *mutatis mutandis*. In

this case, the term "in accordance with the following" in those paragraphs is deemed to be replaced with "in a way to enable the identification as transactions relating to high-speed trading and in accordance with the following."

(Business Report)

Article 172 (1) The business report to be submitted by a financial instruments business operator pursuant to the provisions of Article 46-3, paragraph (1) of the Act must be prepared in accordance with Appended Form No. 12.

(2) When a financial instruments business operator prepares a business report set forth in the preceding paragraph, it is to be subject to corporate accounting standards generally accepted as fair and appropriate.

(Report on Status of Business or Properties)

Article 173 A financial instruments business operator must, pursuant to the provisions of Article 46-3, paragraph (2) of the Act, submit to the Commissioner of the Financial Services Agency or other competent official the reports listed in the following items (if the financial instruments business operator is a foreign corporation, the report specified in item (ii) is excluded), no later than the time limits set forth respectively in the relevant item:

- (i) a report on the associated companies prepared in accordance with Appended Form No. 13: within four months after the end of each business year; and
- (ii) a report on the international business prepared in accordance with Appended Form No. 14: within four months after the end of each business year.

(Matters to Be Stated in Explanatory Documents)

Article 174 The matters to be specified by Cabinet Office Order as referred to in Article 46-4 of the Act are as follows:

- (i) the following matters in relation to the profile and organizational structure of the financial instruments business operator:
  - (a) the trade name, the registration date, and the registration number;
  - (b) the background, and the organizational structure for business operation;
  - (c) the name of the first to tenth-ranked shareholders based on the descending order of the numbers of shares held, the number of shares held by such shareholders, and the ratio of number of the voting rights pertaining to such shares to the voting rights held by all the shareholders, etc.;
- (d) the matters listed in Article 29-2, paragraph (1), items (iii) through (xii) of the Act; and
- (e) the contents of the complaint processing measures and dispute resolution measures concerning business specified in Article 37-7, paragraph (1), item

- (i), (b), item (ii), (b), item (iii), (b) or item (iv), (b) of the Act;
- (ii) the following matters in relation to the status of the business of the financial instruments business operator:
  - (a) an outline of the business carried out in the latest business year;
  - (b) the following matters, as indicators of the status of the business carried out in the latest three business years:
    - 1. the operating profit and net operating profit;
    - 2. the ordinary profit or ordinary loss;
    - 3. the net profit for the current year or the net loss for the current year;
    - 4. the amount of stated capital, and the total number of the issued shares (in the case of a foreign corporation, the amount of stated capital and the amount of brought-in capital);
    - 5. a breakdown of the fees received;
    - 6. a breakdown of the trading profit or loss (meaning the trading profit or loss from among the items on the profit and loss statement), and the breakdown of the profit or loss from any other principal transactions;
    - 7. the trading volume of share certificates (including the entrusted volume of brokerage for clearing of securities, etc. (excluding the handling volume of brokerage for an entrustment of brokerage for clearing of securities, etc.)) and the handling volume of the acceptance of the entrustment thereof (excluding the volume of accepted entrustment of brokerage for clearing of securities, etc., but including the handling volume of brokerage for entrustment of the brokerage for clearing of securities, etc.);
    - 8. the underwriting volume, the secondary distribution volume, and the dealing volume of public offering, secondary distribution, private placement or solicitation for selling, etc. only for professional investors, in relation to national government bond securities, corporate bond certificates, share certificates and beneficiary certificates for investment trust;
    - 9. the status of the other businesses (meaning the businesses listed in the items of Article 35, paragraph (2) of the Act, or the businesses approved under paragraph (4) of that Article; the same applies hereinafter);
    - 10. the capital adequacy ratio as of the last day of each business year; and
    - 11. the total number of employees and sales representatives as of the last day of each business year.
  - (c) status of performance-based compensation of officers stated in the business report as set forth in Article 172, paragraph (1).
- (iii) the following matters in relation to the status of the properties of the financial instruments business operator for the latest two business years:

- (a) the balance sheet (including the notes in reference thereto), the profit and loss statement (including the notes in reference thereto) and the statement of changes in shareholders' equity, etc. (including the notes in reference thereto);
- (b) the following matters as of the last day of each business year:
  - 1. the major lenders of money, and the borrowed amount;
  - 2. the acquisition value, the market value and the loss or gain on valuation of the securities held (excluding the securities treated as falling under the categories of trading products for accounting purposes (meaning trading products from among the items of the balance sheet; the same applies in 3.)); and
  - 3. the contract value, the market value and the loss or gain on valuation of the derivative transactions (excluding the transactions treated as falling under the category of trading products for purpose of accounting);
- (c) if the document specified in (a) has been audited by an accounting auditor pursuant to the provisions of Article 436, paragraph (2) of the Companies Act, to that effect; and
- (d) if an audit certification has been implemented by a certified public accountant or an auditing firm with regard to the documents specified in (a) pursuant to the provisions of Article 193-2 of the Act, to that effect;
- (iv) the following matters in relation to the status of the management of the financial instruments business operator:
  - (a) an outline of the status of the internal management; and
  - (b) the quantity or amount of the money, securities or other properties to be managed pursuant to the provisions of Article 43-2 through Article 43-3 of the Act itemized by the type thereof, as well as the status of the management thereof.
- (v) the following matters in relation to the status of subsidiary companies prescribed in Article 2, item (iii) of the Regulation on Terminology, Forms, and Preparation means of consolidated financial statements and its affiliated companies prescribed in item (vii) of that Article of the financial instruments business operator (excluding the special financial instruments business operator that prepares the explanatory documents set forth in Article 57-4 of the Act pertaining to the business year pursuant to the provisions of that Article) (hereinafter collectively referred to as the "subsidiary company, etc." in this item):
  - (a) the composition of the group of the financial instruments business operator and its subsidiary companies, etc.; and
  - (b) the trade name or name of the subsidiary company, etc., the location of its head office or principal office, its amount of stated capital, the aggregate



amount of its funds or the total amount of its contribution and its business contents, as well as the total number of the voting rights held by the financial instruments business operator and other subsidiary companies, etc. and the ratio of the number of voting rights held to the voting rights held by all the shareholders, etc. of such subsidiary company, etc.

(Public Inspection of Explanatory Documents)

Article 174-2 When a financial instruments business operator publicizes explanatory documents by the use of the internet and other means pursuant to Article 46-4 of the Act, it must do so in a way which allows easy access by investors any time.

(Financial Instruments Transaction Liability Reserve)

Article 175 (1) A financial instruments business operator must set aside for each business year either of the amounts specified in the following items, whichever is smaller, as the financial instruments transaction liability reserve under Article 46-5, paragraph (1) of the Act:

(i) the total of the following amounts:

- (a) the amount equivalent to 0.2 in 10,000 of the aggregate amount of purchase and sale of the shares, in regard to the purchase and sale, etc. (meaning the purchase and sale of securities (excluding the purchase and sale conducted on the financial instruments exchange market), brokerage for the purchase and sale of securities (excluding brokerage for clearing of securities, etc.) or brokerage for entrustment of the purchase and sale of securities on the financial instruments exchange market; the same applies in (a) of the following item) conducted in the relevant business year;
- (b) the amount equivalent to 0.006 in 10,000 of the aggregate contract amount of the transaction specified in Article 2, paragraph (21), item (ii) of the Act (including foreign market derivatives transactions similar thereto; hereinafter the same applies in this Article excluding (j) of this item and (j) of the following item), in regard to the shares for which acceptances of entrustment, etc. (excluding acceptances of entrustment of brokerage for clearing of securities, etc. and those made as the clearance executing member, etc., but including acceptances of entrustment of brokerage for the entrustment of brokerage for clearing of securities; hereinafter the same applies in this paragraph and Article 189, paragraph (1)) were made in the relevant business year;
- (c) the amount equivalent to 0.3 in 10,000 of the total amount of the consideration for the transaction specified in Article 2, paragraph (21), item (iii) of the Act (including foreign market derivatives transactions similar thereto; hereinafter the same applies in this Article excluding (k) of

- this item and (k) of the following item), in regard to the shares for which the acceptances of entrustment, etc. were made in the relevant business year;
- (d) the amount equivalent to 0.0016 in 10,000 of the aggregate contract amount of the transaction specified in Article 2, paragraph (21), item (i) of the Act (including foreign market derivatives transactions similar thereto; hereinafter the same applies in this Article excluding (i) of this item and (i) of the following item) and the transaction specified in item (ii) of that paragraph, in regard to the bond certificates for which the acceptances of entrustment, etc. were made in the relevant business year;
  - (e) the amount equivalent to 0.3 in 10,000 of the total amount of consideration for a transaction specified in Article 2, paragraph (21), item (iii) of the Act, in regard to the bond certificates for which the acceptances of entrustment, etc. were made in the relevant business year;
  - (f) the amount equivalent to 0.0096 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (i) of the Act (including a transaction specified in item (i) of that paragraph effected upon the exercise of the rights granted to one of the parties under the transaction specified in item (iii) of that paragraph; the same applies in (i) of this item and (f) and (i) of the following item), which pertained to the currency and for which acceptances of entrustment, etc. were made in the relevant business year, by the amount prescribed by the exchange (meaning a party which establishes a financial instruments market or foreign financial instruments market; hereinafter the same applies in this Article) as a unit of transaction (in the case of a transaction specified in item (i) of that paragraph which pertains to the transaction specified in item (iii) of that paragraph, the amount prescribed by the exchange as the unit of transaction effected upon the exercise of the rights granted to one of the parties; the same applies in (i) of this item and (f) and (i) of the following item);
  - (g) the amount equivalent to 0.0012 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act (including a transaction specified in item (ii) of that paragraph effected upon the exercise of the rights granted to one of the parties under the transaction specified in item (iii) of that paragraph; the same applies in (h) and (j) of this item and (g), (h) and (j) of the following item), which pertained to the financial indicators calculated based on the interest rates of claims under the deposit contract and for which acceptances of entrustment, etc. were made in the relevant business year, by the amount prescribed by the exchange as the unit of transaction (in the case of the transaction specified in item (ii) of that paragraph which

- pertains to the transaction specified in item (iii) of that paragraph, the amount prescribed by the exchange as the unit of the transaction effected upon the exercise of the right granted to one of the parties; the same applies in (h) and (j) of this item and (g), (h) and (j) of the following item); and
- (h) the amount equivalent to 0.0024 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act which pertained to the financial indicators calculated based upon the discount rate of negotiable instrument and for which acceptances of entrustment, etc. were made in the relevant business year, by the amount prescribed by the exchange as the unit of transaction.
  - (i) the amount equivalent to 0.01 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (i) of the Act for the Commodities for which Acceptance of Entrustment, etc. was made in the relevant business year by the amount prescribed by the Exchange as the unit of transaction;
  - (j) the amount equivalent to 0.01 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act for financial indicators pertaining to the Commodities for which Acceptance of Entrustment, etc. was made in the relevant business year by the amount prescribed by the Exchange as the unit of transaction;
  - (k) the amount equivalent to 0.1 in 10,000 of the total amount of considerations for the transaction specified in Article 2, paragraph (21), item (iii) of the Act for the Commodities for which Acceptance of Entrustment, etc. was made in the relevant business year;
  - (ii) the amount obtained by deducting the amount specified in (l) below from the total of the amounts specified in the following (a) through (k):
    - (a) the amount equivalent to 0.8 in 10,000 of the aggregate amount of the purchase and sale of shares pertaining to the purchase and sale, etc., in regard to the business year demonstrating the highest aggregate amount of the purchase and sale, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
    - (b) the amount equivalent to 0.024 in 10,000 of the aggregate contract amount for the transaction specified in Article 2, paragraph (21), item (ii) of the Act which pertained to the shares and for which acceptances of entrustment, etc. were made, in regard to the business year demonstrating the highest aggregate contract amount, from among the relevant business year and each business year commencing within two years prior to the day

- of the commencement of such relevant business year;
- (c) the amount equivalent to 1.2 in 10,000 of the total amount of the consideration for the transaction specified in Article 2, paragraph (21), item (iii) of the Act which pertained to the shares and for which acceptances of entrustment, etc. were made, in regard to the business year demonstrating the highest total amount of the consideration, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (d) the amount equivalent to 0.0064 in 10,000 of the aggregate contract amount for the transaction specified in Article 2, paragraph (21), items (i) and (ii) of the Act which pertained to the bond certificates and for which acceptances of entrustment, etc. were made, in regard to the business year demonstrating the highest aggregate contract amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (e) the amount equivalent to 1.2 in 10,000 of the total amount of the consideration for the transaction specified in Article 2, paragraph (21), item (iii) of the Act which pertained to the bond certificates and for which acceptances of entrustment, etc. were made, in regard to the business year demonstrating the highest total amount of the consideration, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (f) the amount equivalent to 0.0384 in 10,000 of the amount obtained by multiplying the transaction volumes of the transactions specified in Article 2, paragraph (21), item (i) of the Act, which pertained to currency and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (g) the amount equivalent to 0.0048 of in 10,000 of the amount obtained by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act, which pertained to the financial indicators calculated based on the interest rates of the claim under a deposit contract and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (h) the amount equivalent to 0.0096 of in 10,000 of the amount obtained by

multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act which pertained to the financial indicators calculated based on the discounting rate of negotiable instrument and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;

- (i) the amount equivalent to 0.04 in 10,000 of the amount obtained by multiplying the transaction volumes of the transactions specified in Article 2, paragraph (21), item (i) of the Act, which pertained to commodities and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (j) the amount equivalent to 0.04 in 10,000 of the amount obtained by multiplying the transaction volumes of the transactions specified in Article 2, paragraph (21), item (ii) of the Act, which pertained to the financial indicators relating to the commodities and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (k) the amount equivalent to 0.4 in 10,000 of the total amount of the consideration for the transaction specified in Article 2, paragraph (21), item (iii) of the Act which pertained to the commodities and for which acceptances of entrustment, etc. were made, in regard to the business year demonstrating the highest total amount of the consideration, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (l) the amount of the financial instruments transaction liability reserve which has already been set aside (if any portion of the amount has been used pursuant to the provisions of Article 46-5, paragraph (2) of the Act, the amount after the deduction of such amount).
- (2) The cases in which the financial instruments transaction liability reserve may be used as provided in Article 46-5, paragraph (2) of the Act are those in which the financial instruments business operator withdraws the amount pertaining to the portion in excess of the total of the amounts listed in item (ii), (a)

through (k) of the preceding paragraph, out of the financial instruments transaction liability reserve already set aside as of the last day of the business year, or any other cases approved by the Commissioner of the Financial Services Agency or other competent official.

(Equity Capital)

Article 176 (1) The stated capital, reserve and other amount to be specified by Cabinet Office Order as referred to in Article 46-6, paragraph (1) of the Act are as follows:

- (i) the stated capital;
- (ii) the payment for an application for new shares;
- (iii) the capital surplus;
- (iv) the earned surplus (excluding the amount of scheduled disbursement (meaning the scheduled amount of dividend and officers' bonuses));
- (v) the valuation difference on available-for-sale securities (meaning the valuation difference of the available-for-sale securities (meaning the available-for-sale securities set forth in Article 8, paragraph (22) of the Regulation on Financial Statements, etc.; the same applies in item (vii), (a) and Article 177, paragraph (1), item (i)) to be inserted in the section of net assets of the balance sheet, if such valuation difference is a negative number);
- (vi) treasury shares;
- (vii) the following particulars whose total amount is less than the amount of basic items (the ceiling of the amount specified in (d) below are the amount equivalent to 50 percent of the amount of basic items (referred to as the "threshold amount" in (e)); and the ceiling of the amount specified in (e) is the amount equivalent to 200 percent of the amount of basic items after deduction of the amount of deductible assets):
  - (a) the valuation difference on available-for-sale securities (meaning the valuation difference of the available-for-sale securities to be inserted in the section of net assets of the balance sheet, if such valuation difference is a positive number) and any item other than those listed in the preceding items, which are to be inserted in the section of net assets of the balance sheet;
  - (b) the particulars specified in the items of Article 14, paragraph (1);
  - (c) the general loan-loss reserves (limited to the reserve pertaining to the assets belonging to the category of current assets);
  - (d) the long-term subordinated debt (in the case of the long-term subordinated debt with a remaining term of five years or a shorter term, limited to the debt after reducing accumulatively each year the amount equivalent to 20 percent of the amount as of the time when the remaining

- term becomes five years); and
- (e) the short-term subordinated debt (including the long-term subordinated debt (limited to the debt which have all of the natures specified in the items of paragraph (3)) which is equivalent to the total of the amount exceeding the threshold amount and the cumulative amount of the reduction as set forth in (d)).
- (2) The "long-term subordinated debt" as used in item (vii), (d) and (e) of the preceding paragraph means the subordinated borrowing (meaning the monetary loan for consumption with special provisions setting forth subordinated conditions on the principal and interest payment; the same applies hereinafter) or the subordinated corporate bond (meaning corporate bonds with special provisions setting forth subordinated conditions on the payment of principal and interest; the same applies hereinafter) which have all of the natures specified in the following:
- (i) that no security interest has been created thereon;
  - (ii) that the borrowing term or maturity determined as of the time of conclusion of the contract or as of the time of issuance exceeds five years;
  - (iii) if there are any special provisions on the accelerated payment or accelerated redemption (hereinafter referred to as the "accelerated payment, etc." in this Article), that such accelerated payment, etc. is made voluntarily by the financial instruments business operator which is the debtor, and that such accelerated payment, etc. may be made only if the financial instruments business operator has obtained approval therefor from the Commissioner of the Financial Services Agency or other competent official; and
  - (iv) that there are special provisions setting forth that no interest payment is made if such payment by the financial instruments business operator would result in a breach of the provisions Article 46-6, paragraph (2) of the Act.
- (3) The "short-term subordinated debt" as used in paragraph (1), item (vii), (e) means the subordinated borrowing or the subordinated corporate bonds, which have all of the natures specified in the following:
- (i) that no security interest has been created thereon;
  - (ii) that the borrowing term or maturity determined as of the time of concluding contract or as of the time of issuance is two years or longer;
  - (iii) if there are any special provisions on the accelerated payment, etc., that such accelerated payment, etc. is made voluntarily by the financial instruments business operator which is the debtor, and that such accelerated payment, etc. may be made only if the financial instruments business operator has obtained approval therefor from the Commissioner of the Financial Services Agency or other competent official; and
  - (iv) that there are special provisions setting forth that no payment of principal or interest is made if such payment by the financial instruments business

operator would result in a breach of the provisions Article 46-6, paragraph (2) of the Act.

- (4) If any of the cases listed in the following items is applicable to any long-term subordinated debt (meaning the long-term subordinated debt prescribed in paragraph (2); hereinafter the same applies in this Article) or short-term subordinated debt (meaning the short-term subordinated debt prescribed in the preceding paragraph; hereinafter the same applies in this Article), the amounts set forth respectively therein must be deducted from the amount of such long-term subordinated debt or short-term subordinated debt:
- (i) if the lender in the subordinated borrowing is the subsidiary company, etc.: the amount of such subordinated borrowing;
  - (ii) if the holder of the subordinated corporate bonds (including a person holding subordinated corporate bonds by means of trust properties; the same applies in the following item) is such financial instruments business operator itself or its subsidiary company, etc.: the amount of such subordinated corporate bonds;
  - (iii) if the financial instruments business operator intentionally furnishes funds to a lender in the subordinated borrowing or a holder of the subordinated corporate bonds: the amount of such funds (if the amount of such funds exceeds the total of the amount of the subordinated borrowings and the amount of the subordinated corporate bonds, such total amount).
- (5) A financial instruments business operator which intends to obtain the approval under paragraph (2), item (iii) or paragraph (3), item (iii) must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency or other competent official, attaching a copy of the contract or any other document equivalent thereto:
- (i) the trade name;
  - (ii) the registration date and the registration number;
  - (iii) the amount of the accelerated payment, etc. (if it is foreign currency-denominated, the amount of such accelerated payment, etc. and such amount converted into yen);
  - (iv) the current amount and the amount after the accelerated payment, etc. of the long-term subordinated debt or short-term subordinated debt (if it is foreign currency-denominated, the amount thereof and such amount converted into yen);
  - (v) the reasons for making the accelerated payment, etc.;
  - (vi) the scheduled date of the accelerated payment, etc.;
  - (vii) the details of procurement of capital or other specific measures to be implemented so as to maintain a sufficient capital adequacy ratio;
  - (viii) the presumptive figure of the capital adequacy ratio after implementation of the accelerated payment, etc.



- (6) If the Commissioner of the Financial Services Agency or other competent official intends to grant an approval under paragraph (2), item (iii) or paragraph (3), item (iii), the commissioner or official must confirm that such long-term subordinated debt or short-term subordinated debt did not enhance the capital adequacy ratio temporarily and deliberately, and must carry out an examination as to whether the applicant satisfies any of the following requirements:
- (i) the financial instruments business operator is expected to be able to maintain an adequate capital adequacy ratio, even after implementation of the accelerated payment, etc.; and
  - (ii) the financial instruments business operator will procure capital in an amount not less than the amount of the accelerated payment, etc.
- (7) The "subsidiary company, etc." as used in paragraph (4), items (i) and (ii) means the following parties:
- (i) the subsidiary company of the financial instruments business operator (meaning the party treated as the financial instruments business operator's subsidiary company under Article 8, paragraphs (3) and (7) of the Regulation on Financial Statements, etc.; the same applies in item (ii), paragraph (6) of the following Article); and
  - (ii) the affiliated company of the financial instruments business operator (meaning the party to be treated as the financial instruments business operator's affiliated company under Article 8, paragraph (5) of the Regulation on Financial Statements, etc.; the same applies in item (iii), paragraph (6) of the following Article).
- (8) Beyond what is listed in the preceding paragraphs, the matters necessary for the calculation of the amount of basic items and the amount of Supplementary Items are specified by the Commissioner of the Financial Services Agency.

(Fixed Assets to Be Deducted)

Article 177 (1) The fixed assets and any others to be specified by Cabinet Office Order as referred to in Article 46-6, paragraph (1) of the Act are the balance sheet items or any other items, as listed in the following:

- (i) fixed assets (excluding the available-for-sale securities as listed in the following):
  - (a) securities listed on a financial instruments exchange (including those similar thereto located in a foreign state);
  - (b) securities registered in a registry of over-the-counter traded securities as set forth in Article 67-11, paragraph (1) of the Act (including those similar thereto kept in a foreign state); and
  - (c) national government bond securities;
- (ii) deferred assets;

- (iii) current assets as listed in the following:
  - (a) deposits (excluding deposits pertaining to customer segregated fund trusts, segregated management customer trusts, commodity customer segregated fund trust, initial margin (limited to margin managed by way of the creation of a trust or any other similar method pursuant to the provisions of Article 123, paragraph (1), item (xxi)-9, (d)) and those in foreign states which are equivalent to initial margin pertaining to a transaction specified in paragraph (12), item (v) of that Article, and deposits pertaining to those specified in Article 176, paragraph (1), item (vii), (b) and the deposits under Article 98, paragraph (1), item (ii) of the Regulation for Enforcement of the Commodity Derivatives Act (Order of the Ministry of Agriculture, Forestry and Fisheries and the Ministry of Economy, Trade and Industry No. 3 of 2005));
  - (b) advances paid to customers (excluding advances of which term is less than two weeks);
  - (c) short-term loans made to an associated company (excluding a consolidated company) (excluding call loans to be extended to any financial institution (meaning a bank, cooperative financial institution, or a financial institution listed in any of the items of Article 1-9 of the Order; hereinafter the same applies in (c)), a trust company or a financial instruments business operator, and also excluding loans for purchasing bills of exchange drawn up by any domestic financial institution or financial instruments business operator);
  - (d) advance payments; and
  - (e) prepaid expenses;
- (iv) the securities held (including securities held by means of trust properties) as listed in the following (excluding the securities specified in item (i)):
  - (a) securities issued by an associated company (excluding the securities pertaining to the short-term bonds prescribed in Article 66, item (i) of the Act on Book-Entry Transfer of Corporate Bonds and Shares the short-term bonds prescribed in Article 61-10, paragraph (1) of the Insurance Business Act and the specified short-term corporate bonds prescribed in Article 2, paragraph (8) of the Act on Securitization of Assets, which were issued by any consolidated company, and also excluding commercial papers (meaning the securities specified in Article 2, paragraph (1), item (xv) of the Act, and the securities specified in item (xvii) of that paragraph which have natures of the securities specified in item (xv) of that paragraph; the same applies in (b)), the securities acquired through underwriting of which possession period does not exceed six months, and the securities obviously not found to be held for the purpose of deliberately providing funds to associated companies, without regard to the status of the purchase and sale thereof);

- (b) commercial papers or corporate bond certificates issued by another company or a third party (but only if the financial instruments business operator accepts the means of procuring capital implemented by such other company and such commercial papers or corporate bond certificates are held by the financial instruments business operator intentionally); and
  - (c) the securities or corporate bond certificates with share options listed in Article 2, paragraph (1), items (vi) through (ix) of the Act, or the securities specified in item (xvii) of that paragraph which have natures of those securities (excluding the securities specified in item (i), (a) and (b), and also excluding the securities acquired through underwriting for which period of possession does not exceed six months);
  - (v) any asset provided as security for any third party (excluding the assets listed in the preceding items); and
  - (vi) securities held as prescribed in the provisions of paragraph (1), item (i) of the following Article (excluding those listed in the preceding items) that are specified by the Commissioner of the Financial Services Agency as those with considerably high risk of occurrence due to change in the price and other reasons.
- (2) With regard to the fixed assets listed in the following items, from among the fixed assets set forth in item (i) of the preceding paragraph which have been provided as security by any financial instruments business operator for the purpose of securing its own obligations, the amounts set forth respectively therein may be deducted from the relevant fixed asset;
- (i) building: the amount of the borrowing secured by the building, or the appraisal value of the building, whichever is the smaller; and
  - (ii) land: the amount of a borrowing secured by the land, or the appraisal value of the land, whichever is the smaller.
- (3) If any of the borrowings set forth in the items of the preceding paragraph is secured by two or more assets, the amount of the loans must be prorated in accordance with the appraisal value of all the assets on which securities were created, and the amount of the borrowing secured only by the fixed assets set forth in paragraph (1), item (i) must be calculated.
- (4) The advance payments of the consumption tax related to a purchase if the amount is less than the amount of the consumption tax related to sales counted as other deposits may be deducted from the amount of the advance payments set forth in paragraph (1), item (iii), (d).
- (5) With regard to the items listed in the following, the amounts set forth respectively therein may be deducted from the amount of such items:
- (i) the short-term loan prescribed in paragraph (1), item (iii), (c): the appraisal value of the collateral money or other assets deposited by the borrower of such short-term loans;

- (ii) the securities issued by the associated company set forth in paragraph (1), item (iv), (a): the appraisal value of the collateral money or other assets provided as security for the securities; and
  - (iii) the assets provided as security for the third party as set forth in paragraph (1), item (v): the appraisal value of the collateral money or other assets deposited by such third party.
- (6) The "associated company" referred to in paragraph (1), item (iii), (c) and item (iv), (a) of that paragraph means the following parties:
- (i) the parent company of the financial instruments business operator (meaning the party treated as the parent company of the financial instruments business operator under Article 8, paragraph (3) of the Regulation on Financial Statements, etc.; the same applies in items (iv) and (v));
  - (ii) the subsidiary company of the financial instruments business operator;
  - (iii) the affiliated company of the financial instruments business operator;
  - (iv) the subsidiary company of the parent company of the financial instruments business operator (meaning the party treated as the subsidiary company of the parent company under Article 8, paragraphs (3) and (7) of the Regulation on Financial Statements, etc. (excluding such financial instruments business operator and the parties specified in the preceding two items)); and
  - (v) the affiliated company of the parent company of the financial instruments business operator (meaning the party treated as the affiliated company of the parent company under Article 8, paragraph (5) of the Regulation on Financial Statements, etc. (excluding the party specified in item (iii))).
- (7) The term any "consolidated company" as referred to in paragraph (1), item (iii), (c) and item (iv), (a) of that paragraph means the following parties:
- (i) the consolidated subsidiary company (meaning the consolidated subsidiary company set forth in Article 2, item (iv) of the Regulation on Terminology, Forms, and Preparation Methods of Consolidated Financial Statements or any foreign party equivalent thereto; the same applies in the following item) of the financial instruments business operator (limited to the company submitting consolidated financial statements (meaning the company submitting consolidated financial statements prescribed in Article 2, item (i) of that Regulation or any foreign party equivalent thereto; the same applies in the following item)); or
  - (ii) the company submitting consolidated financial statements which has the financial instruments business operator as its consolidated subsidiary company, and consolidated subsidiary company thereof (excluding the financial instruments business operator and the party specified in the preceding item).
- (8) Beyond what is listed in the preceding paragraphs, the matters necessary for the calculation of the appraisal values set forth in the items of paragraph (2),

paragraph (3) and the items of paragraph (5) and any other matters required for the calculation of the amount of deductible assets are prescribed by the Commissioner of the Financial Services Agency.

(Value of Loss Risk Equivalent)

Article 178 (1) The amount to be specified by Cabinet Office Order as the amount equivalent to any possible risks which may accrue due to the fluctuation of prices of the securities held or other reasons, as referred to in Article 46-6, paragraph (1) of the Act, is as follows:

- (i) the market risk equivalent (meaning the amount equivalent to possible risks which may accrue due to the fluctuations in the prices of the securities, etc. (meaning the securities and other assets and transactions) held or other reasons as calculated in accordance with the formula prescribed by the Commissioner of the Financial Services Agency; the same applies hereinafter);
  - (ii) the counterparty risk equivalent (meaning the amount equivalent to possible risks which may accrue due to the default in performance of contracts by the counterparties to transactions or any other reason as calculated in accordance with the formula prescribed by the Commissioner of the Financial Services Agency; the same applies hereinafter); and
  - (iii) the basic risk equivalent (meaning the amount equivalent to possible risks which may accrue in the course of executing ordinary business, such as errors in business handling, as calculated in accordance with the formula prescribed by the Commissioner of the Financial Services Agency; the same applies hereinafter).
- (2) A financial instruments business operator is to, as may be necessary depending on the nature of its business and in accordance with a reasonable method, calculate the market risk equivalent and the counterparty risk equivalent each business day.

(Notification of Capital Adequacy Ratio)

Article 179 (1) the cases to be specified by Cabinet Office Order as referred to in Article 46-6, paragraph (1) of the Act are as follows:

- (i) if the capital adequacy ratio falls below 140 percent; or
  - (ii) if the capital adequacy ratio is restored to 140 percent or more.
- (2) A financial instruments business operator must, pursuant to the provisions of Article 46-6, paragraph (1) of the Act, notify the Commissioner of the Financial Services Agency or other competent official of the capital adequacy ratio as of the end of each month, no later than twentieth day of the following month.
- (3) A financial instruments business operator which falls under paragraph (1), item (i) must, pursuant to the provisions of Article 46-6, paragraph (1) of the

Act, immediately notify to that effect to the Commissioner of the Financial Services Agency, and must prepare a written notification of the capital adequacy ratio for each business day in accordance with Appended Form No. 15 and submit it to the Commissioner of the Financial Services Agency or other competent official without delay.

- (4) In filing the written notification prescribed in the preceding paragraph, the documents listed in the following items must be attached, in accordance with the categories set forth respectively therein:
  - (i) if the capital adequacy ratio comes to fall below 140 percent (excluding the case specified in the following item): the plan on concrete measures to be taken by such financial instruments business operator for the purpose of maintaining the status of the capital adequacy ratio; and
  - (ii) if the capital adequacy ratio comes to fall below 120 percent: the plan on concrete measures to be taken by such financial instruments business operator for the purpose of restoring the status of the capital adequacy ratio.
- (5) A financial instruments business operator which falls under paragraph (1), item (ii) must, pursuant to the provisions of Article 46-6, paragraph (1) of the Act, notify to that effect to the Commissioner of the Financial Services Agency or other competent official without delay.
- (6) A financial instruments business operator must calculate the status of its capital adequacy ratio for each business day in an appropriate manner.

(Public Inspection of Capital Adequacy Ratio)

- Article 180 (1) The periods to be specified by Cabinet Office Order as referred to in Article 46-6, paragraph (3) of the Act are each of the three-month periods after the day of the commencement of the first business year after the change of the last day of the business year (or a period less than three months, if the last period is less than three month).
- (2) If a financial instruments business operator prepares a document pursuant to the provisions of Article 46-6, paragraph (3) of the Act, it must contain the following matters in such document:
    - (i) the amount of non-fixed equity capital;
    - (ii) the market risk equivalent, the counterparty risk equivalent and the basic risk equivalent, as well as the total amount thereof; and
    - (iii) the capital adequacy ratio.
  - (3) If the amount of subordinated debt (meaning the subordinated debt set forth in Article 176, paragraph (1), item (vii), (d) and (e); hereinafter the same applies in this paragraph) is included in the amount of Supplementary Items, the following matters must be noted in the document prescribed in the preceding paragraph:
    - (i) the amount of such subordinated debt;

- (ii) the date of contract or date of the issuance of such subordinated debt; and
- (iii) the due date or the maturity date of such subordinated debt.

**Subsection 2 Financial Instruments Business Operators not Engaged  
in Type I Financial Instruments Business**

(Books and Documents Related to Business)

- Article 181 (1) The books and documents to be prepared by a financial instruments business operator (excluding an operator engaged in type I financial instruments business; hereinafter the same applies in this Subsection) pursuant to the provisions of Article 47 of the Act are as follows:
- (i) the books and documents specified in Article 157, paragraph (1), items (i) and (ii) (excluding (c) of that item);
  - (ii) if the financial instruments business operator is engaged in type II financial instruments business, the following books and documents:
    - (a) the books and documents listed in Article 157, paragraph (1), items (iii) through (xii); and
    - (b) a record on the status of the separate management pertaining to the act of management of specified securities, etc.
  - (iii) if the financial instruments business operator is engaged in an investment advisory and agency business, the books and documents specified in Article 157, paragraph (1), item (xvi);
  - (iv) if the financial instruments business operator is engaged in an investment management business, the books and documents specified in Article 157, paragraph (1), item (xvii); and
  - (v) in cases of a person conducting electronic public offering services, the following records:
    - (a) records of examination under the measures provided in Article 70-2, paragraph (2), item (iii); and
    - (b) records of information displayed on a screen of a computer pursuant to Article 146-2, paragraph (1).
- (2) Notwithstanding the provisions of item (ii) of the preceding paragraph, a type II financial instruments business operator which is a corporation incorporated under the laws and regulations of a foreign state or an individual domiciled in a foreign state (limited to a person engaged in type II financial instruments business that does not carry out any financial instruments business other than a transaction-at-exchange operation (meaning the transaction-at-exchange operation prescribed in Article 60, paragraph (1) of the Act, and excluding the operation to be conducted for persons in Japan as the counterparties; hereinafter the same applies in this paragraph) in Japan) may, with regard to the transaction-at-exchange operation, substitute the documents prepared

under the laws and regulations of the foreign state which are similar to the books and documents (limited to the books and documents pertaining to the transaction-at-exchange operation) specified in (a) of that item (such document is hereinafter referred to as the "foreign books and documents" in this paragraph; and if the foreign books and documents have been prepared in any foreign language, the following documents (referred to as the "foreign books and documents, etc." in the following paragraph)) for the books and documents specified in (a) of that item (limited to the books and documents pertaining to the transaction-at-exchange operation):

(i) the foreign books and documents; and

(ii) a Japanese translation of the forms of the foreign books and documents.

- (3) The books and documents specified in paragraph (1), items (i) and (iii) (limited to the books and documents specified in Article 157, paragraph (1), item (xvi), (c) and paragraph (1), item (v), (b) must be kept for five years from the day of the preparation thereof (in the case of the book specified in paragraph (1), item (i) (limited to that specified in item (ii), paragraph (1) of that Article), from the day when it ceases to be effective); the books and documents specified in paragraph (1), item (ii) (limited to those specified in paragraph (1), items (iii) through (iii)-4 of that Article), the foreign books and documents similar thereto, and the books and documents specified in paragraph (1), item (iv) (limited to those specified in Article 157, paragraph (1), item (xvii), (d)) must be kept for seven years from the day of the preparation thereof; and the books and documents specified in paragraph (1), item (ii) (excluding those specified in paragraph (1), items (iii) through (iii)-4 of that Article), the foreign books and documents similar thereto, and the books and documents specified in paragraph (1), item (iii) (excluding those specified in Article 157, paragraph (1), item (xvi), (c)), paragraph (1), item (iv) (excluding those specified in Article 157, paragraph (1), item (xvii), (d)) and item (v), (a) must be kept for ten years from the day of the preparation thereof (in the case of the books and documents specified in Article 157, paragraph (1), item (xvi), (a) and Article 157, paragraph (1), item (xvii), (a), from the day of the termination of the business under the contract or any other juridical act).
- (4) The books and documents specified in the items of paragraph (1) (excluding item (iii)) must be kept in Japan; provided, however, that this does not apply if the books and documents are prepared in a business office or other office established in a foreign state and if the copies thereof are kept in Japan without delay after the preparation thereof, or if the books and documents are prepared by means of an electronic or magnetic records and a document indicating matters recorded in the electronic or magnetic records is made available for inspection without delay at a business office or other office established in Japan.



(Business Report)

Article 182 (1) A business report to be submitted by a financial instruments business operator pursuant to the provisions of Article 47-2 of the Act must be prepared in accordance with Appended Form No. 12.

(2) When a financial instruments business operator (limited to a company) prepares a business report set forth in the preceding paragraph, it is to be subject to corporate accounting standards generally accepted as fair and appropriate.

(3) When a financial instruments business operator (excluding a company) prepares a business report set forth in paragraph (1), it is to be subject to the accounting standards generally accepted as fair and appropriate.

(Public Inspection of Explanatory Documents)

Article 183 (1) A financial instruments business operator must, pursuant to the provisions of Article 47-3 of the Act, make available for public inspection the explanatory document set forth in that Article, by means such as keeping explanatory documents prepared in accordance with Appended Form No. 15-2 or the copies of the business report set forth in paragraph (1) of the preceding Article at all of its business offices or any other offices, or publicize them by the use of the internet or other means in a way which allows easy access by investors any time.

(2) The matters to be specified by Cabinet Office Order as referred to in Article 47-3 of the Act are the matters contained in the business report set forth in Appended Form No. 15-2 or paragraph (1) of the preceding Article.

### **Subsection 3 Registered Financial Institutions**

(Books and Documents Related to Business)

Article 184 (1) The books and documents to be prepared by a registered financial institution pursuant to the provisions of Article 48 of the Act are as follows:

- (i) the books and documents specified in Article 157, paragraph (1), items (i) and item (ii) (excluding sub-item (c) of that item);
- (ii) with regard to a registered financial institution business other than financial instruments intermediation operations, investment advisory and agency business and an investment management business, the books and documents listed in Article 157, paragraph (1), items (iii) through (xi), (xiii), (xiv) and (xv)-2;
- (iii) with regard to financial instruments intermediation operations, the following books and documents:
  - (a) a subsidiary book on the financial instruments intermediary service; and

- (b) a book on the description of the custody related to financial instruments intermediary service;
  - (iv) in the case of a registered financial institution engaged in an investment advisory and agency business, the book and document specified in Article 157, paragraph (1), item (xvi); and
  - (v) in the case of a registered financial institution engaged in an investment management business, the book and document specified in Article 157, paragraph (1), item (xvii);
  - (vi) in cases of a person conducting electronic public offering services, the following records:
    - (a) records of examination under the measures provided in Article 70-2, paragraph (2), item (iii);
    - (b) records of information displayed on a screen of a computer pursuant to Article 146-2, paragraph (1).
- (2) The books and documents specified in items (i) and (iv) of the preceding paragraph (limited to the books and documents specified in Article 157, paragraph (1), item (xvi), (c)) and item (vi), (b) of the preceding paragraph must be kept for five years from the day of the preparation thereof (in the case of the book specified in item (i) of that paragraph (limited to that specified in Article 157, paragraph (1), item (ii)), from the day when it ceases to be effective); the books and documents specified in item (ii) of the preceding paragraph (limited to those specified in Article 157, paragraph (1), items (iii) through (iii)-4), the books and documents specified in item (iii), (a) and (v) of the preceding paragraph (limited to those specified in Article 157, paragraph (1), item (xvii), (d)) must be kept for seven years from the day of the preparation thereof; and the books and documents specified in item (ii) of the preceding paragraph (excluding those specified in Article 157, paragraph (1), items (iii) through (iii)-4), item (iii), (b) and, item (iv) of the preceding paragraph (excluding those specified in Article 157, paragraph (1), item (xvi), (c)) and item (v) of the preceding paragraph (excluding those specified in Article 157, paragraph (1), item (xvii), (d)) and item (vi), (a) of the preceding paragraph must be kept for ten years from the day of the preparation thereof (in the case of the books and documents specified in Article 157, paragraph (1), item (xvi), (a) and item (xvii), (a), from the day of the termination of the business under the contract or any other juridical act).

(Subsidiary Book on Financial Instruments Intermediary Services)

Article 185 (1) The following matters must be stated in a subsidiary book on the financial instruments intermediary services set forth in Article 184, paragraph (1), item (iii), (a):

- (i) information as to whether the entrusting financial instruments business

- operator itself is dealing or it is a transaction based on entrustment by the customer;
- (ii) the customer's name;
  - (iii) the type of transaction;
  - (iv) the issues;
  - (v) information as to whether the type of transaction is a sale or purchase;
  - (vi) volumes for which application was made (if there is no volume, the number of transactions or any other information equivalent to volume; the same applies in paragraph (3), item (i));
  - (vii) the agreed volumes (if there is no volume, the number of transactions or any other information equivalent to volume; the same applies in paragraph (3), item (i));
  - (viii) information as to whether it is a limit order or a market order (in the case of a limit order, the price and valid period of the order (excluding an order whose valid period is the day of such order) are included);
  - (ix) the date and time of the receipt of applications;
  - (x) the date and time of the contract; and
  - (xi) the contract price.
- (2) A subsidiary book on the financial instruments intermediary service set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) that such book is, in principle, prepared upon the receipt of an application for a transaction from a customer;
  - (ii) that, if the registered financial institution has two or more entrusting financial instruments business operators, such book is prepared for each of such entrusting financial instruments business operators;
  - (iii) that such books are prepared and preserved in date order;
  - (iv) that the portion of the statements referring to the transactions not contracted is also preserved;
  - (v) that, in the portion pertaining to the details of the transaction, information which has come to the knowledge of the registered financial institution is stated;
  - (vi) if a subsidiary book on a financial instruments intermediary service is to be prepared by means of an electronic or magnetic record, such records are prepared in accordance with the following, beyond what is set forth in the items of the preceding paragraph:
    - (a) that the information specified in the items of the preceding paragraph (excluding items (vii), (x) and (xi)) is entered on a computer upon receipt of an application; and
    - (b) that the date and time when the details of the customer's applications were entered on a computer are automatically recorded;
  - (vii) that, in the case of an order for a transaction for which a give-up was

- effected, such fact is stated;
- (viii) in the case of a transaction for which a give-up was effected, a registered financial institution whose entrusting financial instruments business operator, etc. is the order executing member, etc. need not state information as to whether it is a new transaction or a settlement transaction, and information as to whether it is a new transaction or a transaction for the exercise of rights, a resale or buy-back;
  - (ix) with regard to a transaction for which a give-up was effected, the registered financial institution whose entrusting financial instruments business operator, etc. is a clearance executing member, etc. need not prepare the subsidiary book.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the matters listed in the following items may be stated in accordance with the manners set forth respectively therein:
- (i) the matters specified in the items of paragraph (1) with regard to investment trust beneficiary certificates, etc. without price fluctuation on the same day: the customer's name, issues, information as to whether it is sale or purchase transaction, volume for which the application was received, contracted volumes, date of receipt of application and contract date may be specified in lieu of the matters set forth in the relevant items;
  - (ii) the matters specified in paragraph (1), item (iii) (limited to the matters specified in Article 158, paragraph (1), item (iii), (d), 2., (e), 3. and (g), 2.): a statement of any of those matters not required to be instructed at the time of the order pursuant to the rules of the financial instruments exchange may be omitted;
  - (iii) information prepared by means of an electronic or magnetic record pursuant to the provisions of item (vi) of the preceding paragraph: if such information prepared by means of an electronic or magnetic record is to be displayed on a the computer screen or to be printed out on paper, such information may be displayed or printed in the form of lists.

(Book on the Description of Custody Related to Financial Instruments  
Intermediary Services)

Article 186 (1) In a book on a description of the custody related to financial instruments intermediary service set forth in Article 184, paragraph (1), item (iii), (b), the following matters in relation to the money and securities pertaining to the financial instruments intermediation operations deposited by a customer must be stated:

- (i) the customer's name;
- (ii) the date of deposit and the date of withdrawal of such money and securities;

- (iii) the amount;
  - (iv) the issues;
  - (v) the volumes;
  - (vi) the name of the party with which the money or securities are deposited, and the party from which the money or securities are withdrawn;
  - (vii) the outstanding amount;
  - (viii) the codes or numbers of the securities; and
  - (ix) the names of the holders.
- (2) A book on description of the custody related to financial instruments intermediary service must be prepared in accordance with the following:
- (i) that the book is itemized by each customer;
  - (ii) with regard to the amount pertaining to the transaction for which a give-up was effected, that the amount received directly from the customer by the registered financial institution whose entrusting financial instruments business operator is a clearance executing member, etc. is stated; and
  - (iii) with regard to a transaction for which a give-up was effected, the registered financial institution whose entrusting financial instruments business operator is an ordering member, etc. need not prepare such book; provided, however, that if such registered financial institution has received money directly from the customer, the customer's name, the date of deposit or withdrawal, the amount, the name of depository and the outstanding balance of the money are stated.
- (3) Notwithstanding the provisions of the preceding two paragraphs, a book on description of the custody related to financial instruments intermediary service may be prepared in accordance with the following:
- (i) with regard to the securities which have been deposited, if there is no balance for the relevant date, the statement of the code, number and the holder's name may be omitted;
  - (ii) if the registered financial institution which may accept deposits or savings in the course of its trade has organized the records pertaining to making a deposit or a refund of the deposit or savings, the statement giving the date of making such deposit or withdrawal, the amount, the name of the depository and the outstanding balance may be omitted;
  - (iii) if the records on the deposit and withdrawal of securities have been organized by means of books, documents, etc. pertaining to any other business, the statement of date of the deposit or withdrawal, issue, volume, the name of the depository, the outstanding balance, code, number and the holder's name may be omitted.

(Business Reports)

Article 187 A business report to be submitted by a registered financial

institution pursuant to the provisions of Article 48-2, paragraph (1) of the Act must be prepared in accordance with Appended Form No. 16.

(Report on the Status of Business or Properties)

Article 188 A registered financial institution must, pursuant to the provisions of Article 48-2, paragraph (2) of the Act, submit to the Commissioner of the Financial Services Agency or other competent official the reports listed in the following items, no later than the time limit set forth respectively in the relevant items:

- (i) a report on the associated company prepared in accordance with Appended Form No. 13: within four months after the end of each business year; and
- (ii) a report on the status of the business or properties prepared in accordance with Appended Form No. 17: a monthly report is submitted no later than the twentieth day of the following month.

(Financial Instruments Transaction Liability Reserve)

Article 189 (1) A registered financial institution must set aside for each business year either of the amounts specified in the following items, whichever is smaller, as the financial instruments transaction liability reserve under Article 48-3, paragraph (1) of the Act:

- (i) the total of the following amounts:
  - (a) the amount equivalent to 0.0016 in 10,000 of the aggregate contract amount for the transaction specified in Article 2, paragraph (21), item (i) of the Act (including foreign market derivatives transactions similar thereto; hereinafter the same applies in this Article excluding (f) of this item and (f) of the following item) and the transaction specified in item (ii) of that paragraph (including foreign market derivatives transactions similar thereto; hereinafter the same applies in this Article excluding (g) of this item and (g) of the following item), in regard to the bond certificates for which the acceptances of entrustment, etc. were made in the relevant business year;
  - (b) the amount equivalent to 0.3 in 10,000 of the total amount of consideration for a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including foreign market derivatives transactions similar thereto; hereinafter the same applies in this Article excluding (h) of this item and (h) of the following item), in regard to the bond certificates for which the acceptances of entrustment, etc. were made in the relevant business year;
  - (c) the amount equivalent to 0.0096 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (i) of the Act (including a transaction specified in

- item (i) of that paragraph effected upon the exercise of the rights granted to one of the parties under the transaction specified in item (iii) of that paragraph; the same applies in (f) of this item and (c) and (f) of the following item), which pertained to the currency and for which acceptances of entrustment, etc. were made in the relevant business year, by the amount prescribed by the exchange (meaning a party which establishes a financial instruments market or foreign financial instruments market; hereinafter the same applies in this Article) as the unit of transaction (in the case of a transaction, etc. specified in item (i) of that paragraph which pertains to the transaction specified in item (iii) of that paragraph, the amount prescribed by the exchange as the unit of transaction effected upon the exercise of the rights granted to one party; the same applies in (f) of this item and (c) and (f) of the following item);
- (d) the amount equivalent to 0.0012 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction, etc. specified in Article 2, paragraph (21), item (ii) of the Act (including a transaction specified in item (ii) of that paragraph effected upon the exercise of the rights granted to one of the parties under the transaction specified in item (iii) of that paragraph; the same applies (e) and (f) of this item and (d), (e) and (g) of the following item), which pertained to the financial indicators calculated based on the interest rates of claims under the deposit contract and for which acceptances of entrustment, etc. were made in the relevant business year, by the amount prescribed by the exchange as the unit of transaction (in the case of the transaction, etc. specified in item (ii) of that paragraph which pertains to the transaction specified in item (iii) of that paragraph, the amount specified by the exchange as the unit of the transaction effected upon exercise of the right granted to one party; the same applies in (e) and (f) of this item and (d), (e) and (g) of the following item);
- (e) the amount equivalent to 0.0024 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act which pertained to the financial indicators calculated based upon the discount rate of negotiable instruments and for which acceptances of entrustment, etc. were made in the relevant business year, by the amount prescribed by the exchange as the unit of transaction.
- (f) the amount equivalent to 0.01 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (i) of the Act for the commodities for which acceptance of entrustment, etc. was made in the relevant business year by the amount prescribed by the exchange as the unit of transaction;

- (g) the amount equivalent to 0.01 in 10,000 of the amount calculated by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act for financial indicators pertaining to the commodities for which acceptance of entrustment, etc. was made in the relevant business year by the amount prescribed by the exchange as the unit of transaction; and
- (h) the amount equivalent to 0.1 in 10,000 of the total amount of considerations for the transaction specified in Article 2, paragraph (21), item (iii) of the Act for the commodities for which acceptance of entrustment, etc. was made in the relevant business year;
- (ii) the amount obtained by deducting the amount specified in (i) below from the total of the amount specified in the following (a) through (h):
  - (a) the amount equivalent to 0.0064 in 10,000 of the aggregate contract amount for the transactions specified in Article 2, paragraph (21), items (i) and (ii) of the Act which pertained to the bond certificates and for which acceptances of entrustment, etc. were made, in regard to the business year demonstrating the highest aggregate contract amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (b) the amount equivalent to 1.2 in 10,000 of the total amount of the consideration for the transaction specified in Article 2, paragraph (21), item (iii) of the Act which pertained to the bond certificates and for which acceptances of entrustment, etc. were made, in regard to the business year demonstrating the highest total amount of consideration, from among the relevant business year and each business year commencing within two years prior to the day of commencement of such relevant business year;
  - (c) the amount equivalent to 0.0384 in 10,000 of the amount obtained by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (i) of the Act, which pertained to currency and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (d) the amount equivalent to 0.0048 in 10,000 of the amount obtained by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act which pertained to the financial indicators calculated based on the interest rates of the claim under the deposit contract and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount,



- from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
- (e) the amount equivalent to 0.0096 of in 10,000 of the amount obtained by multiplying the transaction volumes of the transaction specified in Article 2, paragraph (21), item (ii) of the Act, which pertained to the financial indicators calculated based on the discounting rate of negotiable instrument and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year; and
  - (f) the amount equivalent to 0.04 in 10,000 of the amount obtained by multiplying the transaction volumes of the transactions specified in Article 2, paragraph (21), item (i) of the Act, which pertained to commodities and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (g) the amount equivalent to 0.04 in 10,000 of the amount obtained by multiplying the transaction volumes of the transactions specified in Article 2, paragraph (21), item (ii) of the Act which pertained to the financial indicators relating to the commodities and for which acceptances of entrustment, etc. were made, by the amount prescribed by the exchange as the transaction unit, in regard to the business year demonstrating the highest of such amount, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (h) the amount equivalent to 0.4 in 10,000 of the total amount of the consideration for the transaction specified in Article 2, paragraph (21), item (iii) of the Act which pertained to the commodities and for which acceptances of entrustment, etc. were made, in regard to the business year demonstrating the highest total amount of the consideration, from among the relevant business year and each business year commencing within two years prior to the day of the commencement of such relevant business year;
  - (i) the amount of the financial instruments transaction liability reserve which already has been set aside (if any portion of the amount has been used pursuant to the provisions of Article 48-3, paragraph (2) of the Act, the amount after the deduction of such amount).

- (2) The cases in which the financial instruments transaction liability reserve may be used as provided in Article 48-3, paragraph (2) of the Act are those in which the registered financial institution withdraws the amount pertaining to the portion in excess of the total of the amounts listed in item (ii), (a) through (h) of the preceding paragraph, out of the financial instruments transaction liability reserve already set aside as of the last day of the business year, or any other cases approved by the Commissioner of the Financial Services Agency or other competent official.

#### **Subsection 4 Special Rules for Foreign Corporations**

(Procedures for Obtaining Approval on the Period of Public Inspection of Explanatory Documents)

Article 190 (1) If any financial instruments business operator which is a foreign corporation or an individual domiciled in a foreign state (hereinafter referred to as the "financial instruments business operator which is foreign corporation, etc." in this Article) intends to obtain an approval under the proviso to Article 16-17 of the Order, it must submit to the Commissioner of the Financial Services Agency or other competent official a written application for approval stating the following particulars:

- (i) the trade name or name;
  - (ii) the registration date and the registration number;
  - (iii) the period for public inspection of explanatory documents for which the approval is sought;
  - (iv) the last day of the business year pertaining to the explanatory documents; and
  - (v) the reasons for which approval is sought in relation to public inspection of the explanatory documents.
- (2) The following documents must be attached to the written application for approval set forth in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the financial instruments business operator which is a foreign corporation, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as set forth in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval set forth in paragraph (1) was filed, and if it is

found that impossible for a financial instruments business operator which is a foreign corporation, etc. to keep the explanatory documents and make them available for public inspection from the day on which four months have elapsed from the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency or other competent official is to grant an approval with regard to the explanatory documents covering the business year containing the day of the filing of such application (if such day falls within four months from the commencement of the business year (if the approval has been granted with regard to inspection of explanatory documents covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in paragraph (1), item (v) for which the application was filed would be extinguished or changed.

- (4) The approval set forth in the preceding paragraph is to be granted on the condition that the financial instruments business operator which is a foreign corporation, etc. set forth in that paragraph submits to the Commissioner of the Financial Services Agency or other competent official documents stating the following particulars within four months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Procedures for Obtaining Approval on Time Limit for Submission of Business Report)

Article 191 (1) If any financial instruments business operator which is a foreign corporation or an individual domiciled in a foreign state, or a registered financial institution which is a foreign corporation (hereinafter referred to as the "financial instruments business operator, etc. which is foreign corporation, etc." in this Article) intends to obtain an approval under the proviso to Article 16-18 of the Order, it must submit to the Commissioner of the Financial Services Agency or other competent official a written application for approval stating the following particulars:

- (i) the trade name or name;
- (ii) the registration date and the registration number;

- (iii) the period for which the approval is sought in relation to the submission of the business report;
  - (iv) the last day of the business year pertaining to the business report; and
  - (v) the reasons for seeking the approval with regard to the submission of the business report.
- (2) The following documents must be attached to the written application set forth in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the financial instruments business operator, etc. which is foreign corporation, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as set forth in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval set forth in paragraph (1) was filed, and if it is found that impossible for a financial instruments business operator, etc. which is foreign corporation, etc. to submit the business report within three months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency or other competent official is to grant an approval with regard to the business report covering the business year containing the day of the filing of such application (if such day falls within three months from the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in paragraph (1), item (v) for which the application was filed would be extinguished or changed.
- (4) The approval set forth in the preceding paragraph is to be granted on the condition that the financial instruments business operator, etc. which is a foreign corporation, etc. as set forth in that paragraph submits to the Commissioner of the Financial Services Agency or other competent official documents stating the following particulars within three months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not

- ceased to exist or changed in the relevant business year; and
- (ii) a written legal opinion from a legal expert in the particular set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Procedures for Obtaining Approval on Time Limit for Submission of Other Documents)

Article 192 (1) If a financial instruments business operator (limited to a foreign corporation engaged in type-I financial instruments business; hereinafter the same applies in this Subsection) intends to obtain an approval under the proviso to Article 16-19 of the Order, it must submit to the Commissioner of the Financial Services Agency or other competent official a written application for approval stating the following particulars:

- (i) the trade name;
  - (ii) the registration date and the registration number;
  - (iii) the period for the submission of other documents, etc. (meaning the documents specified in Article 49-3, paragraph (1) of the Act or the report specified in Article 195 of this Cabinet Office Order; hereinafter the same applies in this Article) for which the approval is sought;
  - (iv) the last day of the business year pertaining to the other documents, etc.; and
  - (v) the reasons for seeking the approval with regard to the submission of the other documents, etc.
- (2) The following documents must be attached to a written application for approval set forth in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the financial instruments business operator as stated in the written application for approval is a person who has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as set forth in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval set forth in paragraph (1) has been filed, and if it is found that impossible for a financial instruments business operator to submit the other documents, etc. within three months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency or other competent official is to grant an approval with regard to the other documents, etc. covering the

business year containing the day of the filing of such application (if such day falls within three months after the commencement of the business year (if the approval has been granted with regard to the submission of the other documents, etc. covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in paragraph (1), item (v) for which the application was filed would be extinguished or changed.

- (4) The approval set forth in the preceding paragraph is to be granted on the condition that the financial instruments business operator set forth in that paragraph submits to the Commissioner of the Financial Services Agency or other competent official documents stating the following particulars within three months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Special Rules on Capital Adequacy Ratio)

Article 193 With regard to the application of the provisions of Article 176, paragraph (1) and Article 177, paragraph (1) of this Cabinet Office Order if the provisions of Article 46-6, paragraph (1) of the Act are to be applied pursuant to the provisions of Article 49, paragraph (2) of the Act following the deemed replacement of terms, the term "The stated, capital, reserve" in Article 176, paragraph (1) is deemed to be replaced with "The brought-in capital, reserves set aside at the business office or any other office in Japan", the term "the stated capital" in item (i) of that paragraph is deemed to be replaced with "the brought-in capital", the term "capital surplus" in item (iii) of that paragraph is deemed to be replaced with "the reserve which has been set aside at the business office or any other office in Japan", the term "balance sheet" in item (v) and item (vii), (a) of that paragraph and Article 177, paragraph (1) is deemed to be replaced with "balance sheet of the business office or any other office in Japan", and the term "fixed asset and any other" in Article 177, paragraph (1) is deemed to be replaced with "fixed asset of business office or office in Japan or any other".

(Submission of Other Documents)

Article 194 (1) The documents on financial calculation as referred to in Article 49-3, paragraph (1) of the Act are the document specifying the matters related to the disposition of profit or the treatment of loss.

(2) The document summarizing the business as referred to in Article 49-3, paragraph (1) of the Act must be prepared in the same manner as the business report set forth in Article 46-3, paragraph (1) of the Act as applied pursuant to Article 49, paragraph (1) of the Act following the deemed replacement of terms; provided, however, that if there is any document giving a summary of the business prepared for the purpose of inspection by the shareholders or any other persons pursuant to the laws, regulations or practices of the financial instruments business operator's own state, such document may be substituted for the aforementioned document.

Article 195 A financial instruments business operator must, pursuant to the provisions of Article 49-3, paragraph (2) of the Act, submit to the Commissioner of the Financial Services Agency or other competent official a report on the associated company prepared for each business year in the same manner as Appended Form No. 13, within the period specified by Article 16-19 of the Order from the end of each business year.

(Reserve for Losses)

Article 196 (1) A financial instruments business operator must, pursuant to the provisions of Article 49-4, paragraph (1) of the Act, set aside the reserve for the loss set forth in that paragraph, for each business year.

(2) The ratio to be specified by Cabinet Office Order as referred to in Article 49-4, paragraph (1) of the Act is ten percent.

(Retention of Assets Within Japan)

Article 197 The assets to be retained by the financial instruments business operator in Japan pursuant to the provisions of Article 49-5 of the Act must be those which fall under any of the following categories:

(i) the cash, and deposits or savings set up at any domestic financial institution;

(ii) the following securities (with regard to the securities specified in (c) through (e) below, limited to those pertaining to a public offering or secondary distribution of securities conducted in Japan, or a solicitation for acquisition only for professional investors or solicitation for selling, etc. only for professional investors made in Japan):

(a) the securities listed in Article 2, paragraph (1), items (i) through (iii) of the Act;

- (b) the securities specified in Article 2, paragraph (1), item (ix) of the Act (limited to those listed on the financial instruments exchange in Japan, or those registered in the registry of over-the-counter traded securities prescribed in Article 67-11, paragraph (1) of the Act);
- (c) the securities specified in Article 2, paragraph (1), item (v) or (xv) of the Act (limited to those issued by a stock company which issues the securities specified in (b));
- (d) the securities listed in Article 2, paragraph (1), items (vi), (vii), or (x) through (xii) of the Act;
- (e) the securities specified in Article 2, paragraph (1), item (xvii) of the Act which has the natures of securities specified in item (i) or (ii) of that paragraph;
- (iii) a loan claim, reimbursement claim or any other claim held against a person in Japan, for which the financial instruments business operator has been provided with reliable security in Japan;
- (iv) tangible fixed assets;
- (v) money deposited with a financial instruments exchange or a financial instruments firms association;
- (vi) a security deposit deposited with a person in Japan; and
- (vii) any other assets as may be deemed appropriate by the Commissioner of the Financial Services Agency.

#### **Section 4 Supervision**

(Corporation Required to File Notification of Acquisition of the Majority of Voting Rights)

- Article 198 (1) The corporations to be specified by Cabinet Office Order as referred to in Article 50, paragraph (1), item (iv) of the Act are as follows:
- (i) a foreign holding company (meaning a corporation holding the majority of the voting rights in a bank, cooperative financial institution, financial institution listed in the items of Article 1-9 of the Order or financial instruments business operator (limited to an operator engaged in a securities-related business), or the majority of voting rights in a corporation engaged in the same type of businesses as those of the aforementioned persons in a foreign state; the same applies in the following paragraph); and
  - (ii) a corporation solely engaged in business related to business execution of the financial instruments business operator's affairs.
- (2) For the purpose of item (i) of the preceding paragraph, a corporation holding the majority of the voting rights in a foreign holding company is also deemed to be a foreign holding company.



(Case Where a Financial Instruments Business Operator Is Required to File Notification on Suspension of Business)

Article 199 With regard to a financial instruments business operator, the cases to be specified by Cabinet Office Order as referred to in Article 50, paragraph (1), item (viii) of the Act are as follows:

- (i) where the financial instruments business operator has come to fall under any of Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), (c) of that item, item (iii) of that paragraph (excluding item (ii), sub-item (a) of that paragraph and the part pertaining to Major Employees ), item (iv) of that paragraph (excluding the part pertaining to sub-item (d)), or sub-item (a) of the following item;
- (ii) where the financial instruments business operator becomes aware that any of its officers or major employees has come to fall under either of the following:
  - (a) a person who has come to have a mental impairment and has come to find it extremely difficult to continue performing business pertaining to Financial Instruments Business; or
  - (b) a person falling under any of Article 29-4, paragraph (1), item (ii), sub-items (b) to (i) of the Act;
- (iii) if another corporation or organization has come to fall under the category of the parent corporation, etc. or the subsidiary corporation, etc.; or if another corporation or organization has come to no longer fall under that category;
- (iv) if another corporation or organization has come to fall under the category of holding company; or if another corporation or organization has come to no longer fall under that category;
- (v) if the financial instruments business operator has become aware that a petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, or commencement of reorganization proceedings has been filed (in the case of a foreign corporation, this includes a case in which it has become aware that the same type of petition has been filed in the state where its head office is located, pursuant to the laws and regulations of that state);
- (vi) if the financial instruments business operator has effected any change to its articles of incorporation;
- (vii) if the financial instruments business operator has become aware that any of its officers or employees (if the officer or employee is a corporation, including executive members thereof; the same applies hereinafter) has committed any act in breach of the laws and regulations, etc. (with regard to

- any act pertaining to a business other than the financial instruments business or a business incidental thereto, limited to an act which may have a material impact on the financial instruments business operator's business operation or the status of its property; hereinafter referred to as the "problematic conduct, etc." in this item, the following item, and item (xi), (e) and (f)) (the above does not include cases in which the problematic conduct, etc. falls under the act specified in Article 118, item (i), (a) through (d) or Article 118, item (ii), (a) or (b), or the act specified in (c) of that item (excluding the act in breach of laws and regulations), and such act was caused through negligence; the same applies in the following item);
- (viii) if the details of the problematic conduct, etc. set forth in the preceding item were revealed;
  - (ix) if the financial instruments business operator 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;
  - (x) if the financial instruments business operator is a foreign corporation or an individual domiciled in a foreign state, and such financial instruments business operator has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of the foreign state equivalent to the Act (other than if such financial instruments business operator falls under Article 29-4, paragraph (1), item (i), (a) of the Act);
  - (xi) if the financial instruments business operator is engaged in type I financial instruments business or an investment management business, the following cases:
    - (a) if the financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (v), (a) or (b) of the Act;
    - (b) if the net assets of the financial instruments business operator has become less than the amount of the stated capital (excluding the case falling under (a));
    - (c) where the financial instruments business operator has become aware that any of its major shareholders has come to fall under any of the following (in the case of a foreign corporation, if the financial instruments business operator has become aware that any person equivalent to the major shareholder has come to fall under the person that the confirmation set forth in Article 29-4, paragraph (1), item (v), sub-item (f) of the Act is not implemented):
      1. a person who has come to have a mental impairment and has come to find it extremely difficult to exercise the right of a shareholder (for a

- person who has come to be in the relevant situation and assigns an agent for the exercise of the right of a shareholder, limited to a person whose agent has come to have a mental impairment and has come to find it extremely difficult to exercise the right of a shareholder or whose agent is a person falling under any of Article 29-4, paragraph (1), item (ii), sub-items (b) to (i) of the Act),
2. a person falling under Article 29-4, paragraph (1), item (v), sub-item (d), 2. of the Act;
  3. a person falling under Article 29-4, paragraph (1), item (v), sub-item (e), 1. or 2. of the Act; or
  4. a person, any of whose Officers representing the juridical person, falls under either of the following:
    - i. a person who has come to have a mental impairment and has come to find it extremely difficult to exercise the right of a shareholder; or
    - ii. a person falling under Article 29-4, paragraph (1), item (v), sub-item (e), 3., b. of the Act;
- (d) if the financial instruments business operator has become aware that a financial instruments intermediary service provider whose entrusting financial instruments business operator, etc. is itself has become a party to any action or conciliation (limited to that pertaining to a financial instruments intermediary service), or if the financial instruments business operator has become aware that such action or conciliation has been concluded;
- (e) if the financial instruments business operator has become aware that the financial instruments intermediary service provider whose entrusting financial instruments business operator, etc. is itself, or any officer or employee of such financial instruments intermediary service provider has committed any problematic conduct, etc. (other than if the problematic conduct, etc. falls under the act specified in Article 118, item (i), (a) through (d) or Article 118, item (ii), (a) or (b), or in (c) of that item (excluding the act in breach of laws and regulations), and such act was caused through negligence; the same applies in (f));
- (f) if the details of the problematic conduct, etc. set forth in (e) were revealed;
- (g) if the financial instruments business operator has entrusted a financial instruments intermediary service provider to conduct business related to the acts listed in the items of Article 2, paragraph (11) of the Act, or if it has ceased such entrustment; and
- (h) if the financial instruments business operator has established or abolished its representative office in a foreign state;
- (xii) if the financial instruments business operator is engaged in type I financial instruments business (excluding a type-I small amount electronic

public offering service provider), the following cases:

- (a) if the financial instruments business operator has made a subordinated borrowing (excluding a borrowing specified by the Commissioner of the Financial Services Agency; the same applies in (b) of this item, in (c) and (d) of the following item, and Article 208-32, item (xii), (d) and (e)) or has issued subordinated corporate bonds (excluding such corporate bonds specified by the Commissioner of the Financial Services Agency; the same applies in (b) of this item, sub-items (c) and (d) of the following item, and item (xii), (d) and (e) of that Article); and
- (b) if the financial instruments business operator has made an accelerated payment of the subordinated borrowing, or if it has made an accelerated redemption of subordinated corporate bonds (including in the case of payment or redemption with regard to a loan or bonds without a fixed due date);
- (xiii) in cases of a special financial instruments business operator, the following cases (in cases listed in (a) or (b), excluding cases corresponding to item (vii) or (viii)):
  - (a) if a special financial instruments business operator has become aware that any officer or employee of the special financial instruments business operator or its subsidiary corporation, etc. (meaning the subsidiary corporation, etc. prescribed in Article 57-2, paragraph (9) of the Act; hereinafter the same applies in this item, Article 201, item (xxiv), Article 202, item (xviii), and the following Section) has violated (in cases of those pertaining to business other than financial instruments business or incidental operations thereto, limited to management of operations of the special financial instruments business operator or those that have a critical impact on the status of properties of the special financial instruments business operator and its subsidiary corporation, etc.; hereinafter referred to as "problematic conduct, etc." in this item) laws and regulations, etc. (including foreign laws and regulations, etc.) (other than if problematic conduct, etc. is the act listed in Article 118, item (i), (a) through (d) or item (ii), (a) or (b), or the act listed in (c) of that item (excluding and act in breach of laws and regulations) that are caused due to negligence and cases in which it is stipulated that the subsidiary corporation, etc. must submit a notice with regard to the problematic conduct, etc. to the Commissioner Financial Services Agency, etc. or take other procedures pursuant to the provisions of the laws and regulations; the same applies in (b));
  - (b) if the details of the problematic conduct, etc. set forth in (a) are found out;
  - (c) if a special financial instruments business operator has become aware that the subsidiary corporation, etc. has borrowed subordinated borrowing

- or has issued subordinated corporate bonds (other than if the subsidiary corporation, etc. must submit a notice to the Commissioner Financial Services Agency, etc. or take other procedures pursuant to the provisions of the laws and regulations, with regard to the subordinated borrowing or subordinated corporate bonds; the same applies in (d)); and
- (d) if a special financial instruments business operator has become aware that the subsidiary corporation, etc. has made an accelerated payment of the subordinated borrowing or that it has made an accelerated redemption of subordinated corporate bonds (or if a special financial instruments business operator has become aware that payment or redemption with regard to a loan or bonds without a fixed due date has been made);
  - (xiv) cases in which the business pertaining to high-speed trading commenced as part of the financial instruments business; and
  - (xv) with regard to a person conducting high-speed trading as part of the type II financial instruments business (excluding a person conducting type I financial instruments business or investment management business), cases in which that person has come to fall under Article 66-53, item (vi), (b) or item (vii).

(Case in Which a Registered Financial Institution Is Required to File a Notification on Suspension of Business)

Article 200 With regard to a registered financial institution, the cases to be specified by Cabinet Office Order as referred to in Article 50, paragraph (1), item (viii) of the Act are as follows:

- (i) if the registered financial institution has come to fall under any of Article 33-5, paragraph (1), item (i) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), or item (ii) of that paragraph;
- (ii) if the registered financial institution has become aware that a petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, or commencement of reorganization proceedings has been filed (for a foreign corporation, this includes a case in which it has become aware that the same type of petition has been filed in the state where its head office is located, pursuant to the laws and regulations of that state);
- (iii) if the registered financial institution has effected any change to its articles of incorporation;
- (iv) if another corporation or organization has come to fall under the category of the parent corporation, etc. or the subsidiary corporation, etc.; or if another corporation or organization has come to no longer fall under that category;

- (v) if another corporation or organization has come to fall under the category of holding company; or if another corporation or organization has come to no longer fall under that category;
- (vi) if the registered financial institution has become aware that any of its officers or employees, the financial instruments intermediary service provider whose entrusting financial instruments business operator is such registered financial institution itself, or any officer or employee of such financial instruments intermediary service provider has committed any act in breach of the laws and regulations in the course of registered financial institution business (hereinafter referred to as the "problematic conduct, etc." in this Article) (the above does not include a case in which the problematic conduct, etc. falls under the act specified in Article 118, item (i), (a) through (d) or Article 118, item (ii), (a) or (b), or in (c) of that item (excluding the act in breach of laws and regulations), and such act was caused through negligence; the same applies in the following item);
- (vii) if the details of the problematic conduct, etc. set forth in the preceding item were revealed;
- (viii) if the registered financial institution has become a party to any action or conciliation in connection with its registered financial institution business, or if such an action or conciliation has been concluded;
- (ix) if the registered financial institution has become aware that a financial instruments intermediary service provider whose entrusting financial instruments business operator itself has become a party to any action or conciliation (limited to an action or conciliation relevant to a financial instruments intermediary service), or if it has become aware that such action or conciliation has been concluded;
- (x) if the registered financial institution has entrusted any financial instruments intermediary service provider to conduct business related to the acts listed in the items of Article 2, paragraph (11) of the Act, or if it has ceased such entrustment;
- (xi) if the business pertaining to high-speed trading commenced as part of the registered financial institution business.

(Matters to Be Stated in Written Notifications)

Article 201 A financial instruments business operator, etc. which intends to file a notification under Article 50, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the matters prescribed in the following items, in accordance with the categories of the cases respectively set forth therein:

- (i) the case falling under Article 50, paragraph (1), item (i) of the Act: the following matters:

- (a) the name of the business office or any other office which has suspended or resumed business; and
- (b) the suspension terms or date of resumption, and the reasons for the suspension or resumption;
- (ii) the case falling under Article 50, paragraph (1), item (ii) of the Act: the following matters:
  - (a) the type of discontinued business; and
  - (b) the date of and reasons for the discontinuation;
- (iii) the case falling under Article 50, paragraph (1), item (iii) of the Act: the matters listed in (a) through (c), in accordance with the categories of the cases respectively set forth therein:
  - (a) in the case of a merger with another corporation, the following matters:
    1. the trade name or name of the other party to the merger;
    2. the date of and reasons for the merger;
    3. the means of implementing the merger;
  - (b) in the case of the succession of all or part of the business of any other corporation through a split, the following matters:
    1. the trade name or name of the other party to the split;
    2. the date of and reasons for the split; and
    3. the contents of the business succeeded to;
  - (c) in cases of acquiring all or part of the business from any other corporation, the following matters:
    1. the trade name or name of the transferor;
    2. the date of and reasons for the acquisition; and
    3. the contents of the acquired business;
- (iv) the case falling under Article 50, paragraph (1), item (iv) of the Act: the following matters:
  - (a) the trade name or name of the party, the majority of whose voting rights held by all shareholders, etc. has been acquired or held by the financial instruments business operator; and
  - (b) the date of and reasons for the acquisition or holding of the majority of voting rights held by all shareholders, etc.;
- (v) the case falling under Article 50, paragraph (1), item (v) of the Act: the matters specified in (a) and (b), in accordance with the categories of the cases respectively set forth therein:
  - (a) if, in connection with the bank, etc. (meaning the bank, etc. prescribed in Article 50, paragraph (1), item (iv) of the Act; the same applies in (b) below and Article 202, item (iv)), which holds a majority of the voting rights held by all shareholders, etc., such financial instruments business operator has ceased to hold such majority of voting rights, the following matters:
    1. the trade name or name of the party, the majority of whose voting rights

- held by all shareholders, etc. is no longer held by the financial instruments business operator;
2. the date of and reason for ceasing to hold a majority of the voting rights held by all shareholders, etc.;
- (b) if the bank, etc., which holds a majority of the voting rights held by all shareholders, etc., has effected a merger, dissolved, or discontinued all of its business, the following matters:
1. the details of the resolution of the merger, dissolution or discontinuation;
  2. the date of and reasons for the merger, dissolution or discontinuation; and
  3. in the case of a merger, the other party thereto and means thereof;
- (vi) the case falling under Article 50, paragraph (1), item (vi) of the Act: the following matters:
- (a) the trade name or name of the other corporation or other organization;
  - (b) the number of voting rights to be held by other corporation or organization, and the proportion of such voting rights to the voting rights held by all shareholders, etc.; and
  - (c) the day when the other corporation or other organization comes to hold such voting rights;
- (vii) the case falling under Article 50, paragraph (1), item (vii) of the Act: the date of and reasons for filing the petition of the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
- (viii) the case falling under Article 199, item (i) or Article 200, item (i): the matters listed in (a) through (f), in accordance with the category of cases set forth respectively therein:
- (a) if the financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), or if the registered financial institution has come to fall under Article 33-5, paragraph (1), item (i) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following matters:
    1. the details of the registration or permission (including an authorization or any other administrative dispositions similar to such registration or permission; hereinafter referred to as the "registration, etc." except in Article 221, item (ii) and Article 232-5, item (ii)) of the same kind granted to the financial instruments business operator, etc. in a



- foreign state under the laws and regulations of such state equivalent to the Act or the Act on the Provision of Financial Services or a notification of the same type as the notification under Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the Act made by the financial instruments business operator, etc. in the foreign state pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services;
2. the date of the registration or notification, etc.;
  3. the date of rescission of the registration, etc. or order of discontinuation of business pertaining to the notification and the reasons therefor; and
  4. the details of the business for which the registration, etc. or order of discontinuation of business pertaining to the notification was rescinded;
- (b) if the financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (i), (c) of the Act, or if the registered financial institution has come to fall under Article 33-5, paragraph (1), item (ii) of the Act, the following matters:
1. the provisions of the laws and regulations which were violated; and
  2. the date when the punishment became final and binding, and the amount of the fine imposed;
- (c) if the financial instruments business operator has come to fall under Article 199, item (ii), sub-item (a) or 29-4, paragraph (1), item (iii) of the Act (excluding item (ii), sub-item (a) of that paragraph, and the part pertaining to Major Employees), the following matters:
1. the name of the person that has come to fall under that provision;
  2. if the person has come to fall under Article 199, item (ii), sub-item (a), the date when such person came to fall under such provision and the reasons therefor;
  3. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when such person became subject to the order for the commencement of bankruptcy proceedings;
  4. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
  5. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor; and
  6. if the person falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act (Act No. 88 of 1993), and the date of and

reason for the notification under Article 50-2, paragraph (1) of the Act, Article 60-7 of the Act (including as applied mutandis pursuant to Article 60-14, paragraph (2) of the Act; hereinafter the same applies in this Article), Article 63-2, paragraph (2) of the Act, Article 63-2, paragraph (3) of the Act (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act; hereinafter the same applies in this Article), Article 63-2, paragraph (4) of the Act, Article 63-10, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act; the same applies hereinafter in this Article) or paragraph (4) of the Act, Article 66-19, paragraph (1) of the Act, Article 66-40, paragraph (1) of the Act, Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;

7. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;
- (d) if any financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (iv), (a) of the Act, the day when the amount of the stated capital or the total amount of investment became less than the amount set forth in Article 15-7, paragraph (1) of the Order, and the reason therefor;
- (e) if a financial instruments business operator falls under Article 29-4, paragraph (1), item (iv), (b) of the Act, the day when such person falls under a juridical person without a business office or other office in Japan;
- (f) if a financial instruments business operator falls under Article 29-4, paragraph (1), item (iv), (c) of the Act, the day when such person falls under a person without a representative person in Japan (limited to a representative in charge of business of all business offices and other offices established in Japan by the foreign corporation for conducting the type I financial instruments business, type II financial instruments business or investment management business);
- (ix) the cases falling under Article 199, item (ii): the following matters:
  - (a) the name of the officer or major employees that has come to fall under Article 199, item (ii), sub-item (a) or (b);
  - (b) if the officer or major employee has come to fall under Article 199, item (ii), sub-item (a), the date when the Officer or Major Employee came to fall under such provision and the reasons therefor;
  - (c) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when the officer or major employee became subject to the order for the commencement of bankruptcy proceedings;

- (d) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
- (e) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
- (f) if the officer or major employee falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
- (g) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;
- (x) the cases falling under Article 199, item (iii) or Article 200, item (iv): the following matters:
  - (a) the trade name or name of the parent corporation, etc. or subsidiary corporation, etc. which has come to fall under such category, or which no longer falls under such category; and
  - (b) the day when another corporation or organization came to fall under the category of the parent corporation, etc. or subsidiary corporation, etc., or no longer falls under such category;
- (xi) the cases falling under Article 199, item (iv) or Article 200, item (v): the following matters:
  - (a) the trade name of the holding company which has come to fall under such category, or which no longer falls under such category; and
  - (b) the day when another corporation or organization came to fall under the category of holding company, or no longer falls under such category;
- (xii) the cases falling under Article 199, item (v) or Article 200, item (ii): the following matters:
  - (a) the day when the petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings was filed, and the reasons therefor; and
  - (b) the trade name or name of the person having filed the petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
- (xiii) the cases falling under Article 199, item (vi) or Article 200, item (iii): the

- following matters:
- (a) the details of and reasons for the change; and
  - (b) the date when such change took place;
- (xiv) the cases falling under Article 199, item (vii), item (xi), (e), or item (xiii), (a), or Article 200, item (vi): the following matters:
- (a) the name of the business office or any other office if the problematic conduct, etc. (meaning the problematic conduct, etc. prescribed in Article 199, item (vii), item (xiii), (a), or the problematic conduct, etc. prescribed in Article 200, item (vi); hereinafter the same applies in this item and the following item) had taken place (in the case of the problematic conduct, etc. of a financial instruments intermediary service provider, the trade name or name of such financial instruments intermediary service provider as well as the name of the business office or any other office where the problematic conduct, etc. had taken place);
  - (b) the name and position of the officer or employee that caused the problematic conduct, etc., or the name and position of the financial instruments intermediary service provider or its officers or employees that caused the problematic conduct, etc.; and
  - (c) an outline of the problematic conduct, etc.;
- (xv) the cases falling under Article 199, item (viii), item (xi), (f), item (xiii), (b), or Article 200, item (vii): the following matters:
- (a) the name of the business office or any other office if the problematic conduct, etc. had taken place (in the case of any problematic conduct, etc. of a financial instruments intermediary service provider, the trade name or name of such financial instruments intermediary service provider as well as the name of the business office or any other office where the problematic conduct, etc. had taken place);
  - (b) the name and position of the officer or employee that caused the problematic conduct, etc., or the name and position of the financial instruments intermediary service provider or its officer or employee that caused the problematic conduct, etc.;
  - (c) the details of the problematic conduct, etc.; and
  - (d) if any internal disposition was implemented, the details thereof;
- (xvi) the cases falling under Article 199, item (ix) or Article 200, item (viii): the matters specified in (a) and (b) below, in accordance with the categories of the cases set forth respectively therein:
- (a) in the case of becoming a party to any action or conciliation, the following matters:
    - 1. the name and address of the parties to the action or conciliation;
    - 2. the day when the action or conciliation was filed;
    - 3. the name of the court with jurisdiction; and

4. the details of the case;
- (b) if the action or conciliation has been concluded, the following matters:
  1. the name and address of the parties to the action or conciliation;
  2. the day when the action or conciliation was concluded; and
  3. the details of the judgment or settlement;
- (xvii) the cases falling under Article 199, item (x): the following matters:
  - (a) the details of the adverse disposition; and
  - (b) the date when the financial instruments business operator, etc. became subject to the adverse disposition and reasons therefor;
- (xviii) the cases falling under Article 199, item (xi), (a): the following matters:
  - (a) in the cases falling under Article 29-4, paragraph (1), item (v), (a) of the Act, the day when the financial instruments business operator, etc. ceased to be the stock company prescribed in (a) of that item, and the reasons therefor; and
  - (b) in the cases falling under Article 29-4, paragraph (1), item (v), (a) of the Act, the day when the net assets became less than the amount specified in Article 15-9, paragraph (1) of the Order, and the reasons therefor;
- (xix) the cases falling under Article 199, item (xi), (b): the day when the net assets became less than the amount of the stated capital, and the reasons therefor;
- (xx) the cases falling under Article 199, item (xi), (c): the matters specified in (a) through (c) below, in accordance with the categories of the cases respectively set forth therein:
  - (a) if the financial instruments business operator, etc. has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 1. or 2., the following matters:
    1. the name of the major shareholder which has come to fall under such provision;
    2. if the major shareholder has come to fall under Article 199, item (xi), sub-item (c), 1., the date when such Major Shareholder came to fall under such provision and the reasons therefor;
    3. if the major shareholder, or an agent (meaning the agent prescribed in Article 199, item (xi), (c), 1.; the same applies in 4. to 7., item (xvi), (a) of the following Article, Article 208-31, paragraph (1), item (xi), (a) and paragraph (2), item (viii), (a), Article 246-24, paragraph (1), item (vi), (a) and Article 246-25, paragraph (1), item (iv), (a)) has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when the major shareholder or such statutory agent became subject to the order for the commencement of bankruptcy proceedings;
    4. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the

- punishment became final and binding, and the type of punishment;
5. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor; and
  6. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
  7. if the major shareholder, an agent has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the day when dismissal or removal was ordered and the reasons therefor;
- (b) if the financial instruments business operator has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 3. or 4., the following matters:
1. the trade name or name of the major shareholder which has come to fall under such provision;
  2. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (a) of the Act, the details and date of the registration, etc. granted to such major shareholder, and the date of and reasons for the rescission of such registration, etc., and the contents of the business for which the registration, etc. was rescinded, or the content of the notification under Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the Act made by the major shareholder, and the date of and reason for the order of discontinuation of business for which the notification was made and the content of the business;
  3. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (b) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraph (2) or (3), Article 63-10, paragraph (2) or (3), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
  4. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (c) of the Act, the provisions of the laws and regulations violated, the

- day when the punishment became final and binding, and the amount of the fine imposed;
5. if the major shareholder has come to fall under Article 199, item (xi), sub-item (c), 4., the name of the officer representing the corporation which has come to fall under either of sub-item (c) , 4, i. or ii. of that item;
  6. if the officer representing the corporation which is the major shareholder has come to fall under Article 199, item (xi), sub-item (c), 4., i., the date when the Officer came to fall under such provision and the reasons therefor;
  7. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when the officer became subject to an order for the commencement of bankruptcy proceedings;
  8. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
  9. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  10. if the officer representing the corporation which is the major shareholder falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
  11. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when the dismissal or removal was ordered, and the reasons therefor;
- (c) if the financial instruments business operator has become aware that any of the persons equivalent to its major shareholders pertaining to a foreign corporation has come to fall under Article 29-4, paragraph (1), item (v), (f) of the Act, the following matters:
1. the trade name or name of the person equivalent to the major shareholder that has come to fall under such provision; and
  2. the details of the confirmation concerning the major shareholder which

had already been completed, and the day when the financial instruments business operator became aware that the confirmation had not been completed and the reason therefor;

(xxi) the cases falling under Article 199, item (xi), (d) or Article 200, item (ix): the matters specified in (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:

(a) if the financial instruments business operator has become aware that the financial instruments intermediary service provider has become a party to any action or conciliation, the following matters:

1. the trade name or name of the financial instruments intermediary service provider;
2. the names and addresses of the parties to the action or conciliation;
3. the day when the action or conciliation was filed;
4. the name of the court with jurisdiction; and
5. the details of the case.

(b) if the financial instruments business operator has become aware that the action or conciliation, to which the financial instruments intermediary service provider was the party, has been concluded, the following matters:

1. the trade name or name of the financial instruments intermediary service provider;
2. the name and address of the parties to the action or conciliation;
3. the day when the action or conciliation was concluded; and
4. the details of the judgment or settlement;

(xxii) the cases of falling under Article 199, item (xi), (g) or Article 200, item (x): the matters specified in (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:

(a) if the financial instruments business operator has entrusted business to any financial instruments intermediary service provider, the following matters:

1. the trade name or name of the financial instruments intermediary service provider; and
2. the location of the head office, etc. of the financial instruments intermediary service provider;

(b) if the financial instruments business operator, etc. has ceased the entrustment of business to any financial instruments intermediary service provider, the following matters:

1. the trade name or name of the financial instruments intermediary service provider; and
2. the reasons for ceasing the entrustment of business.

(xxiii) the cases falling under Article 199, item (xi), (h): the matters specified in (a) and (b) below, in accordance with the categories of the cases set forth



respectively therein:

- (a) if the financial instruments business operator has established any representative office, the following matters:
  - 1. the name and location of the representative office;
  - 2. the date of and reasons for the establishment of such office;
  - 3. the organizational system and positions of the personnel of such representative office; and
  - 4. the outline of the procedures required in the relevant foreign state;
- (b) if the financial instruments business operator has abolished any of its representative offices, the following matters:
  - 1. the name and location of the representative office; and
  - 2. the date of and reasons for the abolition;
- (xxiv) the cases falling under Article 199, item (xii), (a) or item (xiii), (c): the matters specified in (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:
  - (a) if the financial instruments business operator has made any subordinated borrowing or if it has become aware that the subsidiary corporation, etc. has borrowed subordinated borrowing, the following matters:
    - 1. the name of the lender, and the reasons for the borrowing;
    - 2. the borrowed amount (in the case of a foreign currency denominated loan, the borrowed amount, and such amount converted into yen), and the current outstanding balance and the outstanding balance after the borrowing; and
    - 3. the loan date, interest rates and the due date for payment.
  - (b) if the financial instruments business operator has issued any subordinated bond or if it has become aware that the subsidiary corporation, etc. has borrowed subordinated bond, the following matters:
    - 1. the means and reasons for the issuance;
    - 2. the total issuance amount (in the case of foreign currency denominated bonds, the total issuance amount and such amount converted into yen), and the current outstanding balance and the outstanding balance after the issuance; and
    - 3. the issuance date, the interest rates and the maturity date;
- (xxv) the cases falling under Article 199, item (xii), (b) or item (xiii), (d): the following matters:
  - (a) the amount and date of the payment or redemption; and
  - (b) the outstanding balance after the payment or redemption.
- (xxvi) the case falling under Article 199, item (xiv) or item (xi) of the preceding Article: the following matters
  - (a) the name of the business office or other office where the business commenced;

- (b) the date of commencement of business;
- (xxvii) in the case of falling under Article 199, item (xv): the matters specified in the following (a) and (b) in accordance with the categories of cases specified in those (a) and (b):
  - (a) in the case of falling under Article 66-53, item (vi), (b) of the Act, the day when it fell under the person that has not appointed a representative or agent in Japan; and
  - (b) in the case of falling under Article 66-53, item (vii) of the Act, the day when the Net Assets become less than the amount specified in Article 18-4-10 of the Order and the reason therefor.

(Documents to Be Attached to Written Notifications)

Article 202 A financial instruments business operator, etc. which files a notification under Article 50, paragraph (1) of the Act (referred to as the "notifier" in item (iii)) must, if any of the categories of the cases set forth in the following items is applicable, attach the document respectively set forth therein to the written notification stating the matters prescribed in the preceding Article:

- (i) the cases falling under Article 50, paragraph (1), item (i) of the Act (but only if the financial instruments business operator, etc. has suspended its business): the document stating the method of treatment of customers' accounts during the period of suspension;
- (ii) the cases falling under Article 50, paragraph (1), item (ii) of the Act: the document stating the method of treatment of customers' accounts pertaining to the discontinued business;
- (iii) the cases falling under Article 50, paragraph (1), item (iii) of the Act: the documents specified in (a) through (c) below, in accordance with the categories of the documents respectively set forth therein:
  - (a) if the financial instruments business operator, etc. has merged with another corporation, the following documents:
    1. the document stating the contents of the merger agreement and the procedures for the merger;
    2. the latest balance sheet of the parties (including notes in reference thereto; hereinafter the same applies in this Article);
    3. the net assets after completion of the merger (if the notifier is a person engaged in type I financial instruments business (excluding a type-I small amount electronic public offering service provider), the net assets and the capital adequacy ratio; the same applies in (b), 3. and (c), 3.); and
    4. the document stating the means of treatment of customers' accounts;
  - (b) if the financial instruments business operator, etc. has succeeded to all or

- part of any other corporation's business through a split, the following documents:
1. a document stating the contents of the absorption-type split agreement and the procedures for the split;
  2. the latest balance sheets of the parties;
  3. a document stating the net assets after completion of the split;
- (c) if the financial instruments business operator, etc. has acquired all or part of any other corporation's business, the following documents:
1. a document stating the contents of the business acquisition contract and the procedures for the acquisition of the business;
  2. the latest balance sheets of the parties; and
  3. a document specifying the net assets after the acquisition of the business;
- (iv) in a case falling under Article 50, paragraph (1), item (v) of the Act (limited to a case in which the bank, etc. which holds a majority of the voting rights held by all shareholders, etc. has effected a merger, dissolved, or discontinued all of its business): the following documents:
- (a) the latest daily accounts sheet (in the case of a merger, the latest balance sheets of the parties and a copy of the contract for the merger); and
  - (b) in case of a dissolution or discontinuation, a document stating the means and procedures for liquidation;
- (v) in a case falling under Article 50, paragraph (1), item (vi) of the Act: the following documents:
- (a) a document stating the outline of the business of the corporation or any other organization holding the voting rights; and
  - (b) a document stating the total number of voting rights held by any corporation or any other organization holding the voting rights, and by the major shareholders thereof;
- (vi) in a case falling under Article 50, paragraph (1), item (vii) of the Act: the following documents:
- (a) copies of the documents related to the filing of a petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings; and
  - (b) the latest daily accounts sheet.
- (vii) is a case falling under Article 199, item (i): the matters specified in (a) through (d) below, in accordance with the categories of the cases set forth respectively therein:
- (a) if any financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of laws and regulations equivalent to the Act

or the Act on the Provision of Financial Services), or if any registered financial institution has come to fall under Article 33-5, paragraph (1), item (i) of the Act (limited to the part pertaining to the provisions of laws and regulations equivalent to the Act or the Act on the Provision of Financial Services), the following documents:

1. a copy of the written order for the rescission or discontinuation of business or any other document in lieu thereof; and
  2. a copy of the laws and regulations of the foreign state, and the Japanese translation thereof;
- (b) if any financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (i), (c) of the Act, or if any registered financial institution has come to fall under Article 33-5, paragraph (1), item (ii) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment.
- (c) if any financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (iii) of the Act (excluding item (ii), sub-item (a) of that paragraph and the part pertaining to Major Employees), the following documents:
1. if the financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  2. if the financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
  3. if the financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the written order for rescission or discontinuation of business or a document in lieu thereof, as well as a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation of business and the Japanese translation thereof;
- (d) if the financial instruments business operator has come to fall under Article 29-4, paragraph (1), item (iv), (a) of the Act, a certificate of registered matters or any other document in lieu thereof;
- (viii) the cases falling under Article 199, item (ii) (limited to the part pertaining to sub-item (b)): the following documents:
- (a) if any officer or major employee has come to fall under Article 29-4,

- paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
- (b) if any officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- (c) if any officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation of business and the Japanese translation thereof;
- (ix) the cases falling under Article 199, item (iii) or Article 200, item (iv): the following documents:
- (a) a document stating the outline of the business of the parent corporation, etc. or subsidiary corporation, etc. which has come to fall under such category, or which no longer falls under such category; and
- (b) a document describing the relationship between the financial instruments business operator, etc., and its parent corporation, etc. or subsidiary corporation, etc.;
- (x) the cases falling under Article 199, item (iv) or Article 200, item (v): the following documents:
- (a) a document specifying the outline of the business of the holding company which has come to fall under such category, or which no longer falls under such category; and
- (b) a document describing the relationship between the financial instruments business operator, etc. and the holding company;
- (xi) the cases falling under Article 199, item (v) or Article 200, item (ii): the latest daily accounting sheet;
- (xii) the cases falling under Article 199, item (vi) or Article 200, item (iii): the amended articles of incorporation;
- (xiii) the cases falling under Article 199, item (x): a copy of the laws and regulations of a foreign state which provides for the adverse disposition, and the Japanese translation thereof;
- (xiv) the cases falling under Article 199, item (xi), (a) (but only if the net assets has become less than the amount specified in Article 15-9, paragraph (1) of the Order): the daily accounting sheet as of the day when the net assets become less than the amount specified in Article 15-9, paragraph (1) of the Order, and the document specifying the calculated net assets as of that day;
- (xv) the cases falling under Article 199, item (xi), (b): the daily accounting

sheet as of the day when the net assets become less than the amount of the stated capital, and the document specifying the calculated net assets as of that day;

(xvi) the cases falling under Article 199, item (xi), (c): the matters specified in (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:

(a) if the financial instruments business operator has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 1. or 2., the following documents:

1. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
2. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
3. if the major shareholder or an agent has been punished, a copy of the laws and regulations of the foreign state which served as the basis of such punishment, as well as the Japanese translation thereof;
4. if the major shareholder, or an agent has had the registration, etc. rescinded or order to discontinue business in the foreign state, a copy of the laws and regulations of the foreign state which served as the basis of such rescission of registration, etc., or discontinuation of business as well as the Japanese translation thereof;

(b) if the financial instruments business operator has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 3. or 4., ii. of the Act, the following documents:

1. if the major shareholder has come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act, a copy of the written order for rescission or discontinuation of business or a document in lieu thereof;
2. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (a) of the Act or if the officer representing the corporation which is a major shareholder falls under item (ii), (d) or (e) of that paragraph, and if the registration, etc. was rescinded or discontinuation of business was ordered in a foreign state, a copy of the laws and regulations of a foreign state which served as the basis of the rescission or discontinuation of business and the Japanese translation thereof;
3. if the major shareholder has come to fall under Article 29-4, paragraph

- (1), item (i), (c) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- 4. if any officer representing the corporation which is a major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings; and
- 5. if any officer representing a corporation which is a major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- (xvii) the cases falling under Article 199, item (xi), (g) or Article 200, item (x) (but only if the financial instruments business operator, etc. has entrusted business to any financial instruments intermediary service provider): a copy of the contract for the entrustment of such business;
- (xviii) the cases falling under Article 199, item (xii), (a) or item (xiii), (c): the following cases:
  - (a) if the financial instruments business operator has made any subordinated borrowing or if it has become aware that the subsidiary corporation, etc. has borrowed subordinated borrowing, a copy of the contract therefor; and
  - (b) if the financial instruments business operator has issued any subordinated corporate bonds or if it has become aware that the subsidiary corporation, etc. has borrowed subordinated bonds, a copy of the prospectus therefor or any other document equivalent thereto;
- (xix) in the case of falling under Article 199, item (xv) (limited to the case of falling under Article 66-53, item (vii) of the Act), a daily accounting sheet as of the day when the net assets become less than the amount specified in Article 18-4-10 of the Order, and the document specifying the calculated net assets as of that day.

(Criteria for Determination of Voting Rights Held)

- Article 203 (1) For the purpose of the determination of the voting rights held as set forth in Article 50, paragraph (2) of the Act, the voting rights held are to include the voting rights pertaining to the shares or equity owned under the name of another person, and the voting rights pertaining to shares or equity to which any of the cases listed in the items of Article 35, paragraph (1) applies.
- (2) Notwithstanding the provisions of the preceding paragraph, the voting rights as referred to in the preceding paragraph are to exclude the voting rights pertaining to the shares or equity listed in the items of Article 35, paragraph

(2).

(Notification of Discontinuation of Business)

- Article 204 (1) A person that intends to file a notification pursuant to the provisions of Article 50-2, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the matters listed in the following items, in accordance with the categories of the cases set forth respectively therein:
- (i) the case falling under Article 50-2, paragraph (1), item (i) of the Act: to that effect and the date of death;
  - (ii) the case falling under Article 50-2, paragraph (1), item (ii) of the Act: the date of and reason for the discontinuation;
  - (iii) the case falling under Article 50-2, paragraph (1), item (iii) of the Act: the following matters:
    - (a) the trade name or name of the other party to the merger;
    - (b) the date of and reasons for the merger; and
    - (c) the method of implementing the merger;
  - (iv) the case falling under Article 50-2, paragraph (1), item (iv) of the Act: the following matters:
    - (a) the day when the petition for the commencement of bankruptcy proceedings was filed; and
    - (b) the day when the order for the commencement of bankruptcy proceedings was issued;
  - (v) the case falling under Article 50-2, paragraph (1), item (v) of the Act: the date of and reasons for the dissolution;
  - (vi) the case falling under Article 50-2, paragraph (1), item (vi) of the Act: the following matters:
    - (a) the trade name or name of the successor; and
    - (b) the date of and reasons for the split;
  - (vii) the cases falling under Article 50-2, paragraph (1), item (vii) of the Act: the following matters:
    - (a) the trade name or name of the transferee; and
    - (b) the date of and reasons for the transfer.
  - (viii) the cases falling under Article 50-2, paragraph (1), item (viii) of the Act: to that effect and the date when the person obtained registration or registration of change.
- (2) The documents listed in the following items must be attached to the written notification set forth in the preceding paragraph, in accordance with the categories of the cases set forth respectively therein:
- (i) the case falling under Article 50-2, paragraph (1), item (i) or (ii) of the Act: the following documents:



- (a) the latest daily accounts sheet; and
  - (b) the document stating the method of settling the claims and obligations held against customers.
- (ii) the case falling under Article 50-2, paragraph (1), item (iii) of the Act: the following documents:
- (a) the document stating the contents of the merger agreement and the procedures for the merger; and
  - (b) the document stating the method of transferring the claims and obligations held against customers to the corporation surviving the merger;
- (iii) the case falling under Article 50-2, paragraph (1), item (iv) of the Act: the following documents:
- (a) a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings; and
  - (b) the document stating the method of settling the claims and obligations held against customers.
- (iv) the case falling under Article 50-2, paragraph (1), item (v) of the Act: the document stating the method of settling the claims and obligations held against customers.
- (v) the case falling under Article 50-2, paragraph (1), item (vi) of the Act: the following documents:
- (a) the document stating the contents of the incorporation-type split plan or the absorption-type split agreement, and the procedures for the split; and
  - (b) the document stating the method of transferring the claims and obligations held against customers to the successor.
- (vi) the case falling under Article 50-2, paragraph (1), item (vii) of the Act: the following documents:
- (a) the document stating the details of the business transfer contract; and
  - (b) the document stating the method of transferring the claims and obligations held against customers to the transferee.
- (vii) the cases falling under Article 50-2, paragraph (1), item (viii) of the Act: a copy of a document related to the notification pursuant to the provisions of Article 14, paragraph (2) of the Act on the Provision of Financial Services (including as applied mutatis mutandis pursuant to Article 16, paragraph (2) of that Act).

(Public Notice on Discontinuation of Business)

Article 205 (1) The public notice under Article 50-2, paragraph (6) of the Act is to be given by means of publication in the Official Gazette or in a daily newspaper that publishes matters on current affairs (if the financial instruments business operator, etc. is a corporation, by means of giving public

- notice for such corporation (including the period of the public notice)).
- (2) When giving and posting the public notice at the business office or any other office pursuant to the provisions of Article 50-2, paragraph (6) of the Act, the method for the completion of the customer's transactions as set forth in paragraph (8) of that Article, and the method for the restitution of property deposited by the customers in connection the financial instruments business, etc. (excluding investment advisory and agency business) or property possessed by the financial instruments business operator, etc. on the customers' account are to be indicated.
- (3) The following matters are to be stated in a written notification set forth in Article 50-2, paragraph (7) of the Act:
- (i) the trade name or name;
  - (ii) the registration date and the registration number;
  - (iii) the grounds on which the notification was filed; and
  - (iv) the scheduled day when the grounds for filing the notification will occur.
- (4) A document stating the methods provided in paragraph (2) is to be attached to the written notification set forth in the preceding paragraph.

(Public Notice for Persons Whose Whereabouts Are Unknown)

Article 206 The public notice prescribed in Article 52, paragraph (4) and Article 52-2, paragraph (3) of the Act is to be given by means of publication in the Official Gazette.

(Public Notice of Supervisory Dispositions)

Article 207 The public notice prescribed in Articles 54-2 of the Act (in the case of a registered financial institution, excluding item (ii) of that Article) is to be given by means of publication in the Official Gazette.

(Retention of Assets in Japan)

Article 208 The amount of the liabilities prescribed in Article 17-2 of the Cabinet Order is the amount of the liabilities to be inserted into the liability section of the balance sheet (including the amount of the guarantee obligation), less the amount of the obligations held against non-residents.

**Section 4-2 Special Provisions on Special Financial Instruments**

**Business Operators**

**Subsection 1 Special Financial Instruments Business Operators**

**(Articles 208-2 – 208-17)**

(Calculation of Total Asset Value)

Article 208-2 The total asset value calculated pursuant to the provisions of

Article 57-2, paragraph (1) of the Act is to be calculated by totaling the amounts to be recorded in the assets section of the balance sheet.

(Documents That Are Difficult to Submit within One Month from the Notification Date)

Article 208-3 (1) Those provided for by Cabinet Office Order prescribed in Article 17-2-3, paragraph (1) of the Order are the documents stating the matters specified in the Form listed in Article 208-5, item (ii).

(2) When a special financial instruments business operator of which the parent company (meaning the parent company prescribed in Article 57-2, paragraph (8) of the Act; hereinafter the same applies in this Section) is a foreign company intends to obtain the approval set forth in the proviso to Article 17-2-3, paragraph (1) of the Order, a written application for approval stating the following particulars must be submitted to the Commissioner of the Financial Services Agency:

(i) the trade name;

(ii) the registration date and the registration number;

(iii) the trade name or name of the parent company;

(iv) the period to obtain the approval in relation to the submission of the documents prescribed in Article 17-2-3, paragraph (1) of the Order;

(v) notification date (meaning the notification date prescribed in Article 57-2, paragraph (2) of the Act; hereinafter the same applies in this Section); and

(vi) reasons why the approval is necessary on the submission of the documents prescribed in Article 17-2-3, paragraph (1) of the Order.

(3) The following documents must be attached to the written application for approval set forth in the preceding paragraph:

(i) the articles of incorporation of the parent company, or any other document in lieu thereof;

(ii) if the reason set forth in item (vi) of the preceding paragraph is due to the laws and regulations or practices of the state of the parent company, the letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or practices set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion; and

(iii) if the reason set forth in item (vi) of the preceding paragraph is due to the laws and regulations or practices of the state of the parent company, a document proving the reason.

(4) If the approval set forth in paragraph (2) is applied, when it is found that the special financial instruments business operator cannot submit the documents prescribed in Article 17-2-3, paragraph (1) of the Order within three months

from the notification date due to the laws and regulations or practices of the state of the parent company and other unavoidable reasons, the Commissioner of the Financial Services Agency is to grant the approval set forth in that paragraph.

(Matters to Be Stated Pertaining to the Parent Company)

Article 208-4 The matters provided for by Cabinet Office Order prescribed in Article 57-2, paragraph (2), item (i) of the Act are the following matters:

- (i) the amount of stated capital or the total amount of investment;
- (ii) the name and location of its head office or principal office (in the case of a foreign company, when it has an office in Japan, including its principal office in Japan); and
- (iii) content of business.

(Documents Stating the Business and Financial Status of the Parent Company and Its Subsidiary Corporations)

Article 208-5 The documents listed in Article 57-2, paragraph (2), item (ii) of the Act are to be prepared by stating the matters specified in the following Forms:

- (i) Appended Form No. 17-2; and
- (ii) Appended Form No. 17-3.

(Documents Stating the Content and Method of Business Management or Funding)

Article 208-6 The documents listed in Article 57-2, paragraph (2), item (iv) of the Act are to be prepared by stating the following particulars:

- (i) the following matters listed as the content and method of business management:
  - (a) the trade name or name of the parent company conducting business management;
  - (b) the business management method;
  - (c) the system pertaining to the business management; and
  - (d) when an officer or employee of the parent company serves concurrently as an officer of the special financial instruments business operator, its name and the title and date of assumption of office in the parent company and the special financial instruments business operator.
- (ii) the following matters listed as the content and method of the assistance related to the funding:
  - (a) the policy and method of the assistance related to funding; and
  - (b) the standards for implementing assistance related to funding.

(Documents That It Is Difficult to Submit within One Month from the Day of

(Coming to Have a Parent Company after the Notification Date)

Article 208-7 The provisions of Article 208-3, paragraph (1) apply mutatis mutandis to the matters provided for by Cabinet Office Order prescribed by Article 17-2-3, paragraph (2) of the Order; and the provisions of Article 208-3, paragraphs (2) through (4) apply mutatis mutandis to cases in which a special financial instruments business operator of which parent company is a foreign company, intends to obtain approval set forth in the proviso to Article 17-2-3, paragraph (2) of the Order, respectively. In this case, the phrase "notification date (meaning the notification date prescribed in Article 57-2, paragraph (2) of the Act; hereinafter the same applies in this Section)" as used in Article 208-3, paragraph (2), item (v) is deemed to be replaced with "The day when it comes to have a parent company after the notification date (meaning the notification date prescribed in Article 57-2, paragraph (2) of the Act; hereinafter the same applies in this Section)"; and the phrase "notification date" as used in paragraph (4) of that Article is deemed to be replaced with "the day when it comes to have a parent company after the notification date" respectively.

(Documents Pertaining to a Parent Company Exempted from Notification of Change)

Article 208-8 Documents provided for by Cabinet Office Order prescribed in Article 57-2, paragraph (4) are the documents listed in paragraph (2), items (iii) and (iv) of that Article.

(Notification of Change of Documents Pertaining to a Parent Company)

Article 208-9 A special financial instruments business operator that submits a notification pursuant to the provisions of Article 57-2, paragraph (4) of the Act, must attach the documents listed in paragraph (2), item (i), (iii), or (iv) of that Article (limited to the documents with changes in content) to a notification stating the content of the change, change date, and reasons for the change and submit them to the Commissioner of the Financial Services Agency.

(Documents Stating the Business and Financial Status of the Parent Company and Its Subsidiary Corporation)

Article 208-10 (1) The documents prescribed in Article 57-2, paragraph (5) of the Act are to be prepared by stating the matters specified in the following Forms:

- (i) Appended Form No. 17-2; and
- (ii) Appended Form No. 17-3.

(2) Those provided for by Cabinet Office Order prescribed in Article 57-2, paragraph (5) of the Act are documents stating the matters specified in the Forms listed in items of the preceding paragraph.

(Documents That It Is Difficult to Submit within One Month after the End of the Quarter)

Article 208-11 (1) Those provided for by Cabinet Office Order as prescribed in Article 17-2-3, paragraph (3) of the Order are the documents stating the matters specified in the forms listed in paragraph (1), item (ii) of the preceding Article.

(2) When a special financial instruments business operator of which the parent company is a foreign company, intends to obtain the approval set forth in the proviso to Article 17-2-3, paragraph (3) of the Order, it must submit to the Commissioner of the Financial Services Agency a written application for approval stating the following particulars:

(i) the trade name;

(ii) the registration date and the registration number;

(iii) the trade name or name of the parent company;

(iv) the period to obtain the approval in relation to the submission of the documents prescribed in Article 17-2-3, paragraph (3) of the Order; and

(v) reasons why the approval is necessary on the submission of the documents prescribed in Article 17-2-3, paragraph (3) of the Order.

(3) The following documents must be attached to the written application for approval set forth in the preceding paragraph:

(i) the articles of incorporation of the parent company, or any other document in lieu thereof;

(ii) if the reason set forth in item (v) of the preceding paragraph is due to the laws and regulations or practices of the state of the parent company, a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or practices set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion; and

(iii) if the reason set forth in item (v) of the preceding paragraph is due to the laws and regulations or practices of the state of the parent company, a document proving the reason.

(4) If the approval set forth in paragraph (2) is applied, when it is found that the special financial instruments business operator cannot submit the documents prescribed in Article 17-2-3, paragraph (3) of the Order within three months after the end of the quarter (meaning the quarter prescribed in Article 46-6, paragraph (3) of the Act; hereinafter the same applies in this Article and Article 208-14) due to the laws and regulations or practices of the state of the parent company and other unavoidable reasons, the Commissioner of the Financial Services Agency is to grant the approval set forth in the proviso to Article 17-2-3, paragraph (3) of the Order with regard to the documents

pertaining to the quarter for the period from the quarter containing the day when the application is made (if the day is within three months (if the approval has been obtained for the submission of the documents pertaining to the quarter immediately prior to the quarter in question, within the approved period) after the quarter starts, a quarter immediately prior to the quarter in question) until the quarter immediately prior to the quarter containing the day when the reason set forth in paragraph (2), item (v) pertaining to the application ceases or changes.

- (5) The Commissioner of the Financial Services Agency is to grant the approval set forth in the proviso to Article 17-2-3, paragraph (3) of the Order on the condition that the special financial instruments business operator set forth in the preceding paragraph submits to the Commissioner of the Financial Services Agency documents stating the following particulars (with regard to the particulars set forth in item (ii), limited to cases in which the reason set forth in paragraph (2), item (v) is due to the laws and regulations or practices of the state of the parent company) within three months after the end of every quarter; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) the fact that the reason for application pertaining to the approval has not ceased or changed during the quarter; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Business Reports)

- Article 208-12 (1) The business report submitted by a special financial instruments business operator pursuant to the provisions of Article 57-3, paragraph (1) of the Act must be prepared in accordance with Appended Form No. 17-4.
- (2) In cases of preparing the business report set forth in the preceding paragraph, a special financial instruments business operator is to be in compliance with the business accounting standards that are generally accepted as fair and appropriate.

(Matters to Be Stated in Explanatory Documents)

- Article 208-13 Those provided for by Cabinet Office Order as prescribed in Article 57-4 of the Act are the following matters:
- (i) the following matters related to the outline of a special financial instruments business operator and its subsidiary corporations, etc.

(excluding subsidiary corporations, etc. that have no critical impact on the content of the explanatory documents set forth in Article 57-4 of the Act; hereinafter the same applies in this Article):

- (a) the trade name of the special financial instruments business operator, the registration date and the registration number, and notification date;
- (b) the content of major business and structure of the organization of the special financial instruments business operator and its subsidiary corporations, etc.; and
- (c) the following matters related to the special financial instruments business operator and its subsidiary corporations, etc.:
  - 1. the trade name or name;
  - 2. the location of its head office or principal office;
  - 3. the amount of stated capital, the total amount of the fund, or the total amount of investment;
  - 4. content of the business;
  - 5. the percentage of the number of voting rights of a subsidiary corporation, etc. held by the special financial instruments business operator relative to the number of voting rights held by all shareholders, etc. of the subsidiary corporation, etc.; and
  - 6. the percentage of the number of the voting rights of a subsidiary corporation, etc. of the special financial instruments business operator held by the special financial instruments business operator and its subsidiary corporations, etc. other than that subsidiary corporation, etc. relative to the number of voting rights held by all shareholders, etc. of that subsidiary corporation, etc.;
- (ii) the following matters related to the business status of the special financial instruments business operator and its subsidiary corporation, etc.:
  - (a) outline of the business in the immediate business year; and
  - (b) the following matters listed as indicators of business status in the immediate three consecutive fiscal years (meaning the period pertaining to the preparation of the matters listed in (a) of the following item; hereinafter the same applies in this Article and Article 208-26):
    - 1. the operating profit and net operating profit;
    - 2. the ordinary profit or ordinary loss;
    - 3. the net profit for the current year or the net loss for the current year attributable to shareholders of the parent company;
    - 4. comprehensive income;
    - 5. the amount of net assets
    - 6. the amount of total assets; and
    - 7. the consolidated capital adequacy ratio as of the end of each consolidated fiscal year (meaning the ratio obtained by the formula pertaining to



- the standard as to whether the adequacy of equity capital as prescribed in Article 57-5, paragraph (1) of the Act is appropriate; the same applies in (f) of the following item);
- (iii) the following matters listed as the matters related to the property status of the special financial instruments business operator and its subsidiary corporation, etc. in the immediate two consolidated fiscal years:
- (a) consolidated balance sheet (including relevant notes), consolidated profit and loss statement (including relevant notes), and consolidated comprehensive income statement (including relevant notes) or consolidated profit and loss and comprehensive income statement (including relevant notes) , and consolidated statements of changes in net assets (including relevant notes);
- (b) the following matters as of the last day of each consolidated business year:
1. the major lenders of money, and the borrowed amount;
  2. the acquisition value, the market value, and the loss or gain on valuation of the securities held (excluding the securities treated as falling under the categories of trading products for accounting purposes (meaning trading products from among the items of the consolidated balance sheet; the same applies in 3.)); and
  3. the contract value, the market value, and the loss or gain on valuation of the derivative transactions (excluding the transactions treated as falling under the category of trading products for purpose of accounting);
- (c) if the special financial instruments business operator and its subsidiary corporation, etc. (meaning the subsidiary corporation, etc. prescribed in Article 15-16-2, paragraph (2) of the Order, and excluding those have no important impact on the content of the explanatory documents set forth in Article 57-4 of the Act) engage in two or more different types of businesses, those calculated as the amount of operating profit, net operating profit, ordinary profit or ordinary loss and the amount of assets (these are collectively referred to as "operating profit, etc." in (c)) (other than if the ratio of the amount of each operating profit, etc. to total amount of operating profit, etc. is small) in accordance with the category of the business type;
- (d) if the document specified in (a) has been audited by an accounting auditor pursuant to the provisions of Article 444, paragraph (4) of the Companies Act, to that effect;
- (e) if an audit certification has been provided by a certified public accountant or an auditing firm with regard to the documents specified in (a) pursuant to the provisions of Article 193-2 of the Act, to that effect; and

(f) integrity of management (meaning the integrity of management prescribed in Article 57-5, paragraph (2) of the Act, and excluding those pertaining to the consolidated capital adequacy ratio).

(Public Inspection of Explanatory Documents)

Article 208-13-2 When a special financial instruments business operator publicizes explanatory documents by the use of the internet and other means pursuant to Article 57-4 of the Act, it must do so in a way which allows easy access by investors any time.

(Submission of Documents Stating the Integrity of Management)

Article 208-14 With regard to the notification pursuant to the provisions of Article 57-5, paragraph (2) of the Act, a document stated in accordance with the provisions of Article 180, paragraphs (2) and (3) must be submitted to the Commissioner of the Financial Services Agency within fifty days after the end of every quarter.

(Public Inspection of Documents Stating the Integrity of Management)

Article 208-15 The documents to be kept and made available for public inspection pursuant to the provisions of Article 57-5, paragraph (3) of the Act must be provided by the document stated in accordance with the provisions of Article 180, paragraphs (2) and (3).

(Public Notice of Supervisory Measures)

Article 208-16 The public notice pursuant to Article 57-7 of the Act is to be made in an Official Gazette.

(Persons Which Fall Under the Category of Parent Company)

Article 208-17 Those provided for by Cabinet Office Order prescribed in Article 57-10, paragraph (2) of the Act are those specified in Article 38-3.

## **Subsection 2 Designated Parent Companies**

(Content and Means of Assistance Related to Business Management and Funding)

Article 208-18 The matters provided for by Cabinet Office Order as prescribed in Article 57-13, paragraph (1), item (vi) of the Act are the following matters:

(i) the following matters listed as the content and method of business management:

(a) the business management method;

(b) the system pertaining to the business management; and

- (c) when an officer or employee of the designated parent company serves concurrently as an officer of the subject special financial instruments business operator, its name and the title and the date of assumption of the office in the designated parent company and the subject special financial instruments business operator.
- (ii) the following matters listed as the content and method of assistance related to funding:
  - (a) the policy and method of assistance related to funding; and
  - (b) standards for implementing assistance related to funding.

(Matters to Be Stated in the Documents by the Designated Parent Company)

Article 208-19 The matters provided for by Cabinet Office Order as prescribed in Article 57-13, paragraph (1), item (vii) of the Act are the following matters:

- (i) content of the business;
- (ii) the percentage of the number of voting rights of a subject special financial instruments business operator held by the designated parent company relative to the number of voting rights held by all shareholders, etc. of the subject special financial instruments business operator; and
- (iii) the percentage of the number of the voting rights of a subject special financial instruments business operator of the designated parent company held by the designated parent company and its subsidiary corporations, etc. other than that subject special financial instruments business operator relative to the number of voting rights held by all shareholders, etc. of that subject special financial instruments business operator.

(Documents to Be Attached to the Documents by the Designated Parent Company)

Article 208-20 The documents listed in Article 57-13, paragraph (2), item (ii) of the Act are the following documents:

- (i) the documents stating the system for conducting business, such as its structure of personnel and the organizational structure pertaining to the business;
- (ii) the resumes of the officers (if any of the officers is a corporation, the document containing the background of the officer);
- (iii) the extracts of the certificates of residence of the officers (if any of the officers is a corporation, the certificate of registered matters of the officer), or any other document in lieu thereof;
- (iv) if the former surname and given name of an officer are stated together with the current name of the officer in a document under Article 57-13, paragraph (1) of the Act, and the document specified in the preceding item is not a document certifying the officer's the former surname and given name, a

- document certifying the former surname and given name;
- (v) the certificates issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
- (vi) documents in which the officer pledges that the officer does not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act; and
- (vii) the documents stating the following particulars as the status of subsidiary corporations, etc.:
  - (a) the trade name or name;
  - (b) the amount of the stated capital, the total amount of the fund, or the total amount of investment;
  - (c) the location of its head office or principal office;
  - (d) content of the business;
  - (e) the percentage of the number of voting rights of a subsidiary corporation, etc. held by the designated parent company relative to the number of voting rights held by all shareholders, etc. of the subsidiary corporation, etc.; and
  - (f) the percentage of the number of the voting rights of a subsidiary corporation, etc. of the designated parent company held by the designated parent company and its subsidiary corporations, etc. other than that subsidiary corporation, etc. relative to the number of voting rights held by all shareholders, etc. of that subsidiary corporation, etc.

(Electronic or Magnetic Records)

Article 208-21 (1) The electronic or magnetic records provided for by Cabinet Office Order as prescribed in Article 57-13, paragraph (3) of the Act must have a structure specified in the following:

- (i) a 90mm flexible magnetic disc cartridge conforming to JIS X6223;
  - (ii) a 120mm optical disc conforming to JIS X0606 and X6282.
- (2) entry onto the electronic or magnetic record set forth item (i) of the preceding paragraph must be completed in accordance with the following means:
- (i) with regard to the track format, the means designated by JIS X6225; and
  - (ii) with regard to volume and file configuration, the means designated by JIS X0605.
- (3) With regard to the electronic or magnetic record set forth in paragraph (1), a document containing the following matters must be affixed:
- (i) the trade name or name of the designated parent company; and
  - (ii) notification date.

(Notification of Changes)

Article 208-22 The designated parent company which submits a notification pursuant to the provisions of Article 57-14 must attach the documents specified in the following items in accordance with the category of cases listed in those items with the notification stating the content of the change, change date, and reasons for the change, and submit it to the Commissioner of the Financial Services Agency; provided, however, that if there are unavoidable circumstances, the documents specified in each of those items are sufficient to be submitted without delay after submission of the notification:

- (i) if there is a change to the matters listed in Article 57-13, paragraph (1), item (i), (ii) or (iv) of the Act: the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (ii) if there is a change to the matters listed in Article 57-13, paragraph (1) item (iii) of the Act: the following documents:
  - (a) the documents stating the system for conducting business, such as its structure of personnel and the organizational structure pertaining to the business;
  - (b) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof; and
  - (c) the following documents pertaining to a person that newly becomes an officer:
    - 1. the resumes of the officers (if any of the officers is a corporation, a document containing the background of the officer);
    - 2. the extracts of certificates of residence of the officers (if any of the officers is a corporation, the certificate of registered matters of the officer), or any other document in lieu thereof;
    - 3. if the former surname and given name are stated together with the current name in a written notification, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
    - 4. the certificates issued by a public agency evidencing that the person does not fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof; and
    - 5. documents in which the officer pledges that the officer does not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
    - 6. documents to pledge that the Designated Parent Company does not fall under Article 57-20, paragraph (1), item (i) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act); and
- (iii) if there is a change to the matters listed in Article 57-13, paragraph (1), item (v) or (vi) of the Act: the document stating the matters after the change.

(Business Reports)

Article 208-23 (1) The business report to be submitted by the highest designated parent company pursuant to the provisions of Article 57-15, paragraph (1) of the Act must be prepared in accordance with Appended Form No. 17-5.

(2) In cases of preparing the business report set forth in the preceding paragraph, the highest designated parent company is to be in compliance with designated international accounting standards that are generally accepted as fair and appropriate.

(Procedures for Obtaining Approval of Time Limits for Submission of Business Reports)

Article 208-24 (1) When the highest designated parent company, which is a foreign company, intends to obtain the approval set forth in Article 57-15, paragraph (1) of the Act as applied pursuant to the provisions of Article 17-2-12, paragraph (2) of the Order following the deemed replacement of terms, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency:

(i) the trade name or name;

(ii) the period for submission of the business report for which the approval is sought;

(iii) the last day of the business year pertaining to the business report; and

(iv) the reason for seeking the approval with regard to the submission of the business report.

(2) The following documents must be attached to the written application for the approval set forth in the preceding paragraph:

(i) the articles of incorporation, or any other document in lieu thereof;

(ii) the document evidencing that the representative of the highest designated parent company indicated in the written application for approval has been duly authorized to submit such written application;

(iii) if the reason set forth in item (iv) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, the letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or practices set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion; and

(iv) if the reason set forth in item (iv) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, a document proving the reason.

(3) If the approval set forth in paragraph (1) is applied, when it is found that the

highest designated parent company cannot submit a business report due to the laws and regulations or practices of the state of the highest designated parent company and other unavoidable reasons within three months after the end of the business year, the Commissioner of the Financial Services Agency is to grant the approval set forth in Article 57-15, paragraph (1) of the Act as applied pursuant to the provisions of Article 17-2-12, paragraph (2) of the Order following the deemed replacement of terms with regard to the business report pertaining to the business year for the period from the business year containing the day when the application is made (if the day is within three months (if the approval has been obtained for the submission of the business report pertaining to the business year immediately prior to the business year in question, within the approved period) after the business year starts, a business year immediately prior to the business year in question) until the business year immediately prior to the business year containing the day when the reason set forth in item (iv) of that paragraph pertaining to the application ceases or changes.

- (4) The Commissioner of the Financial Services Agency is to grant the approval set forth in Article 57-15, paragraph (1) of the Act as applied pursuant to the provisions of the proviso to Article 17-2-12, paragraph (2) of the Order following the deemed replacement of terms on the condition that the highest designated parent company set forth in the preceding paragraph submits to the Commissioner of the Financial Services Agency documents stating the following particulars (with regard to the particulars set forth in item (ii), limited to cases in which the reason set forth in paragraph (1), item (iv) is due to the laws and regulations or practices of the state of the highest designated parent company) within three months after the end of every business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed during the business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Report on Status of Business or Properties)

Article 208-25 (1) The highest designated parent company must submit to the Commissioner of the Financial Services Agency pursuant to the provisions of Article 57-15, paragraph (2) of the Act the documents listed in the following items by the due date of submission specified in each of those items:

- (i) the report related to the assistance status, etc. related to funding prepared in accordance with Appended Form No. 17-6: within one month after the end of every quarter of the highest designated parent company (meaning the quarter of the highest designated parent company prescribed in Article 57-17, paragraph (2) of the Act; hereinafter the same applies in this Article, Article 208-28, paragraphs (1), (4), and (5), and Article 208-29, paragraphs (3) and (4)); and
  - (ii) quarterly consolidated financial statement (meaning the quarterly consolidated balance sheet, quarterly consolidated profit and loss statement, quarterly consolidated comprehensive income statement or quarterly consolidated profit and loss and comprehensive income statement, or those required to be prepared by the Designated International Accounting Standards and equivalent to the quarterly consolidated balance sheet, quarterly consolidated profit and loss statement, quarterly consolidated comprehensive income statement or quarterly consolidated profit and loss and comprehensive income statement, and statements of changes in equity; and excluding those pertaining to the last quarter of the highest designated parent company in the business year; hereinafter the same applies in this Article): within three months after the end of every quarter of the highest parent company (if it is found that the highest designated parent company which is a foreign company cannot submit quarterly consolidated financial statements due to the laws and regulations or practices of the state of the highest designated parent company and other unavoidable reasons within three months after the end of quarter of the highest designated parent company: within the period approved by the Commissioner of the Financial Services Agency).
- (2) In cases of preparing quarterly consolidated financial statements, the highest designated parent company is to be in compliance with Designated International Accounting Standards that are generally accepted as fair and appropriate.
- (3) When the highest designated parent company which is a foreign company intends to obtain the approval set forth in paragraph (1), item (ii), it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency:
- (i) the trade name or name;
  - (ii) the period for submission of the quarterly consolidated financial statements for which the approval is sought; and
  - (iii) the reason for seeking the approval with regard to the submission of quarterly consolidated financial statements.
- (4) The following documents must be attached to the written application for the approval set forth in the preceding paragraph:



- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) the document evidencing that the representative of the highest designated parent company indicated in the written application for approval has been duly authorized to submit such written application;
  - (iii) if the reason set forth in item (iii) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or practices set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion; and
  - (iv) if the reason set forth in item (iii) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, a document proving the reason.
- (5) If the approval set forth in paragraph (3) is applied, when it is found that the highest designated parent company cannot submit quarterly consolidated financial statements due to the laws and regulations or practices of the state of the highest designated parent company and other unavoidable reasons within three months after the end of quarter of the highest designated parent company, the Commissioner of the Financial Services Agency is to grant the approval set forth in paragraph (1), item (ii), with regard to quarterly consolidated financial statements pertaining to the quarter of the highest designated parent company for the period from the quarter of the highest designated parent company containing the day when the application is made (if the day is within three months (if the approval has been obtained for the submission of the quarterly consolidated financial statements pertaining to the quarter of the highest designated parent company immediately prior thereto, within the approved period) after the quarter of the highest designated parent company starts, a quarter of the highest designated parent company immediately prior thereto) until the quarter of the highest designated parent company immediately prior to the quarter of the highest designated parent company containing the day when the reason set forth in item (iii) of that paragraph pertaining to the application ceases or changes.
- (6) The Commissioner of the Financial Services Agency is to grant the approval set forth in paragraph (1), item (ii) on the condition that the highest designated parent company set forth in the preceding paragraph submits to the Commissioner of the Financial Services Agency documents stating the following particulars (with regard to the particulars set forth in item (ii), limited to cases in which the reason set forth in paragraph (3), item (iii) is due to the laws and regulations or practices of the state of the highest designated parent company) within three months after the end of every quarter of the

highest designated parent company; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:

- (i) the fact that the reason for application pertaining to the approval has not ceased or changed during the quarter of the highest designated parent company; and
- (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Matters to Be Stated in the Explanatory Documents)

Article 208-26 Those matters provided for by Cabinet Office Order as prescribed in Article 57-16 of the Act are the following matters:

- (i) the following matters related to the outline and organization of the highest designated parent company:
  - (a) the trade name or name;
  - (b) the day when the highest designated parent company is designated pursuant to the provisions of Article 57-12, paragraph (1) of the Act;
  - (c) background and management organization (including the business management of subsidiary corporations, etc. of the highest designated parent company (excluding a subsidiary corporation, etc. that has no critical impact on the content of explanatory documents set forth in Article 57-16 of the Act; hereinafter the same applies in this Article));
  - (d) the name of the top ten shareholders or investors in descending order of the number of voting rights held pertaining to the shares, etc. (meaning shares or equity; the same applies in (d)), the number of voting rights held pertaining the shares, etc., and the percentage of the number of voting rights pertaining to the shares, etc. relative to the voting rights held by all shareholders, etc.;
  - (e) the matters listed in Article 57-13, paragraph (1), items (ii) through (iv) of the Act and the matters listed in Article 208-19, item (i); and
  - (f) the trade name of the subject special financial instruments business operator, registration date, and registration number and the notification date;
- (ii) the following matters related to the outlines of the highest designated parent company and its subsidiary corporation, etc.:
  - (a) content of major business and structure of organization of the highest designated parent company and its subsidiary corporations, etc.; and
  - (b) the following matters related to the highest designated parent company and its subsidiary corporations, etc.:

1. the trade name or name;
  2. the location of its head office or principal office;
  3. the amount of stated capital, the total amount of the fund, or the total amount of investment;
  4. content of the business;
  5. the percentage of the number of voting rights of a subsidiary corporation, etc. held by the highest designated parent company relative to the number of voting rights held by all shareholders, etc. of the subsidiary corporation, etc.; and
  6. the percentage of the number of the voting rights of a subsidiary corporation, etc. of the highest designated parent company held by the highest designated parent company and its subsidiary corporations, etc. other than that subsidiary corporation, etc. relative to the number of voting rights held by all shareholders, etc. of that subsidiary corporation, etc.;
- (iii) the following matters related to the business status of the highest designated parent company and its subsidiary corporation, etc.:
- (a) outline of the business in the immediate business year; and
  - (b) the following matters listed as indicators of business status in the immediate three consecutive fiscal years:
    1. the operating profit (including sales amount and those equivalent thereto; the same applies in (c) of the following item);
    2. the ordinary profit or ordinary losses;
    3. the net profit for the current year or the net loss for the current year attributable to shareholders of the parent company;
    4. comprehensive income;
    5. the amount of net assets
    6. the amount of total assets; and
    7. the consolidated capital adequacy ratio as of the end of each consolidated fiscal year (meaning the ratio obtained by the formula pertaining to the standard as to whether the adequacy of equity capital as prescribed in Article 57-17, paragraph (1) of the Act is appropriate; the same applies in (f) of the following item);
- (iv) the following matters listed as the matters related to the property status of the highest designated parent company and its subsidiary corporation, etc. in the immediate two consolidated fiscal years:
- (a) consolidated balance sheet (including relevant notes), consolidated profit and loss statement (including relevant notes), and consolidated comprehensive income statement (including relevant notes) or consolidated profit and loss and comprehensive income statement (including relevant notes), and consolidated statements of changes in net assets (including

- relevant notes), or those equivalent to these documents required to be prepared by the designated international accounting standards;
- (b) the following matters as of the last day of each consolidated business year:
1. the major lenders of money, and the borrowed amount;
  2. the acquisition value, the market value and the loss or gain on valuation of the securities held (excluding the securities treated as falling under the categories of trading products for accounting purposes (meaning trading products from among the items of the consolidated balance sheet or those equivalent thereto; the same applies in 3.)); and
  3. the contract value, the market value and the loss or gain on valuation of the derivative transactions (excluding the transactions treated as falling under the category of trading products for the purposes of accounting);
- (c) if the highest designated parent company and its subsidiary corporation, etc. (meaning the subsidiary corporation, etc. prescribed in Article 15-16-2, paragraph (2) of the Order, and excluding those that have no important impact on the content of the explanatory documents set forth in Article 57-16 of the Act) engage in two or more different types of businesses, those calculated as the amount of operating profit, net operating profit, ordinary profit or ordinary loss and the amount of assets (these are collectively referred to as "operating profit, etc." in (c)) (other than if the ratio of the amount of each operating profit, etc. to total amount of operating profit, etc. is small) in accordance with the category of the business type;
- (d) if the document specified in (a) has been audited by an accounting auditor pursuant to the provisions of Article 444, paragraph (4) of the Companies Act, to that effect;
- (e) if an audit certification has been provided by a certified public accountant or an auditing firm with regard to the documents specified in (a) pursuant to the provisions of Article 193-2 of the Act, to that effect; and
- (f) integrity of management (meaning the integrity of management prescribed in Article 57-17, paragraph (2) of the Act, and excluding those pertaining to the consolidated capital adequacy ratio).
- (v) the matters related to remuneration, etc. (meaning any remuneration, bonus or any other property benefit payable by the highest designated parent company or its subsidiary corporation, etc. as a consideration for the performance of duties, or wage prescribed in Article 11 of the Labor Standards Act (Act No. 49 of 1947)) specified by the Commissioner of the Financial Services Agency as those that have critical impact on the business management and properties status of the highest designated parent company and its subsidiary corporation, etc.

(Public Inspection of Explanatory Documents)

Article 208-26-2 When a highest designated parent company publicizes explanatory documents by the use of the internet and other means pursuant to Article 57-16 of the Act, it must do so in a way which allows easy access by investors any time.

(Procedures for Obtaining Approval of Time Limit for the Public Inspection of Explanatory Documents)

Article 208-27 (1) When a highest designated parent company which is a foreign company intends to obtain the approval set forth in the proviso to Article 17-2-10, paragraph (2) of the Order, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency:

- (i) the trade name or name;
- (ii) the period for the public inspection of the explanatory documents for which the approval is sought;
- (iii) the last day of the business year pertaining to the explanatory documents; and
- (iv) the reasons for seeking the approval with regard to the public inspection of the explanatory documents.

(2) The following documents must be attached to the written application for approval set forth in the preceding paragraph:

- (i) the articles of incorporation, or any other document in lieu thereof;
- (ii) a document evidencing that the representative of the highest designated parent company indicated in the written application for approval has been duly authorized to submit such written application;
- (iii) if the reasons set forth in item (iv) of the preceding paragraph is due to laws and regulations or practices of the state of the highest designated parent company, a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or practices set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion; and
- (iv) if the reason set forth in item (iv) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, a document proving the reason.

(3) If the approval set forth in paragraph (1) is applied, when it is found that the highest designated parent company cannot keep explanatory documents and make them available for public inspection due to the laws and regulations or practices of the state of the highest designated parent company and other

unavoidable reasons from the day when four months elapses after the end of the business year, the Commissioner of the Financial Services Agency is to grant the approval set forth in the proviso to Article 17-2-10, paragraph (2) of the Order with regard to the explanatory documents pertaining to the business year for the period from the business year containing the day when the application is made (if the day is within four months (if the approval has been obtained for the public inspection of the explanatory documents pertaining to the business year immediately prior to the business year in question, within the approved period) after the business year starts, a business year immediately prior to the business year in question) until the business year immediately prior to the business year containing the day when the reason set forth in item (iv) of that paragraph pertaining to the application ceases or changes.

- (4) The Commissioner of the Financial Services Agency is to grant the approval set forth in the proviso to Article 17-2-10, paragraph (2) of the Order on the condition that the highest designated parent company set forth in the preceding paragraph submits to the Commissioner of the Financial Services Agency documents stating the following particulars (with regard to the particulars set forth in item (ii), limited to cases in which the reason set forth in paragraph (1), item (iv) is due to the laws and regulations or practices of the state of the highest designated parent company) within four months after the end of every business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed during the business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Submission of Documents Stating the Integrity of Management)

Article 208-28 (1) With regard to the notification pursuant to the provisions of Article 57-17, paragraph (2) of the Act, a document stated in accordance with the provisions of Article 180, paragraphs (2) and (3) (in cases specified by the Commissioner of the Financial Services Agency, the document to be stated in accordance with those specified by the Commissioner of the Financial Services Agency; the same applies in this Subsection) must be submitted to the Commissioner of the Financial Services Agency within 110 days after the end of every quarter of the highest designated parent company (if it is found that a highest designated parent company, which is a foreign company, cannot submit

the documents stating the integrity of management (meaning the integrity of management prescribed in that paragraph; the same applies hereinafter in this Subsection) due to the laws and regulations or practices of the state of the highest designated parent company and other unavoidable reasons within 110 days after the quarter of the highest designated parent company, within the period approved by the Commissioner of the Financial Services Agency; the same applies in Article 208-30).

- (2) When the highest designated parent company, which is a foreign company, intends to obtain the approval set forth in the preceding paragraph, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency:
  - (i) the trade name or name;
  - (ii) the period for the submission of the documents stating the integrity of management regarding which the approval is sought;
  - (iii) the reason for seeking the approval with regard to the submission of the documents stating the Integrity of management.
- (3) The following documents must be attached to the written application for the approval set forth in the preceding paragraph:
  - (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) the document evidencing that the representative of the highest designated parent company indicated in the written application for approval has been duly authorized to submit such written application;
  - (iii) if the reason set forth in item (iii) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or practices set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion; and
  - (iv) if the reason set forth in item (iii) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, a document proving the reason.
- (4) If the approval set forth in paragraph (2) is applied, when it is found that the highest designated parent company cannot submit the documents stating the integrity of management due to the laws and regulations or practices of the state of the highest designated parent company and other unavoidable reasons within 110 days after the end of the quarter of the highest designated parent company, the Commissioner of the Financial Services Agency is to grant the approval set forth in paragraph (1), with regard to the documents pertaining to the quarter of the highest designated parent company for the period from the quarter of the highest designated parent company immediately prior to the

quarter of the highest designated parent company containing the first day of the period for which the approval is sought until the quarter of the highest designated parent company immediately prior to the quarter of the highest designated parent company containing the day when the reason set forth in item (iii) of that paragraph pertaining to the application ceases or changes.

- (5) The Commissioner of the Financial Services Agency is to grant the approval set forth in paragraph (1) on the condition that the highest designated parent company set forth in the preceding paragraph submits to the Commissioner of the Financial Services Agency documents stating the following particulars (with regard to the particulars set forth in item (ii), limited to cases in which the reason set forth in paragraph (2), item (iii) is due to the laws and regulations or practices of the state of the highest designated parent company) within 110 days after the end of every quarter of the highest designated parent company; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reason for the application for the approval has not ceased to exist or changed during the quarter of the highest designated parent company; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Procedures for Obtaining Approval of a Time Limit for the Public Inspection of Documents Stating the Integrity of Management)

- Article 208-29 (1) When the highest designated parent company, which is a foreign company, intends to obtain the approval set forth in the proviso to Article 17-2-11, paragraph (3) of the Order, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency:
- (i) the trade name or name;
  - (ii) the period for the public inspection of the documents stating the integrity of management for which the approval is sought;
  - (iii) the reason for seeking the approval with regard to the public inspection of the documents stating the integrity of management.
- (2) The following documents must be attached to the written application for the approval set forth in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) the document evidencing that the representative of the highest designated parent company indicated in the written application for approval has been



- duly authorized to submit such written application;
- (iii) if the reason set forth in item (iii) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or practices set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion; and
- (iv) if the reason set forth in item (iii) of the preceding paragraph is due to the laws and regulations or practices of the state of the highest designated parent company, a document proving the reason.
- (3) If the approval set forth in paragraph (1) is applied, when it is found that the highest designated parent company cannot keep the documents stating the integrity of management and make them available for public inspection due to the laws and regulations or practices of the state of the highest designated parent company and other unavoidable reasons from the day when two months elapse after the last day of the quarter of the highest designated parent company, the Commissioner of the Financial Services Agency is to grant the approval set forth in the proviso to Article 17-2-11, paragraph (3) of the Order with regard to the documents pertaining to the quarter of the highest designated parent company for the period from the quarter of the highest designated parent company containing the day when the application is made (if the day is within two months (if the approval has been obtained for the public inspection of the documents pertaining to the quarter of the highest designated parent company immediately prior to the quarter in question, within the approved period) after the quarter of the highest designated parent company starts, a quarter of the highest designated parent company immediately prior to the quarter in question) until the quarter of the highest designated parent company immediately prior to the quarter of the highest designated parent company containing the day when the reason set forth in item (iii) of that paragraph pertaining to the application ceases or changes.
- (4) The Commissioner of the Financial Services Agency is to grant approval set forth in the proviso to Article 17-2-11, paragraph (3) of the Order on the condition that the highest designated parent company set forth in the preceding paragraph submits to the Commissioner of the Financial Services Agency documents stating the following particulars (with regard to the particulars set forth in item (ii), limited to cases in which the reason set forth in paragraph (1), item (iii) is due to the laws and regulations or practices of the state of the highest designated parent company) within two months after the last day of the quarter of the highest designated parent company; provided, however, that if the substance of a particular as set forth in item (ii) is

identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:

- (i) an indication that the reason for the application for the approval has not ceased to exist or changed during the quarter of the highest designated parent company; and
- (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Public Inspection of Documents Stating the Integrity of Management)

Article 208-30 The documents to be kept and made available for public inspection pursuant to the provisions of Article 57-17, paragraph (3) of the Act must be provided by the document stated in accordance with the provisions of Article 180, paragraphs (2) and (3).

(Notification of a Merger)

Article 208-31 (1) With regard to the notification pursuant to the provisions of Article 57-18, paragraph (1) of the Act, a notification stating the matters specified in the following items must be submitted to the Commissioner of the Financial Services Agency in accordance with the categories listed in that items:

- (i) if it corresponds to Article 57-18, paragraph (1), item (i) of the Act: the following matters:
  - (a) the trade name or name of the counterparty of the merger;
  - (b) date and reasons of the merger; and
  - (c) method of the merger.
- (ii) if it corresponds to Article 57-18, paragraph (1), item (ii) of the Act: the day when the petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings were filed and their reasons;
- (iii) if it corresponds to item (i) of the following Article: the matters specified in (a) and (b) below in accordance with the category of cases listed in (a) and (b):
  - (a) if it comes to correspond to Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services): the following matters:
    1. content of the same type of registration, etc. obtained in a foreign state pursuant to the provisions of the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services or a notification of the same type as the notification under

- Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the Act made by the financial instruments business operator, etc. in the foreign state pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services;
2. date of the registration etc. or notification;
  3. date when the registration, etc. is cancelled or discontinuation of business pertaining to the notification was ordered, and the reason; and
  4. content of the business for which the registration, etc. is cancelled or discontinuation of business pertaining to the notification was ordered;
- (b) if it corresponds to Article 29-4, paragraph (1), item (i), (c) of the Act: the following matters:
1. the provisions of the laws and regulations against which the violation is committed; and
  2. the day when the punishment became final and binding, and the type of punishment;
- (iv) if it corresponds to item (ii) of the following Article: the following matters:
- (a) name of the officer that comes to who comes to fall under Article 199, item (ii), sub-item (a) or (b);
  - (b) if the officer comes to correspond to fall under Article 199, item (ii), sub-item (a), the date when the Officer came to fall under such provision and the reasons therefor;
  - (c) if the officer becomes to correspond to Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when the sales representative came to be subject to the order for the commencement of bankruptcy proceedings;
  - (d) if the officer comes to correspond to Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
  - (e) if the officer comes to correspond to Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons for it; and
  - (f) if the officer falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act, and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7 (including as applied mutandis pursuant to Article 60-14, paragraph (2) of the Act; hereinafter the same applies in this Article), Article 63-2, paragraph (2), Article 63-2, paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act; hereinafter the same applies in this Article), Article 63-2, paragraph (4), Article 63-10,

- paragraph (2), paragraph (3) (including as applied mutandis pursuant to Article 63-11, paragraph (2) of the Act; the same applies hereinafter in this Article) or paragraph (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1), or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
- (g) if the officer comes to correspond to Article 29-4, paragraph (1), item (ii) of the Act, the date when the dismissal or removal was ordered and the reasons for it;
- (v) if it corresponds to item (iii) of the following Article: the following matters:
- (a) the trade name or name of the parent company or subsidiary corporation, etc. that has come to correspond to or no longer corresponds to those provisions; and
  - (b) the date when it comes to correspond to or no longer corresponds to the parent company or subsidiary corporation, etc.;
- (vi) if it corresponds to item (iv) of the following Article: the following matters:
- (a) the day when the petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings were filed and their reasons; and
  - (b) the trade name or name of the person that filed the petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
- (vii) if it corresponds to item (v) of the following Article: the following matters:
- (a) the content and reason of the change; and
  - (b) the date of the change;
- (viii) if it corresponds to item (vi) of the following Article: the following matters:
- (a) the name of the business office or other office if an act against the laws and regulations, etc. (including the laws and regulations of a foreign state) (limited to acts that are likely to have a critical impact on the business management of the designated parent company or the property status of the designated parent company and its subsidiary corporation, etc.; hereinafter referred to as "problematic conduct, etc." in this paragraph and the following Article) occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) outline of the problematic conduct, etc.;
- (ix) if it corresponds to item (vii) of the following Article: the following matters:
- (a) the name of the business office or other office if the problematic conduct, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the

- problematic conduct, etc.;
- (c) details of the problematic conduct, etc.; and
- (d) if any internal action has been taken, the details thereof;
- (x) if it corresponds to item (viii) of the following Article: the matters specified in the following (a) and (b) in accordance with the category of cases listed in those (a) and (b):
  - (a) if it has become the party to a suit or conciliation: the following matters:
    1. the name and address or location of the party of a suit or conciliation;
    2. the day when the action or conciliation was filed;
    3. the name of the court with jurisdiction; and
    4. the details of the case;
  - (b) if the action or conciliation has been concluded, the following matters:
    1. the name and address of the parties to the action or conciliation;
    2. the day when the action or conciliation was concluded; and
    3. the details of the judgment or settlement;
- (xi) if it corresponds to item (ix) of the following Article: the matters specified in the following (a) and (b) in accordance with the category of cases listed in those (a) and (b):
  - (a) if it comes to know the fact that major shareholder comes to fall under Article 199, item (xi), sub-item (c), 1. or 2.: the following matters:
    1. the names of major shareholders that come to correspond to the provision;
    2. if the major shareholder comes to fall under Article 199, item (xi), sub-item (c), 1., the date when the Major Shareholders came to fall under such provision and the reasons therefor;
    3. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when the major shareholder or such statutory agent became subject to the order for the commencement of bankruptcy proceedings;
    4. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
    5. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons for it;
    6. if the major shareholder, or an agent has come to fall falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1),

Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;

7. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the day when dismissal or removal was ordered and the reasons for it;
- (b) if the financial instruments business operator has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 3. or 4.: the following matters:
  1. the trade name or name of the major shareholder which has come to fall under such provision;
  2. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (a) of the Act, the details and date of the registration, etc. granted to such major shareholder, and the date of and reasons for the rescission of such registration, etc., and the contents of the business for which the registration, etc. was rescinded, or the content of the notification under Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the Act made by the major shareholder, and the date of and reason for the order of discontinuation of business for which the notification was made and the contents of the business;
  3. if the major shareholder falls under Article 29-4, paragraph (1), item (i) (b) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraph (2) or (3), Article 63-10, paragraph (2) or (3), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
  4. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (c) of the Act, the provisions of the laws and regulations violated, the day when the punishment became final and binding, and the amount of the fine imposed;
  5. if the major shareholder has come to fall under Article 199, item (xi), sub-item (c), 4., the name of the officer representing the corporation which has come to fall under either of sub-item (c), 4, i. or ii. of that paragraph;
  6. if the officer representing the corporation which is the major shareholder has come to fall under Article 199, item (xi), sub-item (c), 4., i., the date when the Officer came to fall under such provision and the reasons therefor;

7. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when the officer became subject to an order for the commencement of bankruptcy proceedings;
  8. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
  9. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  10. if the officer representing the corporation which is the major shareholder falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
  11. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when the dismissal or removal was ordered, and the reasons therefor;
- (xii) if it corresponds to item (x) of the following Article: the day when it ceased to be the stock company prescribed in Article 57-20, paragraph (1), item (iv) of the Act and the reasons therefor;
- (xiii) if it corresponds to item (xi) of the following Article; the following matters:
- (a) the details of the adverse disposition; and
  - (b) the date when the financial instruments business operator, etc. came to be subject to the adverse disposition and reasons therefor;
- (xiv) if it corresponds to item (xii), (a) of the following Article: the following matters:
- (a) the trade name or name of the subsidiary corporation, etc., if problematic conduct, etc. has occurred, and the name of its business office or other business offices;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) details of the problematic conduct, etc.;
- (xv) if it corresponds to item (xii), (b) of the following Article: the following

matters:

- (a) the trade name or name of the subsidiary corporation, etc., if a problematic conduct, etc. has occurred, and the name of its business office or other business office;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.;
  - (c) details of the problematic conduct, etc.; and
  - (d) if any internal action has been taken, the details thereof;
- (xvi) if it corresponds to item (xii), (c) of the following Article: the matters specified in the following (a) and (b) in accordance with the category of cases listed in those (a) and (b):
- (a) if it has come to be known that the subsidiary corporation, etc. has become the party to a suit or conciliation: the following matters:
    - 1. name and address or location of the party of a suit or conciliation;
    - 2. the day when the action or conciliation was filed;
    - 3. the name of the court with jurisdiction; and
    - 4. the details of the case;
  - (b) if it has come to be known that the action or conciliation, for which the subsidiary corporation, etc. is a party, has been concluded: the following matters:
    - 1. the name and address of the parties to the action or conciliation;
    - 2. the day when the action or conciliation was concluded; and
    - 3. the details of the judgment or settlement;
- (xvii) if it corresponds to item (xii), (d) of the following Article: the matters specified in the following (a) and (b) in accordance with the categories of cases listed in those (a) and (b):
- (a) if the financial instruments business operator has made any subordinated borrowing or if it has become aware that the subsidiary corporation, etc. has borrowed subordinated borrowing: the following matters:
    - 1. the name of the lender, and the reasons for the borrowing;
    - 2. the borrowed amount (in the case of a foreign currency denominated loan, the borrowed amount, and such amount converted into yen), and the current outstanding balance and the outstanding balance after the borrowing; and
    - 3. the loan date, interest rates and the due date for payment.
  - (b) if the financial instruments business operator has issued any subordinated bond or if it has become aware that the subsidiary corporation, etc. has borrowed subordinated bond: the following matters:
    - 1. the means and reasons for the issuance;
    - 2. the total issuance amount (in the case of foreign currency denominated bonds, the total issuance amount and such amount converted into yen),



- and the current outstanding balance and the outstanding balance after the issuance; and
3. the issuance date, the interest rates and the maturity date;
- (xviii) if it corresponds to item (xii), (e) of the following Article: the following matters:
- (a) the amount and date of the payment or redemption; and
  - (b) the outstanding balance after the payment or redemption.
- (2) If it corresponds to the category of cases listed in the following items, the document specified in that each item must be attached to the notification set forth in the preceding paragraph:
- (i) if it corresponds to Article 57-18, paragraph (1), item (i) of the Act: the following documents:
    - (a) the document stating the contents of the merger agreement and the procedures for the merger;
    - (b) the latest balance sheet of the parties (including notes in reference thereto); and
    - (c) in cases of the highest designated parent company, the documents stating the integrity of management after the merger;
  - (ii) if it corresponds to Article 57-18, paragraph (1), item (ii) of the Act: the following documents:
    - (a) a copy of documents pertaining to the filing of the petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings; and
    - (b) the latest daily accounts sheet
  - (iii) if it corresponds to item (i) of the following Article: the documents specified in the following (a) and (b) in accordance with the category of cases listed in those (a) and (b):
    - (a) if it comes to correspond to Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services): the following matters:
      - 1. a copy of the written order for the rescission or discontinuation of business or any other document in lieu thereof; and
      - 2. a copy of the laws and regulations of the foreign state;
    - (b) if it has come to correspond to Article 29-4, paragraph (1), item (i), (c) of the Act: a copy of the judgment document on the final and binding judgment, or a document stating the particulars of the final and binding judgment;
  - (iv) if it corresponds to item (ii) of the following Article (limited to the part pertaining to Article 199, item (ii), sub-item (b)): the following documents:

- (a) if the officer has come to correspond to Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings;
- (b) if the officer has come to correspond to Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the particulars of the final and binding judgment; and
- (c) if the officer has come to correspond to Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act (but only if the rescission or order was effected in a foreign state), a copy of the laws and regulations of the foreign state which served as the basis of the rescission or discontinuation of business;
- (v) if it corresponds to item (iii) of the following Article: the following documents:
  - (a) a document stating the outline of the business of the parent corporation, etc. or subsidiary corporation, etc. which has come to fall under such category, or which no longer falls under such category; and
  - (b) a document describing the relationship between the designated parent company and parent company or subsidiary corporation, etc.;
- (vi) if it corresponds to item (iv) of the following Article: the latest daily accounts sheet;
- (vii) if it corresponds to item (v) of the following Article: the amended articles of incorporation;
- (viii) if it corresponds to item (ix) of the following Article: the documents specified in the following (a) and (b) in accordance with the category of cases listed in those (a) and (b):
  - (a) if it comes to be known that a major shareholder comes to fall under Article 199, item (xi), sub-item (c), 1. or 2.: the following documents:
    1. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
    2. if the major shareholder, or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
    3. if the major shareholder, or an agent has been punished, a copy of the laws and regulations of the foreign state which served as the basis of such punishment;
    4. if the major shareholder, or an agent has had the registration, etc.

- rescinded or was ordered to discontinue its business in the foreign state, a copy of the laws and regulations of the foreign state which served as the basis of such rescission of registration, etc. or discontinuation of business;
- (b) if it has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 3. or 4., ii.: the following documents:
1. if the major shareholder has come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act, a copy of the written order for rescission or discontinuation of business or a document in lieu thereof;
  2. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (a) of the Act or if the officer representing the corporation which is a major shareholder falls under item (ii), (d) or (e) of that paragraph (but only if the registration, etc. was rescinded or the discontinuation of business was ordered in a foreign state), a copy of the laws and regulations of a foreign state which served as the basis of the rescission or discontinuation of business;
  3. if the major shareholder has come to fall under Article 29-4, paragraph (1), item (i), (c) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
  4. if any officer representing the corporation which is a major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings; and
  5. if any officer representing a corporation which is a major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- (ix) if it corresponds to item (xi) of the following Article: a copy of the laws and regulations of a foreign state which provides for the adverse disposition;
- (x) if it corresponds to item (xii), (d) of the following Article: the following documents:
- (a) if it has made any subordinated borrowing or if it has become aware that the subsidiary corporation, etc. has borrowed subordinated borrowing, a copy of the contract therefor;
  - (b) if it has issued any subordinated corporate bonds or if it has become aware that the subsidiary corporation, etc. has borrowed a subordinated bond, a copy of the prospectus therefor or any other document equivalent

thereto.

(In Cases of Submitting a Notice of a Merger)

Article 208-32 The cases provided for by Cabinet Office Order as prescribed in Article 57-18, paragraph (1), item (iii) of the Act are the following cases:

- (i) if it comes to correspond to Article 29-4, paragraph (1), item (i), (c) (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services) or (b) of the Act;
- (ii) if it comes to be known that the officer comes to fall under Article 199, item (ii), sub-item (a) or (b);
- (iii) if another corporation or organization has come to fall under the category of the parent corporation, etc. or the subsidiary corporation, etc.; or if another corporation or organization has come to no longer fall under that category;
- (iv) if the registered financial institution has become aware that a petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, or commencement of reorganization proceedings has been filed (for a foreign corporation, this includes a case in which it has become aware that the same type of petition has been filed in the state where its head office is located, pursuant to the laws and regulations of that state);
- (v) if the registered financial institution has effected any change to its articles of incorporation;
- (vi) if it comes to be known that any officer or employee has committed any problematic conduct, etc.;
- (vii) if the details of the problematic conduct, etc. set forth in the preceding paragraph are revealed;
- (viii) if it has become a party to any action or conciliation (limited to those that are likely to have a critical impact on the business of the designated parent company or property status of the designated parent company and its subsidiary corporation, etc.) or if such action or conciliation has been concluded;
- (ix) if the fact comes to be known that a major shareholder comes to fall under any of Article 199, item (xi), sub-item (c), 1. through 4.;
- (x) in cases of a domestic company, if it corresponds to Article 57-20, paragraph (1), item (iv) of the Act;
- (xi) in cases of a foreign company, if it has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of the foreign state equivalent to the Act (other than if it falls under Article 29-4, paragraph (1), item (i), (a) of the Act); and
- (xii) in cases of a highest designated parent company, the following cases:

- (a) if it comes to be known that an officer or employee of a subsidiary corporation, etc. has committed a problematic conduct, etc. (other than if it is stipulated by the provisions of the laws and regulations that a subsidiary corporation, etc. must submit a notification to the Commissioner of the Financial Services Agency, etc. and take other procedures with regard to problematic conduct, etc.; the same applies to (b));
- (b) if the details of the problematic conduct, etc. set forth in (a) are revealed;
- (c) if it has become a party to any action or conciliation (limited to those are likely to have a critical impact on the business of the highest designated parent company or properties status of the highest designated parent company and its subsidiary corporation, etc.) or if such an action or conciliation has been concluded (other than if it is stipulated that a subsidiary corporation, etc. must submit a notification to the Commissioner of the Financial Services Agency, etc. and take other procedures with regard to the action or conciliation);
- (d) if it has made any subordinated borrowing or has issued any subordinated corporate bonds, or if it has become aware that the subsidiary corporation, etc. has borrowed subordinated borrowing or has issued any subordinated corporate bonds (other than if it is stipulated by the laws and regulations that a subsidiary corporation, etc. must submit a notice to the Commissioner of the Financial Services Agency, etc. and other procedures with regard to subordinated borrowing or subordinated corporate bonds; the same applies in (e));
- (e) if the financial instruments business operator has made an accelerated payment of the subordinated borrowing, or if it has made an accelerated redemption of subordinated corporate bonds (including in the case of payment or redemption with regard to a loan or bonds without a fixed due date) or if it has become aware that the subsidiary corporation, etc. has made an accelerated payment of the subordinated borrowing or made an accelerated payment of subordinated corporate bonds (including a case in which it has come to be known that payment redemption with regard to a loan or bonds without a fixed due date has been made).

(Notification When the Person Is No Longer a Parent Company)

Article 208-33 (1) A person that makes a notification pursuant to Article 57-18, paragraph (2) of the Act must submit to the Commissioner of the Financial Services Agency a notification stating the matters specified in the following items in accordance with the category of cases listed in the items:

- (i) if it corresponds to Article 57-18, paragraph (2), item (i) of the Act: to that effect and the date when it is no longer a Parent Company;

- (ii) if it corresponds to Article 57-18, paragraph (2), item (ii) of the Act: the following matters:
    - (a) the trade name or name of the counterparty of the merger;
    - (b) date and reasons of the merger; and
    - (c) method of the merger;
  - (iii) if it corresponds to Article 57-18, paragraph (2), item (iii) of the Act: the following matters:
    - (a) the day when the petition for the commencement of bankruptcy proceedings was filed; and
    - (b) the day when the order for the commencement of bankruptcy proceedings was issued.
  - (iv) if it corresponds to Article 57-18, paragraph (2), item (iv) of the Act: the date of and reasons for the dissolution.
- (2) The documents listed in the following items must be attached to the written notification set forth in the preceding paragraph, in accordance with the categories of the cases listed in the following items:
- (i) if it corresponds to Article 57-18, paragraph (2), item (ii) of the Act: a document stating the content of the merger contract and the merger procedures; and
  - (ii) if it corresponds to Article 57-18, paragraph (2), item (iii) of the Act: a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings.

(Public Notice of Supervisory Dispositions)

Article 208-34 The public notice pursuant to the provisions of Article 57-22 of the Act is to be made in the Official Gazette.

### **Subsection 3 Miscellaneous Provisions**

Article 208-35 The provisions from Article 36 through 38 apply mutatis mutandis when the provisions of Article 32, paragraphs (1) and (2) of the Act apply mutatis mutandis pursuant to Article 57-26, paragraph (1) of the Act.

## **Section 5 Special Rules on Foreign Business Operators**

### **Subsection 1 Foreign Securities Service Providers**

(Exemption from Restriction on Purchase and Sale of Securities for Professional Investors Relating Foreign Securities Service Provider)

Article 208-36 The cases to be specified by Cabinet Office Order as the cases less likely to result in insufficient protection of investors as referred to in Article

17-3 of the Order are the cases listed in the items of Article 125-3 of this Cabinet Office Order.

(Scope of Financial Institutions Which May Become Counterparties to Purchase and Sale of Securities)

Article 209 The financial institutions to be specified by Cabinet Office Order as referred to in Article 17-3, item (i), (b) of the Order are the following financial institutions (with regard to an agricultural cooperative, from among the financial institutions specified in item (viii), limited to one that falls under the category of qualified Institutional investor):

- (i) a bank;
- (ii) an insurance company;
- (iii) a Shinkin bank and a federation of Shinkin banks;
- (iv) a labor bank and a federation of labor banks;
- (v) the Norinchukin Bank;
- (vi) the Shoko Chukin Bank Limited;
- (vii) credit cooperatives and a federation of credit cooperatives (meaning the federation of cooperatives engaged in the business prescribed in Article 9-9, paragraph (1), item (i) of the Small and Medium-Sized Enterprise Cooperatives Act); and
- (viii) agricultural cooperatives and a federation of agricultural cooperatives which may accept deposits in the course of trade.

Article 210 The financial institutions to be specified by Cabinet Office Order as referred to in Article 17-3, item (i), (d) of the Order are the financial institutions listed in the items of the preceding Article.

Article 211 The financial institutions to be specified by Cabinet Office Order as referred to in Article 17-3, item (i), (e) of the Order are a bank.

(Purchase and Sale of Securities Which May Be Conducted on a Customers' Account)

Article 212 The act to be specified by Cabinet Office Order as referred to in Article 17-3, item (i), (e) of the Order are the purchase and sale of Securities or acts specified in Article 28, paragraph (8), item (iii) or (v) of the Act, which are to be conducted in Japan by a bank on the account of, and based on a written order from, the foreign securities service -provider which is its customer.

(Acts Relevant to Securities Which May Be Conducted by a Foreign Securities Service Provider)

Article 213 (1) The transactions to be specified by Cabinet Office Order as

referred to in Article 17-3, item (ii), (a) of the Order are as follows:

- (i) the purchase and sale of securities;
  - (ii) an intermediation, brokerage, or agency for the purchase and sale of securities or a transaction specified in Article 28, paragraph (8), item (v) of the Act; and
  - (iii) an intermediation, brokerage, or agency for entrustment of the purchase and sale of securities or a transaction specified in Article 28, paragraph (8), item (v) of the Act on a foreign financial instruments market.
- (2) The transactions to be specified by Cabinet Office Order as referred to in Article 17-3, item (ii), (b) of the Order are purchase and sale of securities or a transaction specified in Article 28, paragraph (8), item (v) of the Act.

(Matters Subject to Notification of Discussion Related to Underwriting Business)

Article 214 (1) A foreign securities service provider which intends to hold any discussion as set forth in Article 17-3, item (iii) of the Order (hereinafter referred to as a "discussion" in this paragraph and paragraph (3)) in Japan must submit in advance of such discussion a written notification stating the following particulars (if the foreign securities service provider is an individual, the matters specified in items (iii) and (iv) are excluded) to the Commissioner of the Financial Services Agency:

- (i) the trade name or name;
  - (ii) the location of the head office or principal office;
  - (iii) the amount of the stated capital or the total amount of investment;
  - (iv) the title and name of the officer having the authority of representation;
  - (v) the name of the person holding the discussion, and such person's address or residence or any other contact address in Japan;
  - (vi) the following matters scheduled in relation to the securities regarding which the discussion is to be held:
    - (a) the issuer or owner;
    - (b) the types;
    - (c) the volume and amount;
    - (d) the place and date of issuance and secondary distribution; and
    - (e) any other managing financial instruments business operator for underwriting (meaning the managing financial instruments business operator for underwriting prescribed in Article 59-2, paragraph (1), item (vi), (f) of the Act).
- (2) The following documents must be attached to the written notification set forth in the preceding paragraph:
- (i) a document stating the business contents (if the substance thereof is same as the document filed as attachment within one year prior to the day of the



- filing of the notification prescribed in the preceding paragraph, a document containing the day of the filing of the prior attachment and noting that the prior attachment should be referenced);
- (ii) documents giving an outline of the securities underwriting business performed in a foreign state in the past year.
- (3) The notification set forth in paragraph (1) is not to be required in the case of a discussion regarding national government bond securities to be issued in a foreign state, or corporate bond certificates or any other bond certificates for which the government guarantees redemption of principal and interest payments and which are to be issued in a foreign state.

### **Subsection 2 Permission to Engage in Part of Underwriting Operations**

(Persons Conducting the Same Type of Business as Underwriting Business)

Article 215 The person to be specified by Cabinet Office Order as referred to in Article 17-6, paragraph (2), item (v) of the Order is the any of the persons listed in the items of Article 15-16, paragraph (1) of the Order or any other persons designated by the Commissioner of the Financial Services Agency as being equivalent thereto.

(Public Notice of Rescission of Permission)

Article 216 The public notice for the rescission of a permission to be given pursuant to the provisions of Article 59-5, paragraph (3) of the Act is to be given by means of publication in the Official Gazette.

(Prohibited Acts Related to Foreign Securities Service Provider's Underwriting Business)

Article 217 The acts to be specified by Cabinet Office Order as referred to in Article 38, item (ix) of the Act as applied mutatis mutandis pursuant to Article 59-6 of the Act are the act of making any false representation or any representation which would lead to any material matter being misunderstood, in relation to an underwriting business (meaning the underwriting business set forth in Article 59, paragraph (1) of the Act).

### **Subsection 3 Permission for Transaction-at-Exchange Operations**

(Application for Permission)

Article 218 A person that intends to obtain a permission under Article 60, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency a written application for permission under Article 60-2, paragraph (1) of the Act prepared in accordance with Appended Form No. 18,

with a copy thereof and the documents to be attached thereto pursuant to the provisions of paragraph (3) of that Article.

(Matters to Be Stated in Written Application for Permission)

Article 219 The matter to be specified by Cabinet Office Order as referred to in Article 60-2, paragraph (1), item (xi) of the Act is the day of the commencement of the same type of business as the transaction at exchange (meaning a transaction at exchange as prescribed in Article 60, paragraph (1) of the Act; the same applies hereinafter).

(Business Contents and Business Methods)

Article 220 The contents and method of business to be specified by Cabinet Office Order as referred to in Article 60-2, paragraph (3), item (ii) of the Act are as follows:

- (i) the basic principles of business operations;
- (ii) the method of execution of business;
- (iii) the allocation of business operations;
- (iv) the type of transaction at exchange to be conducted in the course of trade;
- (v) the system for handling complaints;
- (vi) the status of securing officers and employees with knowledge on the Japanese Financial Instruments and Exchange Act and related regulations (meaning Financial Instruments and Exchange Act and related Regulations provided in Article 5, paragraph (8) of the Act; the same applies in Article 232-4, item (vi)), and the status of the allocation of such officers and employees; and
- (vii) in cases of conducting high-speed trading as part of the transaction-at-exchange operation (meaning transaction-at-exchange operation provided in Article 60, paragraph (1) of the Act; the same applies hereinafter), the following matters:
  - (a) the outline of each of the transaction strategies (including the matters specified in the following):
    - 1. the categories of transaction strategies;
    - 2. the name or trade name of the financial instruments exchange, etc. pertaining to the high-speed trading;
    - 3. the types of securities or market derivatives transactions subject to the high-speed trading;
  - (b) in relation to the business relating to high-speed trading, the name and job title of the person supervising the business of guidance for the compliance with laws and regulations, etc.
  - (c) the name and job title of the person responsible for the management of the business pertaining to the high-speed trading;

- (d) the outline, location and maintenance means of the electronic data processing system and other facilities for the high-speed trading; and
- (e) the details of the measures to ensure sufficient management of the electronic data processing systems and other facilities for the high-speed trading.

(Documents to Be Attached to a Written Application for Permission)

Article 221 The matters to be specified by Cabinet Office Order as referred to in Article 60-2, paragraph (3), item (vi) of the Act are as follows:

- (i) the minutes of the board of officers, etc. (meaning a board of officers or any other organ similar thereto; the same applies in Article 232-5, item (i)) resolving the launch of the transaction-at-exchange operations;
- (ii) a document evidencing that the applicant has obtained registrations, etc. (meaning the registrations, etc. prescribed in Article 59-5, paragraph (1), item (ii) of the Act) in all states where its head office or transaction-at-exchange offices (meaning a transaction-at-exchange office as prescribed in Article 60-2, paragraph (1), item (iii) of the Act; the same applies in Article 232-5, item (ii)) are located;
- (iii) a document evidencing that the applicant has been continuously engaged in the business related to the same type of transactions as the transaction-at-exchange at all of its transaction-at-exchange offices for at least three years, or that the applicant falls under the case specified in Article 17-8, paragraph (2) of the Order;
- (iv) a document stating the calculated net assets;
- (v) resumes of the applicant's officers, its representative persons in a state where transaction-at-exchange offices are located (meaning the representative person in state where transaction-at-exchange office is located prescribed in Article 60-2, paragraph (1), item (iii) of the Act; the same applies hereinafter), and its representative person in Japan (hereinafter collectively referred to as the "officers, etc." in this Subsection) (if any of the officers is a corporation, a document containing the background of the officers);
- (vi) the extract of the certificates of residence of the officers, etc. (if the officer is a corporation, a certificate of registered matters of the officer), or any other document in lieu thereof;
- (vii) if the former surname and given name of an officer, etc. are stated together with the current name of the officer, etc. in a written application for permission under Article 60-2, paragraph (1) of the Act, and the document specified in the preceding item is not a document certifying the former surname and given name of the officer, etc., a document certifying the former surname and given name;

- (viii) a certificate issued by the public agency evidencing that none of the officers, etc. falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
- (ix) documents in which each of the officers, etc. pledges that the officers, etc. do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act; and
- (x) a document stating the measures to be taken for the prevention of unfair transactions, in relation to the terminals (meaning the input/output devices used by an applicant, which are connected to the electronic data processing system used by the financial instruments exchange) to be used for the purpose of the transaction-at-exchange operations;
- (xi) in the case of conducting high-speed trading as the transaction-at-exchange operations, the resume of the person provided in item (vii), (b) and (c) of the preceding Article.

(Notification on Change to Matters Specified in Written Application for Permission)

Article 222 An authorized transaction-at-exchange operator which intends to file the notification under Article 60-5, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the particulars and date of and reasons for the change, attaching a document specifying the particulars after such change prepared in accordance with Appended Form No. 18, a copy thereof and a document specified in the following items in accordance the categories of documents set forth respectively therein:

- (i) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (i) of the Act: the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (ii) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (ii) of the Act: the following documents:
  - (a) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof; and
  - (b) the document stating the increase or decrease in the net assets due to such change;
- (iii) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (iii) of the Act: the following documents:
  - (a) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof; and
  - (b) the following documents relevant to the person that has newly assumed positions as officer:
    1. the resume (if the officer is a corporation, a document containing the

- background of the officer);
- 2. the extracts of certificates of residence (if the officer is a corporation, a certificate of registered matters of the officer), or any other document in lieu thereof;
- 3. if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 18, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
- 4. the certificate issued by a public agency evidencing that the officer does not fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
- 5. the documents in which the officer pledges that the officer does not fall under Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
- 6. the documents to pledge that the application for permission does not fall under Article 60-3, paragraph (1), item (i), sub-item (j) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act); and
- (iv) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (v) of the Act (but only if the name of the transaction-at-exchange office was changed): the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (v) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (vi) of the Act (but only if the other business was launched): a document stating the contents of such other business;
- (vi) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (viii) of the Act (but only if any office or other facility has been established in Japan): a document stating the organizational structure and positions of personnel for the office or other facilities so established;
- (vii) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (ix) of the Act: the following documents:
  - (a) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
  - (b) the following documents in relation to the person that has newly assumed the position of the representative person in Japan:
    - 1. resume of the representative person;
    - 2. the extracts of the representative person's certificate of residence, or any other document in lieu thereof;
    - 3. if the former surname and given name are stated together with the current name in a document setting forth the matters after the change

- prepared using Appended Form 18, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
4. the certificate issued by a public agency evidencing that such person does not fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof; and
  5. the documents in which the representative person in Japan pledges that the representative person does not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act.
  6. the documents to pledge that the application for permission does not fall under Article 60-3, paragraph (1), item (i), sub-item (j) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act).

(Cases When a Notification of Change Is Required)

Article 223 The cases to be specified by Cabinet Office Order as referred to in Article 60-5, paragraph (2) of the Act are as follows:

- (i) if the authorized transaction-at-exchange operator has suspended or resumed the business at its head office or transaction-at-exchange offices (in the case of a transaction-at-exchange office, limited to business pertaining to a transaction at exchange);
- (ii) if the authorized transaction-at-exchange operator has merged with another corporation, if it has had the business of the authorized transaction-at-exchange operator succeeded through a split, if it has succeeded to all or part of any other corporation's business through a split, if it has transferred a material part of the business of the authorized transaction-at-exchange operator, or if it has acquired all or a material part of any other corporation's business;
- (iii) if the authorized transaction-at-exchange operator has filed a petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings, or if it has filed the same type of petition in the state where its head office or principal office is located, pursuant to the laws and regulations of that state;
- (iv) if the authorized transaction-at-exchange operator has changed its articles of incorporation (limited to any material change such as a change to the parts pertaining to its transaction-at-exchange operations);
- (v) if the authorized transaction-at-exchange operator has commenced transaction-at-exchange operations;
- (vi) if the authorized transaction-at-exchange operator has come to fall under a person as specified in Article 60-3, paragraph (1), item (i), (a), (b), (d) through (f), or (g) (limited to the parts pertaining to the provisions of the

- laws and regulations of the foreign state which correspond to the Act or the Act on the Provision of Financial Services) or (h) of that paragraph;
- (vii) if the authorized transaction-at-exchange operator has become aware that any of its officers, etc. has come to fall under Article 199, item (ii), sub-item (a) or (b);
  - (viii) if the net assets has become less than the amount of the stated capital (other than if item (vi) applies);
  - (ix) if the authorized transaction-at-exchange operator has been subject to any adverse disposition from the administrative agencies pursuant to the laws and regulations of the foreign state which correspond to the Act (limited to the disposition related to the same type of transactions as the transaction-at-exchange, and excluding cases in which item (vi) applies);
  - (x) if the authorized transaction-at-exchange operator has become aware that any of its officers or employees has committed any act in violation of the laws and regulations, etc. (with regard to any act pertaining to the business other than the transaction-at-exchange operation or a business incidental thereto, limited to the acts which may have a material impact on the business operation or status of property of such authorized transaction-at-exchange operator; referred to as the "problematic conduct, etc." in the following item);
  - (xi) if the details of the problematic conduct, etc. for which a notification was made under the preceding item have been revealed; and
  - (xii) if the business pertaining to high-speed trading was commenced as part of transaction-at-exchange operations.

(Notification on Change of Contents or Method of Business)

Article 224 An authorized transaction-at-exchange operator which intends to file the notification under Article 60-5, paragraph (2) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification containing the particulars and date of and the reasons for the change, attaching a document specified in the following items in accordance the categories of documents set forth respectively therein:

- (i) if there has been any change to the matters listed in the items of Article 220: a document stating the matters listed in the items of that Article (limited to the matters whose particulars were changed) and a document listed in Article 221, item (xi) (limited to the matters whose particulars were changed);
- (ii) the cases falling under item (ii) of the preceding Article (limited to the case of a merger): the following documents:
  - (a) the document stating the contents of the merger agreement and the procedures for the merger;
  - (b) the latest balance sheets of the parties (including notes in reference

- thereto; hereinafter the same applies in this Article);
- (c) the net assets after the completion of the merger; and
  - (d) the document stating the means of treatment of the customers' accounts;
- (iii) the cases falling under item (ii) of the preceding Article (but only if the authorized transaction-at-exchange operator has succeeded to all or part of any other corporation's business through a split): the following documents:
- (a) the document stating the contents of the absorption-type split agreement and the procedures for the split;
  - (b) the latest balance sheets of the parties; and
  - (c) the document stating the net assets after the completion of the split;
- (iv) the cases falling under item (ii) of the preceding Article (but only if the authorized transaction-at-exchange operator has acquired all or part of any other corporation's business): the following documents:
- (a) the document stating the contents of the business acquisition contract and the procedures for the acquisition of the business;
  - (b) the latest balance sheets of the parties; and
  - (c) the document specifying the net assets after the acquisition of the business;
- (v) the cases falling under item (iii) of the preceding Article: the following documents:
- (a) the copies of the documents related to the filing of petitions for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of liquidation proceedings; and
  - (b) the latest daily accounts sheet;
- (vi) the cases falling under item (iv) of the preceding Article: the amended articles of incorporation;
- (vii) the cases falling under item (vi) of the preceding Article (but only if the authorized transaction-at-exchange operator has come to fall under Article 60-3, paragraph (1), item (i), (a) of the Act): the following documents:
- (a) a certificate of the registered matters of the company, or any other document in lieu thereof; and
  - (b) a copy of the minutes of the shareholders meeting;
- (viii) the cases falling under item (vi) of the preceding Article (but only if the authorized transaction-at-exchange operator has come to fall under Article 60-3, paragraph (1), item (i), (f) of the Act): a document specifying the calculation of the net assets as of the day when the net assets become less than the amount specified in Article 17-9, paragraph (1) of the Order;
- (ix) the cases falling under item (vi) of the preceding Article (but only if the authorized transaction-at-exchange operator has come to fall under Article 60-3, paragraph (1), item (i), (g) of the Act): the following document:



- (a) a copy of the written order for rescission, or any other document in lieu thereof; and
- (b) a copy of the laws and regulations of the foreign state and the Japanese translation thereof;
- (x) the cases falling under item (vi) of the preceding Article (but only if the authorized transaction-at-exchange operator has come to fall under Article 60-3, paragraph (1), item (i), (h) of the Act): a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- (xi) the cases falling under item (vii) of the preceding Article (but only if any officer, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act): a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings;
- (xii) the cases falling under item (vii) of the preceding Article (but only if any of the officers, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act): a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- (xiii) the cases falling under item (vii) of the preceding Article (but only if any of the officers, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state): a copy of the written order for the rescission or discontinuation of business or any other document in lieu thereof, as well as a copy of the laws and regulations of the foreign state which served as the basis of such rescission and discontinuation of business and the Japanese translation thereof;
- (xiv) the cases falling under item (viii) of the preceding Article: a document stating the calculation of the net assets; and
- (xv) the cases falling under item (ix) of the preceding Article: a copy of the laws and regulations of the foreign state providing for the adverse disposition, and the Japanese translation thereof.

(Books and Documents Related to Business Affairs)

Article 225 (1) The books and documents to be prepared and preserved by an authorized transaction-at-exchange operator pursuant to the provisions of Article 46-2 of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act are the books and documents specified in Article 157, paragraph (1), items (iii), (iv), (vi), (ix), (x) and (xiii) of this Cabinet Office Order, or the documents prepared under the laws and regulations of a foreign state which are similar to such books and documents (hereinafter referred to as the

"foreign books and documents" in this paragraph; or, if the foreign books and documents are prepared in any foreign language, the following documents (referred to as the "foreign books and documents, etc." in the following paragraph)):

- (i) the foreign books and documents; and
  - (ii) the Japanese translations of the forms of the foreign books and documents.
- (2) From among the books and documents prescribed in the preceding paragraph, the books and documents specified in Article 157, paragraph (1), item (iii) and the foreign books and documents, etc. similar thereto must be preserved for a period of seven years from the day of the preparation thereof, and the books and documents specified in Article 157, paragraph (1), items (iv), (vi), (ix), (x) and (xiii) of that paragraph and the foreign books and documents, etc. similar thereto must be preserved for a period of ten years from the day of the preparation thereof.

(Submission of Business Reports)

Article 226 A business report prescribed in Article 46-3, paragraph (1) of the Act as applied *mutatis mutandis* pursuant to Article 60-6 of the Act must be prepared in accordance with Appended Form No. 19.

(Procedures for Obtaining Approval on Time Limits for the Submission of Business Reports)

Article 227 (1) An authorized transaction-at-exchange operator which intends to obtain an approval under the proviso to Article 17-10, paragraph (1) of the Order must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency or other competent official:

- (i) the trade name;
  - (ii) the period for submission of the business report regarding which the approval is sought;
  - (iii) the last day of the business year pertaining to the business report; and
  - (iv) the reason for seeking the approval with regard to the submission of the business report.
- (2) The following documents must be attached to the written application for the approval set forth in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) the document evidencing that the representative of the authorized transaction-at-exchange operator as specified in the written application for approval has been duly authorized to submit such written application; and
  - (iii) the letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or

practices as set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.

- (3) If the application for approval set forth in paragraph (1) has been filed, and if the Commissioner of the Financial Services Agency or other competent official finds that it is impossible for the authorized transaction-at-exchange operator to submit the business report within three months after the end of its business year due to the laws and regulations or practices of its own state, the commissioner or official is to grant approval with regard to the business report covering the period between the business year containing the day of the filing of such application (if such day falls in a day within three months after the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) and the business year immediately preceding the business year containing the day when the reasons specified in paragraph (1), item (iv) on which the application was filed would be extinguished or changed.
- (4) The approval set forth in the preceding paragraph is to be granted on the condition that the authorized transaction-at-exchange operator set forth in that paragraph submits documents stating the following particulars to the Commissioner of the Financial Services Agency or other competent official within three months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Procedures for Obtaining Approval on Time Limit for Submission of Other Documents)

- Article 228 (1) An authorized transaction-at-exchange operator which intends to obtain an approval under the proviso to Article 17-10, paragraph (3) of the Order must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency or other competent official:
- (i) the trade name;

- (ii) the period for the submission of those other documents, etc. (meaning the documents specified in Article 49-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act; hereinafter the same applies in this Article) regarding which the approval is sought;
  - (iii) the last day of the business year pertaining to the other documents, etc.;  
and
  - (iv) the reason for seeking the approval with regard to the submission of the other documents, etc.
- (2) The following documents must be attached to a written application as set forth in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) the document evidencing that the representative of the authorized transaction-at-exchange operator as stated in the written application for approval has been duly authorized to submit such written application for approval; and
  - (iii) the letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to the laws and regulations or practices set forth in the written application for approval, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval set forth in paragraph (1) has been filed, and if the Commissioner of the Financial Services Agency or other competent official finds that it is impossible for an authorized transaction-at-exchange operator to submit the other documents, etc. within three months after the end of the business year due to the laws and regulations or practices of its own state, the commissioner or official is to grant approval with regard to the other documents, etc. covering the business year containing the day of the filing of such application (if such day falls in a day within three months after the commencement of the business year (if the approval has been granted with regard to the submission of other documents, etc. covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in paragraph (1), item (iv) for which the application was filed would be extinguished or changed.
- (4) The approval set forth in the preceding paragraph is to be granted on the condition that the authorized transaction-at-exchange operator set forth in that paragraph submits to the Commissioner of the Financial Services Agency or other competent official documents stating the following particulars within three months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that

has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:

- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
- (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Report on the Status of Business or Properties)

Article 229 (1) The provisions of Article 173 (excluding item (ii)) apply mutatis mutandis to a report on the status of the transaction-at-exchange operation or properties of the authorized transaction-at-exchange operator as prescribed in Article 46-3, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act.

(2) The provisions of Article 194, paragraph (1) apply mutatis mutandis to the documents on financial calculation as prescribed in Article 49-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act, and the provisions of Article 194, paragraph (2) apply mutatis mutandis to the documents summarizing the business as prescribed in Article 49-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act, respectively. In this case, the term "Article 49-3, paragraph (1) of the Act" in Article 194, paragraphs (1) and (2) is deemed to be replaced with "Article 49-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act", and the term "as applied pursuant to Article 49, paragraph (1) following the deemed replacement of terms" is deemed to be replaced with "as applied mutatis mutandis pursuant to Article 60-6".

(Public Notice of Rescission of Permission)

Article 230 The public notices under Article 60-8, paragraph (3) of the Act are to be made by means of publication in the Official Gazette.

(Establishment of the Operational Control System for High-Speed Trading)

Article 230-2 The operational control system to be established by an authorized transaction-at-exchange operator (limited to a firm engaged in high-speed trading as part of the transaction-at-exchange operation) pursuant to Article 35-3 of the Act as applied mutatis mutandis pursuant to Article 60-13 of the Act must satisfy the following requirements:

- (i) that internal rules, etc. (meaning internal rules and other rules equivalent thereto) for securing the appropriate execution of the transaction-at-exchange operation pertaining to the high-speed trading are established, and

- training for employees and other measure are conducted to ensure compliance with the internal rules, etc.; and
- (ii) that the measures to ensure sufficient management of the electronic data processing systems and other facilities for the high-speed trading have been taken.

(Acts Equivalent to the Act of Accepting Entrustment of Purchase and Sale of Securities Pertaining to High-Speed Trading to Be Conducted by Persons Other Than High-Speed Traders)

Article 230-3 The acts to be specified by Cabinet Office Order as referred to in Article 38, item (viii) of the Act as applied mutatis mutandis pursuant to Article 60-13 of the Act are the acts specified in the items of Article 116-4.

(Prohibited Acts in Relation to Transaction-at-Exchange Operations)

Article 231 (1) The acts to be specified by Cabinet Office Order as referred to in Article 38, item (ix) of the Act as applied mutatis mutandis pursuant to Article 60-13 of the Act are as follows:

- (i) an act of any officer (if the officer is a corporation, including executive members thereof), representative person in Japan or employee of the authorized transaction-at-exchange operator to conduct the purchase and sale or other transaction of securities by taking advantage of the business position and by the use of information on ordering trends in the customers' purchase and sale or other transaction of securities and any other special information which may come to the person's knowledge in the course of duties;
- (ii) becoming entrusted, etc. with the purchase and sale or other transaction of securities, knowing that the customer's purchase and sale or other transaction of securities violates or may violate the provisions of Article 166, paragraph (1) or (3) or Article 167, paragraph (1) or (3) of the Act;
- (iii) an act of soliciting a customer in connection with the purchase and sale or any other transaction of securities or derivative transactions pertaining to securities, or in connection with an intermediation, brokerage, or agency therefor, providing such customer with corporate information on the issuer of such securities;
- (iii)-2 an act of soliciting a customer in connection with the purchase and sale or any other transaction of securities, derivative transactions pertaining to securities (hereinafter collectively referred to as "purchase and sale, etc." in this item), or intermediation, brokerage, or agency for it, recommending the customer to implement the purchase and sale, etc. for the purpose of having the customer gain profit or avoid causing loss with the customer by having the customer implement the purchase and sale, etc. before corporate

- information on the issuer of the securities is disclosed (excluding the act listed in the preceding item);
- (iv) an act of conducting the purchase and sale or other transaction of securities (if the conduct of such purchase and sale or other transaction of securities is a purchase and sale of securities, excluding the purchase and sale of securities effected upon the exercise of the options (including the rights similar to options, which pertain to the foreign market derivatives transactions similar to the transaction set forth in Article 28, paragraph (8), item (iii), (c), 1. of the Act)) pertaining to the corporate information, on its own account and based on such corporate information;
  - (v) an act of soliciting unspecified and many customers in relation to the purchase or sale of the securities or market transactions of derivatives of a specified and small number of issues, or in relation to the entrustment, etc. therefor, simultaneously and in an excessively aggressive manner continuously over a certain period, which is likely to prejudice the formation of a fair price (in the case of a market transaction of derivatives, the matter equivalent to the price);
  - (vi) an act of conducting the purchase, sale or derivative transaction pertaining to the listed financial instruments, etc. or of making an application or entrustment, etc. therefor, for the purpose of 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 for the purpose of increasing the transaction volumes;
  - (vii) becoming entrusted, etc. with the purchase, sale or derivative transactions pertaining to the listed financial instruments, etc. (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 increasing the transaction volumes thereof will result in the formation of manipulative quotations which do not reflect the actual market status;
  - (viii) if an authorized transaction-at-exchange operator which has effected stabilizing transaction or has become entrusted, etc. therefor (excluding an acceptance of entrustment, etc. for brokerage for clearing of securities, etc.), becoming entrusted, etc. with purchasing of, or selling the share certificates, market value share option certificates, market value corporate bond certificates with share options, preferred equity securities, investment securities or market value investment equity subscription rights certificates issued by the issuer of the securities subject to such stabilizing transaction (excluding becoming entrusted, etc. with purchasing from a financial

instruments business operator, etc., sale to a financial instruments business operator, etc., and brokerage for clearing of securities, etc. pertaining to sale), or becoming entrusted, etc. (excluding becoming entrusted, etc. from a financial instruments business operator, etc.) with transactions of securities-related derivatives, etc. pertaining to the purchase and sale of such securities (limited to the acquisition of calls or granting of puts), within the period between the time of the first stabilizing transaction it effected and the last day of the period for stabilizing transactions set forth in Article 24, paragraph (1) of the Order, without disclosing the fact that stabilizing transaction was effected with regard to such securities subject to the stabilizing transaction.

- (ix) while knowing that a customer is likely to conduct a Derivative Transaction in violation of Article 185-22, paragraph (1), Article 185-23, paragraph (1) or Article 185-24, paragraph (1) or (2) of the Act (including a transaction conducted in relation to an act violating any of these provisions), conducting such a transaction or becoming entrusted, etc. with doing so;
- (x) an act to conduct a derivative transaction for cryptoassets, or file an application therefor or make Entrustment, etc. thereof for the purpose of causing fluctuations in the quotations of cryptoassets or the figures calculated based on the quotations or transaction volumes thereof or for the purpose of increasing the transaction volumes thereof; and
- (xi) becoming entrusted, etc. with a derivative transaction for cryptoassets (excluding Brokerage for Clearing of Securities, etc.) while knowing that it will result in manipulative quotations not reflecting actual market status through causing fluctuations in the quotations of cryptoassets or the figures calculated based on the quotations or transaction volumes thereof, or by increasing the transaction volumes thereof.

- (2) The provisions of items (vi) and (vii) of the preceding paragraph do not apply if a series of purchase and sale of securities, etc. or the entrustment, etc. thereof is to be made, if such series of purchase and sale of securities, etc. is to be conducted on a financial instruments exchange market so as to facilitate a public offering of securities (limited to the public offering made to 50 or more persons), solicitation for acquisition only for professional investors (limited to the solicitation made to 50 or more persons), secondary distribution of securities (limited to such distribution made to 50 or more persons) or solicitation for selling, etc. only for professional investors (limited to such solicitation made to 50 or more persons).

(Circumstances Where the State of the Operation of Business Is Likely to Go Against Public Interest or Compromise the Protection of Investors)

Article 232 The circumstances to be specified by Cabinet Office Order as referred



to in Article 40, item (ii) of the Act as applied mutatis mutandis pursuant to Article 60-13 of the Act are as follows:

- (i) if, in connection with the management of corporate information which the authorized transaction-at-exchange operator handles or management related to a customer's purchase and sale or other transaction of securities, it is found that the authorized transaction-at-exchange operator has not taken the measures necessary and appropriate for the prevention of an unfair transaction pertaining to the corporate information;
- (ii) if it is found that the authorized transaction-at-exchange operator has not established the trading management sufficient for prevention of making an application, entrustment, etc. for or becoming entrusted, etc. with the sale, purchase or derivative transactions pertaining to the listed financial instruments, etc., which may result in the formation of a manipulative quotation not reflecting actual market status by causing fluctuation, pegging, fixing or stabilizing the quotation of, or the figures calculated based on the quotation or transaction volumes of, the listed financial instruments, etc. on the financial instruments exchange market, or by increasing the transaction volumes thereof;
- (iii) if the management of an electronic data processing system for transaction-at-exchange operation is found to be insufficient (in the case of an authorized transaction-at-exchange operator which conducts high-speed trading as part of the transaction-at-exchange operation, including the situation provided in Article 66-57, item (i) of the Act).
- (iv) where it is found that the Authorized Transaction-at-Exchange Operator has not taken measures, with regard to the cryptoasset-related derivatives transactions, etc. that it conducts, to examine whether a customer is not in violation of the provisions of Article 185-22, paragraph (1), Article 185-23, paragraph (1), or Article 185-24, paragraph (1) or (2) of the Act, in accordance with the trends and content of orders pertaining to cryptoasset-related derivatives transactions, etc. placed by the customer of Transaction-at-Exchange Operation (limited to operation pertaining to transaction-at-exchange for cryptoassets; hereinafter the same applies in this item), the situations of cryptoasset-related derivatives transactions, etc. or other circumstances, and if the customer is suspected to violate these provisions, to suspend transactions pertaining to Transaction-at-Exchange Operation with said customer, or other measures necessary for preventing unfair acts in relation to cryptoasset-related derivatives transactions, etc.; and
- (v) where it is found that the Authorized Transaction-at-Exchange Operator has not established the trading management sufficient for preventing derivative transactions for cryptoassets, etc. or making an application, entrustment, etc. or becoming entrusted, etc., which may result in the

formation of manipulative quotations not reflecting actual market status through causing fluctuations in the quotations of cryptoassets or figures calculated based on quotations or the transaction volumes thereof, or by increasing the transaction volumes thereof.

#### **Subsection 4 Permission for the Business of Conducting Electronic Over-the-Counter Derivatives Transactions, etc.**

(Application for Permission)

Article 232-2 A person that intends to obtain a permission under Article 60-14, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency a written application for permission under Article 60-2, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act prepared using Appended Form 19-2, attaching a copy of the written application for permission and the documents to be attached to the written application for permission pursuant to Article 60-2, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act.

(Matters to Be Stated in Written Application for Permission)

Article 232-3 The matter to be specified by Cabinet Office Order as referred to in Article 60-2, paragraph (1), item (xi) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act is the day of the commencement of the business of the same type as the business of conducting electronic over-the-counter derivatives transactions, etc..

(Business Contents and Business Methods)

Article 232-4 The contents and method of business to be specified by Cabinet Office Order as referred to in Article 60-2, paragraph (3), item (ii) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act are as follows:

- (i) the basic principles of business operations;
- (ii) the method of execution of business;
- (iii) the allocation of business operations;
- (iv) the types and specific details of the specified over-the-counter derivatives transactions to be conducted in relation to the business of conducting electronic over-the-counter derivatives transactions, etc.;
- (v) the system for handling complaints;
- (vi) the status of securing officers and employees with knowledge on the Japanese laws and regulations related to financial instruments transactions, and the status of the allocation of such officers and employees.

- (vii) the name and job title of the person responsible for the management of the business of conducting electronic over-the-counter derivatives transactions, etc.;
- (viii) the name and organizational structure of the section in charge of the business of conducting electronic over-the-counter derivatives transactions, etc. and the section in charge of the business relating to the public announcement under Article 40-7, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act (if a part of the business of conducting electronic over-the-counter derivatives transactions, etc. or a part of the business relating to the public announcement under Article 40-7, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act is to be entrusted to any other person, including such person);
- (ix) the conditions for starting transactions with customers pertaining to the business of conducting electronic over-the-counter derivatives transactions, etc., and the methods of management of the customers;
- (x) the matters relating to the fees;
- (xi) the method of disclosing quotes for the sale or purchase and other pricing information to customers (limited to the method using an electronic data processing system or other electronic methods);
- (xii) the method for deciding the transaction price (for a specified over-the-counter derivatives transactions, if the amount designated by the party as a notional principal does not exceed the amount specified in the items of Article 125-8, paragraph (2) according to the categories of periods from the day when the specified over-the-counter derivatives transaction takes effect to the day when such transaction ceases to be in effect as respectively specified in these items, limited to the method enabling customers to choose either the method specified in the following (a), or the method specified in the following (a) or (b), as well as the time when the transaction takes effect:
  - (a) the method using a price based on quotes for the sale or purchase of itself or customers publicized pursuant to the preceding item;
  - (b) the method using a price determined based on a negotiation among customers (limited to a negotiation conducted after requesting three or more other customers designated by the customer to present quotes for the sale or purchase, and notifying the customer of the quotes for sale or purchase presented by the other customers in response to the request, the quotes for sale or purchase publicized pursuant to the preceding item, and the quotes if the applicant for registration presents the quotes for sale or purchase);
- (xiii) the method of the public announcement under Article 40-7, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph

- (2) of the Act;
- (xiv) the outline, location, volume and maintenance method of the electronic data processing system to be used for the business of conducting electronic over-the-counter derivatives transactions, etc., and the method of handling if a malfunction of the electronic data processing system occurs;
  - (xv) the method of settlement of the business of conducting electronic over-the-counter derivatives transactions, etc. (including the method of ensuring that the obligations arising from the transactions specified in Article 156-62, item (i) or (ii) of the Act are assumed by a financial instruments clearing organization (including a collaborating clearing organization, etc., if the financial instruments clearing organization conducts collaborative financial instruments obligation assumption service) or a foreign financial instruments clearing organization in an appropriate and swift manner), and the method of handling if a customer defaults on a contract;
  - (xvi) the method for the preparation and preservation of the transaction records for the business of conducting electronic over-the-counter derivatives transactions, etc.;
  - (xvii) the frequency of the inspection on the status of the execution of the business of conducting electronic over-the-counter derivatives transactions, etc., and the name and structure of the section in charge of such inspection (including the person if a part of the business is to be entrusted to other persons);
  - (xviii) the means of the prevention of unfair transactions, and any other matters relating to the securing of fair transactions; and
  - (xix) other important matters in regard to methods of management of risks of loss relating to the electronic trading platform management service.

(Documents to Be Attached to a Written Application for Permission)

Article 232-5 The documents to be specified by Cabinet Office Order as referred to in Article 60-2, paragraph (3), item (vi) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act are the following documents.

- (i) the minutes of the board of officers, etc. resolving the commencement of the business of conducting electronic over-the-counter derivatives transactions, etc.;
- (ii) a document evidencing that the applicant has obtained registrations, etc. in all states where its head office and offices for electronic over-the-counter derivatives transactions, etc. (meaning offices for electronic over-the-counter derivatives transactions, etc. provided for in Article 60-2, paragraph (1), item (iii) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act following the deemed replacement of terms; the

- same applies hereinafter) are located;
- (iii) a document evidencing that the applicant has been continuously engaged in the business related to the same type of transactions as the business of conducting electronic over-the-counter derivatives transactions, etc. at all of its offices for electronic over-the-counter derivatives transactions, etc. for at least one year, or that the applicant falls under the case specified in Article 17-10-4, paragraph (2) of the Order;
  - (iv) a document stating the calculated net assets;
  - (v) the resumes of the applicant's officers, its representative persons in a state where offices for electronic over-the-counter derivatives transactions, etc. are located (meaning the representative person in state where its offices for electronic over-the-counter derivatives transactions, etc. are located prescribed in Article 60-2, paragraph (1), item (iii) of the Act as applied mutatis pursuant to Article 60-14, paragraph (2) of the Act following the deemed replacement of terms), and its representative person in Japan (hereinafter collectively referred to as the "officers, etc." in this Subsection) (if any of the officers is a corporation, a document containing the background of the officers);
  - (vi) the extracts of the certificates of residence of the officers, etc. (if any of the officers is a corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
  - (vii) if the former surname and given name of an officer, etc. are stated together with the current name of the officer, etc. in a written application for permission under Article 60-2, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act, and the document specified in the preceding item is not a document certifying the former surname and given name of the officer, etc., a document certifying the former surname and given name;
  - (viii) the certificates issued by a public agency evidencing that none of the officers, etc. falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  - (ix) documents in which the officer, etc. pledges that the officer, etc. does not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (g) of the Act;
  - (x) the resume of the person responsible for the management of the business of conducting electronic over-the-counter derivatives transactions, etc.;
  - (xi) internal rules concerning the business of conducting electronic over-the-counter derivatives transactions, etc.;
  - (xii) contracts and their attachments to be used for the transactions with customers in relation to the business of conducting electronic over-the-counter derivatives transactions, etc.;

- (xiii) a document stating the measures to be taken for the prevention of unfair transactions, in relation to the electronic data processing system to be used for the business of conducting electronic over-the-counter derivatives transactions, etc.; and
- (xiv) an appraisal report issued by a person having no special interest relationship with the applicant for permission in relation to the matters specified in item (xiv) of the preceding Article.

(Criteria for Examination of the Structure of Personnel)

Article 232-6 When conducting an examination under Article 60-3, paragraph (1), item (i), (k) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act following the deemed replacement of terms as to whether the applicant for permission lacks a structure of personnel sufficient to conduct an business of conducting electronic over-the-counter derivatives transactions, etc. in the appropriate manner, it is to be examined whether the applicant falls under any of the following criteria:

- (i) that the applicant for permission is found not to be able to conduct the business in a proper manner, considering status of securing officers or employees having sufficient knowledge and experience for conducting the business as well as its organizational structure; and
- (ii) that the applicant for permission is found to be likely to cause a loss of confidence in an business of conducting electronic over-the-counter derivatives transactions, etc., on the grounds of having any officer or employee with qualities unfit for the operation of the business in light of such officer's or employee's career, relationship with the organized crime group specified in Article 2, item (ii) of the Act on Prevention of Illegal Acts by Organized Crime Group Members or relationship with the organized crime group members set forth item (vi) of that Article or any other circumstances;

(Notification of Change in Matters Stated in Written Application for Authorization)

Article 232-7 A business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. which submits a notification pursuant to Article 60-5, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act must submit to the Commissioner of the Financial Services Agency a written notification stating the details of the change, change date and the reason for the change, attaching a document stating the content after the change prepared using Appended Form 19-2 and a copy thereof, as well as the documents specified in the following items according to the categories as respectively specified in these items:

- (i) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (i) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act: the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (ii) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (ii) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act: the following documents:
  - (a) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
  - (b) the document stating the increase or decrease in the net assets due to such change;
- (iii) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (iii) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act: the following documents:
  - (a) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
  - (b) the following documents relevant to the person that has newly assumed positions as officer:
    1. the resume (if the officer is a corporation, a document containing the background of the officer);
    2. the extracts of the certificates of residence (if any of the officers is a corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
    3. if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 19-2, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
    4. the certificates issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof; and
    5. the documents in which the officer pledges that the officer does not fall under Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (g) of the Act;
    6. the documents to pledge that the application for permission does not fall under Article 60-3, paragraph (1), item (i), sub-item (j) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act) as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act; and
- (iv) if there has been any change to the matters specified in Article 60-2,

- paragraph (1), item (v) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act (but only if the name of the office, etc. of over-the-counter derivatives transactions was changed): the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (v) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (vi) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act (but only if the other business was commenced): a document stating the contents of such other business;
- (vi) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (viii) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act (but only if any office or other facility has been established in Japan): a document stating the organizational structure and positions of personnel for the office or other facilities so established;
- (vii) if there has been any change to the matters specified in Article 60-2, paragraph (1), item (ix) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act: the following documents:
- (a) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (b) the following documents in relation to the person that has newly assumed the position of the representative person in Japan:
1. resume; and
  2. the extract of the representative's certificate of residence, or any other document in lieu thereof;
  3. if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 19-2, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  4. the certificates issued by a public agency evidencing that none of the Officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof; and
  5. the documents in which the representative person in Japan pledges that the representative person in Japan does not fall under Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (g) of the Act.
  6. the documents to pledge that the application for permission does not fall under Article 60-3, paragraph (1), item (i), sub-item (j) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act) as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act.



(Cases When Notification of Change Is Required)

Article 232-8 The cases to be specified by Cabinet Office Order as referred to in Article 60-5, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act are the following cases:

- (i) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has suspended or resumed the business at its head office and offices for electronic over-the-counter derivatives transactions, etc. (in the case of offices for electronic over-the-counter derivatives transactions, etc., limited to the business pertaining to an electronic over-the-counter derivatives transactions, etc.);
- (ii) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has merged with another corporation, if it has had the business of the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. succeeded through a split, if it has succeeded to all or part of any other corporation's business through a split, if it has transferred a material part of the business of the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc., or if it has acquired all or a material part of any other corporation's business;
- (iii) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has filed a petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings, or if it has filed the same type of petition in the state where its head office or principal office is located, pursuant to the laws and regulations of that state;
- (iv) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has changed its articles of incorporation (limited to any material change such as a change to the parts pertaining to its business of conducting electronic over-the-counter derivatives transactions, etc.);
- (v) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has commenced the business of conducting electronic over-the-counter derivatives transactions, etc.;
- (vi) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has come to fall under a person as specified in Article 60-3, paragraph (1), item (i), (a), (b), (e), (f), (g) (limited to the parts pertaining to the provisions of the laws and regulations of the foreign state which correspond to the Act or the Act on the Provision of Financial Services) or (h) of that paragraph as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act;

- (vii) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has become aware that any of its officers, etc. has come to fall under Article 199, item (ii), sub-item (a) or (b);
- (viii) if the net assets has become less than the amount of the stated capital (other than if item (vi) applies);
- (ix) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has been subject to any adverse disposition from the administrative agencies pursuant to the laws and regulations of the foreign state which correspond to the Act (limited to the disposition related to the same type of transactions as the business of conducting electronic over-the-counter derivatives transactions, etc., and excluding a case in which item (vi) applies);
- (x) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has become aware that any of its officers or employees has committed any act in violation of the laws and regulations, etc. (with regard to any act pertaining to the business other than the business of conducting electronic over-the-counter derivatives transactions, etc. or a business incidental thereto, limited to the acts which may have a material impact on the business operation or status of property of such business operator authorized to conduct electronic over-the-counter derivatives transactions, etc.; referred to as the "problematic conduct, etc." in the following item); and
- (xi) if the details of the problematic conduct, etc. for which a notification was made under the preceding item have been revealed.

(Notification of Change in Contents or Methods of Business)

Article 232-9 A business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. which submits a notification pursuant to Article 60-5, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act must submit to the Commissioner of the Financial Services Agency a written notification stating the details of the change, change date and the reason for the change, attaching the documents specified in the following items according to the categories as respectively specified in these items:

- (i) if there has been any change to the matters specified in the items of Article 232-4: a document stating the matters specified in the items of that Article (limited to the matters whose particulars were changed);
- (ii) the cases falling under item (ii) of the preceding Article (limited to the case of a merger): the following documents:
  - (a) the document stating the contents of the merger agreement and the procedures for the merger;

- (b) the latest balance sheets of the parties (including notes in reference thereto; hereinafter the same applies in this Article);
- (c) the net assets after the completion of the merger and
- (d) the document stating the method of treatment of the customers' accounts.
- (iii) the cases falling under item (ii) of the preceding Article (but only if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has succeeded to all or part of any other corporation's business through a split): the following documents:
  - (a) the document stating the contents of the absorption-type split agreement and the procedures for the split;
  - (b) the latest balance sheets of the parties; and
  - (c) the document stating the net assets after the completion of the split.
- (iv) the cases falling under item (ii) of the preceding Article (but only if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has acquired all or part of any other corporation's business): the following documents:
  - (a) the document stating the contents of the business acquisition contract and the procedures for the acquisition of the business;
  - (b) the latest balance sheets of the parties; and
  - (c) the document specifying the net assets after the acquisition of the business;
- (v) the cases falling under item (iii) of the preceding Article: the following documents:
  - (a) the copies of the documents related to the filing of petitions for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of liquidation proceedings; and
  - (b) the latest daily accounts sheet.
- (vi) the cases falling under item (iv) of the preceding Article: the amended articles of incorporation;
- (vii) the cases falling under item (vi) of the preceding Article (but only if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has come to fall under Article 60-3, paragraph (1), item (i), (a) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act): the following documents:
  - (a) a certificate of the registered matters of the company, or any other document in lieu thereof; and
  - (b) a copy of the minutes of the shareholders meeting.
- (viii) the cases falling under item (vi) of the preceding Article (but only if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has come to fall under Article 60-3, paragraph

- (1), item (i), (f) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act): a document specifying the calculation of the net assets as of the day when the Net Assets become less than the amount specified in Article 17-10-5, paragraph (1) of the Order;
- (ix) the cases falling under item (vi) of the preceding Article (but only if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has come to fall under Article 60-3, paragraph (1), item (i), (g) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act): the following document:
- (a) a copy of the written order for rescission, or any other document in lieu thereof; and
- (b) a copy of the laws and regulations of the foreign state and the Japanese translation thereof;
- (x) the cases falling under item (vi) of the preceding Article (but only if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has come to fall under Article 60-3, paragraph (1), item (i), (h) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act): a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- (xi) the cases falling under item (vii) of the preceding Article (but only if any officer, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act): a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings;
- (xii) the cases falling under item (vii) of the preceding Article (but only if any of the officers, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (g) of the Act): a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- (xiii) the cases falling under item (vii) of the preceding Article (but only if any of the officers, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state): a copy of the written order for the rescission or discontinuation or any other document in lieu thereof, as well as a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation and the Japanese translation thereof;
- (xiv) the cases falling under item (viii) of the preceding Article: a document stating the calculation of the net assets; and
- (xv) the cases falling under item (ix) of the preceding Article: a copy of the laws and regulations of the foreign state providing for the adverse disposition, and

the Japanese translation thereof.

(Books and Documents Related to Business Affairs)

Article 232-10 (1) The books and documents to be prepared and preserved by a business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. pursuant to Article 46-2 of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act are the books and documents specified in Article 157, paragraph (1), items (iii), (iv) and (xv)-2 or documents similar thereto prepared under the laws and regulations of a foreign state (hereinafter referred to as "foreign books and documents" in this Article, and if the foreign books and documents are prepared in a foreign language, the following documents):

(i) the foreign books and documents; and

(ii) a Japanese translation of the forms of the foreign books and documents.

(2) The books and documents or foreign books and documents provided in the preceding paragraph (including the translations of forms of the foreign books and documents) must be preserved for ten years from the date of preparation thereof.

(Submission of Business Reports)

Article 232-11 A business report provided in Article 46-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act must be prepared using Appended Form 19-3.

(Procedures for Obtaining Approval on Time Limit for Submission of Business Report)

Article 232-12 (1) If a business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. intends to obtain an approval under the proviso to Article 17-10, paragraph (1) of the Order, it must submit to the Commissioner of the Financial Services Agency a written application for approval stating the following particulars:

(i) the trade name;

(ii) the period for which the approval is sought in relation to the submission of the business report;

(iii) the last day of the business year pertaining to the business report; and

(iv) the reasons for seeking the approval with regard to the submission of the business report.

(2) The following documents must be attached to the written application specified in the preceding paragraph:

- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as specified in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval specified in paragraph (1) was filed, and if it is found that impossible for the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. to submit the business report within three months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency is to grant an approval with regard to the business report covering the business year containing the day of the filing of such application (if such day falls within three months from the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in item (iv) of that paragraph for which the application was filed would be extinguished or changed.
- (4) The approval specified in the preceding paragraph is to be granted on the condition that the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. as specified in that paragraph submits to the Commissioner of the Financial Services Agency or other competent official documents stating the following particulars within three months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Procedures for Obtaining Approval on Time Limit for Submission of Other Documents)

Article 232-13 (1) If a business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. intends to obtain an approval under the proviso to Article 17-10, paragraph (3) of the Order, it must submit to the Commissioner of the Financial Services Agency a written application for approval stating the following particulars:

(i) the trade name;

(ii) the period for the submission of other documents, etc. (meaning the documents specified in Article 49-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act; hereinafter the same applies in this Article) for which the approval is sought;

(iii) the last day of the business year pertaining to the other documents, etc.; and

(iv) the reasons for seeking the approval with regard to the submission of the other documents, etc.

(2) The following documents must be attached to the written application specified in the preceding paragraph:

(i) the articles of incorporation, or any other document in lieu thereof;

(ii) a document evidencing that the representative of the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and

(iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as specified in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.

(3) If the application for approval specified in paragraph (1) was filed, and if it is found that impossible for the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. to submit the other document, etc. within three months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency is to grant an approval with regard to the other document, etc. covering the business year containing the day of the filing of such application (if such day falls within three months from the commencement of the business year (if the approval has been granted with regard to the submission of a other document, etc. covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in item (iv) of that paragraph for which the application was filed

would be extinguished or changed.

- (4) The approval specified in the preceding paragraph is to be granted on the condition that the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. as specified in that paragraph submits to the Commissioner of the Financial Services Agency or other competent official documents stating the following particulars within three months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Report on Status of Business or Properties)

- Article 232-14 (1) The provisions of Article 173 (excluding item (ii)) apply mutatis mutandis to a report on the business of conducting electronic over-the-counter derivatives transactions, etc. or properties of a business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. provided in Article 46-3, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act. In this case, the term "Commissioner of the Financial Services Agency or other competent official" in Article 173 is deemed to be replaced with "Commissioner of the Financial Services Agency".
- (2) The provisions of Article 194, paragraph (1) apply mutatis mutandis to the documents relating to financial calculations specified in Article 49-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act, and the provisions of Article 194, paragraph (2) apply mutatis mutandis to a document stating the outline of the business provided in Article 49-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act. In this case, the term "Article 49-3, paragraph (1) of the Act" in Article 194, paragraphs (1) and (2) is deemed to be replaced with "Article 49-3, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 60-6 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act", and the term "as applied pursuant to Article 49, paragraph (1) of the Act following the deemed replacement of terms" in those paragraphs is deemed to be replaced with "as applied mutatis mutandis



pursuant to Article 60-6 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act".

(Public Notice of Rescission of Permission)

Article 232-15 The public notice under Article 60-8, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act is to be made in an Official Gazette.

(Prohibited Acts Relating to the Business of Conducting Electronic Over-the-Counter Derivatives Transactions, etc.)

Article 232-16 The acts to be specified by Cabinet Office Order as referred to in Article 38, item (ix) of the Act as applied mutatis mutandis pursuant to Article 60-13 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act are as follows:

- (i) an act to conduct the specified over-the-counter derivatives transactions, etc. on the customer's account, without the customer's prior consent;
- (ii) an act of soliciting unspecified and many customers to make specified over-the-counter derivatives transactions, etc. of a specified and small portion of the issues, simultaneously and in an excessively aggressive manner continuously over a certain period, which is likely to prejudice the formation of a fair price; and
- (iii) an act of soliciting unspecified and many customers to make specified over-the-counter derivatives transactions, etc. simultaneously and in an excessively aggressive manner continuously over a certain period, with a view to taking advantage of fluctuations in the prices, indicators, figures or the amount of the consideration based on a customer's transaction and thereby to gain own profit or a profit of customer other than such customer.

(Circumstances Where the State of the Operation of Business Is Likely to Go Against Public Interest or Compromise the Protection of Investors)

Article 232-17 The circumstances to be specified by Cabinet Office Order as referred to in Article 40, item (ii) of the Act as applied mutatis mutandis pursuant to Article 60-13 of the Act as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act are as follows:

- (i) if, in connection with the customer's specified over-the-counter derivatives transactions, etc., it is found that the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. has not properly informed the customer of the information necessary for such customer, such as delivery status and other matters;
- (ii) if the management of the electronic data processing system to be used for the business of conducting electronic over-the-counter derivatives

transactions, etc. is found to be insufficient; and  
(iii) if the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. carries out its businesses by the use of a computer connected via telecommunications line, and it is found that it has not taken the appropriate measures for preventing the customer from confusing the business operator authorized to conduct electronic over-the-counter derivatives transactions, etc. with another party.

#### **Subsection 5 Establishment of Institution for Collecting Information**

Article 233 (1) Those whose businesses are closely related to a securities-related business as specified by Cabinet Office Order as referred to in Article 62, paragraph (1) of the Act are as follows:

- (i) a person that conducts an act specified in Article 2, paragraph (8), item (vii) or (xvii) of the Act in the course of trade in a foreign state, in accordance with the laws and regulations of such foreign state;
- (ii) a person that conducts an act specified in Article 2, paragraph (8) item (xvi) of the Act (excluding the acceptance a money deposited by the customers, in connection with the acts listed in items (i) through (x) of that paragraph conducted by such person (excluding the acts which fall under the items of Article 28, paragraph (8) of the Act)) or the acts set forth in Article 1-12, item (ii) of the Cabinet Order in the course of trade in a foreign state, in accordance with the laws and regulations of such foreign state; and
- (iii) a person that operates the same type of business as that operated by a trust company in a foreign state, in accordance with the laws and regulations of such foreign state.

(2) The matters to be specified by Cabinet Office Order as referred to in Article 62, paragraph (1) of the Act are as follows (in the case of a foreign securities service provider which is an individual, the matters specified in items (iv) and (v) are excluded):

- (i) the trade name or name;
- (ii) the location of its head office or principal office;
- (iii) the contents of the business;
- (iv) the amount of the stated capital or the total amount of investment;
- (v) the title and name of the officers having the authority of representation;
- (vi) the following matters related to facilities to be established in Japan:
  - (a) its name;
  - (b) the name and domicile in Japan of the representative person;
  - (c) the reasons for establishment;
  - (d) the number of employees; and
  - (e) the scheduled date of establishment.

## **Section 6 Special Rules on Specially-Permitted Business for Qualified Institutional Investors**

(Counterparties to Specially-Permitted Business for Qualified Institutional Investors)

Article 233-2 (1) The persons specified by Cabinet Office Order as those having a close relationship with the person specified in the preceding item as referred to in Article 17-12, paragraph (1), item (vi) of the Order are as follows:

- (i) an officer or employee of such person specified in the preceding item (such person is hereinafter referred to as a "fund assets investment manager" in this paragraph, Article 234-2, paragraph (1), item (ii), and paragraph (2), item (ii) of that Article);
- (ii) a parent company, etc. or a subsidiary company, etc. of such fund assets investment manager, or a subsidiary company, etc. of such parent company, etc.;
- (iii) a person that has been entrusted with all or part of the authority pertaining to investment of certain fund assets (meaning money and other property that is invested or paid by a person that has equity in business subject to investment pertaining to specially-permitted business for qualified institutional investors, etc.; the same applies in the following item) made by such fund assets investment manager;
- (iv) a person that has concluded a contract with such fund assets investment manager in which the person promises to provide such fund assets investment manager with oral, written (excluding newspapers, magazines, books, or any other written work that is issued for sale to many and unspecified persons and which many and unspecified persons can buy as needed), or any other form of advice about the value, etc. of the subject of transactions conducted by such fund assets investment manager as investment of certain fund assets (such subject is hereinafter referred to as the "transaction asset" in this item) (such value, etc. means the value of the transaction asset, the amount of the consideration for the options, or the trend of an indicator pertaining to the transaction asset; hereinafter the same applies in this item) or about investment decisions (meaning decisions on the type, quantity, and price of assets for investment, as well as whether the transaction is purchase and sale or the means and timing thereof, or decisions on the contents and timing of any transactions to be conducted) based on analysis of the value, etc., and the fund assets investment manager promises to pay remuneration for this, or another person that has concluded a contract with such person in which the person promises to provide such person with such form of advice about such investment decisions, and such

- person promises to pay remuneration for this;
- (v) an officer or employee of any of the persons specified in the preceding three items; and
  - (vi) a relative (limited to the spouse and a relative by blood or affinity within the third degree of kinship) of such fund assets investment manager (limited to one that is an individual) or of any of the persons specified in item (i) and the preceding three items.
- (2) the requirement to be specified by Cabinet Office Order as referred to in Article 17-12, paragraph (1), item (xii) of the Order is to be expected to hold the total amount of assets (limited to the assets specified in Article 62, item (ii), (a) through (g); the same applies in item (i), (a) and item (ii) of the following paragraph and paragraph (4), items (ii) through (iv)) in an amount not less than 10 billion yen, judging reasonably from the status of transactions and other circumstances.
- (3) The requirement to be specified by Cabinet Office Order as referred to in Article 17-12, paragraph (1), item (xiv) of the Order is to fall under either of the following items:
- (i) the individual fulfills all of the following requirements:
    - (a) judging reasonably from the status of the transactions or any other circumstances, the total amount of the assets held by the individual is likely to be 100 million yen or more; and
    - (b) one year has elapsed from the day when the individual opened an account with a financial instruments business operator, etc. (including a person that is treated as being equivalent thereto under the laws and regulations of a foreign state) for securities transactions or derivatives transactions;
  - (ii) the individual is an operating partner, etc. (meaning a partner that has concluded a partnership contract and is designated for the execution of operations of the partnership, a proprietor of a business that has concluded a silent partnership agreement, or a partner that has concluded a limited liability partnership agreement and is involved in the decision-making on the execution of the important business of the partnership, and that also personally executes such business, or a person that is treated as being similar thereto under foreign laws and regulations; hereinafter the same applies in this item and item (iv), (b) of the following paragraph), and the total amount of assets held by such individual as an operating partner, etc. is likely to be 100 million yen or more for the business subject to investment pertaining to the partnership contract, silent partnership agreement, or limited liability partnership agreement, or agreement similar thereto based on foreign laws and regulations, judging reasonably from the status of the transactions or any other circumstances (but only if the individual transacts as an operating partner, etc.).

- (4) The person to be specified by Cabinet Office Order as referred to in Article 17-12, paragraph (1), item (xv) of the Order is the person that falls under any of the following items:
- (i) a public interest incorporated association for which one-fourth or more of the total number of voting rights at its general meeting of members is held by the national or local government or a public interest incorporated foundation for which one-fourth or more of the amount of contribution is contributed by the national or local government, and which is engaged in the business of regional revitalization or industrial promotion as its business for public interest purposes (meaning a business for public interest purposes provided in Article 2, item (iv) of the Act on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundation (Act No. 49 of 2006));
  - (ii) a surviving employee's pension fund whose total amount of assets held is expected to be 10 billion yen or more, judging reasonably from the status of transactions and other circumstances (limited to the fund which has established a structure for the management and investment of pension benefit funds provided in Article 136-3, paragraph (4) of the Former Employees' Pension Insurance Act and which has made a notification under Article 176, paragraph (2) of the Former Employees' Pension Insurance Act which remains in force pursuant to Article 5, paragraph (1) of the Supplementary Provisions to the 2013 Employees' Pension, etc. Revision Act);
  - (iii) a person that is equivalent to a corporate pension fund or to a person specified in the preceding item under the laws and regulations of a foreign state, and, judging reasonably from the status of the transactions or any other circumstances, that is expected have a total amount of assets of 10 billion yen or more; and
  - (iv) a corporation which satisfies any of the following requirements:
    - (a) judging reasonably from the status of the transactions or any other circumstances, the total amount of the assets held by the corporation is likely to be 100 million yen or more; and
    - (b) the corporation is an operating partner, etc., and the total amount of assets held by such corporation as an operating partner, etc. is likely to be 100 million yen or more for the business subject to investment pertaining to the partnership contract, silent partnership agreement, or limited liability partnership agreement, or agreement similar thereto based on foreign laws and regulations, judging reasonably from the status of the transactions or any other circumstances (but only if the individual transacts as an operating partner, etc.);
  - (v) a subsidiary company, etc. or affiliated company, etc. of the following

- persons (meaning an affiliated company, etc.; the same applies in items (xi) and (xii) of the following Article);
- (a) a corporation which is a financial instruments business operator, etc.;
  - (b) a company which is an issuer of share certificates listed on a financial instruments and exchange;
  - (c) a corporation whose amount of stated capital is 50 million yen or more; and
  - (d) a corporation whose amount of net assets (meaning an amount of the assets reported on a balance sheet, deducting the amount of liabilities; the same applies in item (ii) of the following Article) is 50 million yen or more;
- (vi) a company for which, judging reasonably from the status of transactions and other circumstances, the proportion of the total of the amount specified in (b) and (c) to the amount specified in the following (a) in a day is expected to be 70 percent or more, and which holds or invests its assets for its representative (limited to a person that falls under the person specified in Article 17-12, paragraph (1), item (xiv) of the Order; hereinafter the same applies in this Article):
- (a) the aggregate book value of the assets of the company as of the relevant day;
  - (b) the total book value of the following assets (referred to as "specified asset" in item (viii)) as of the relevant day
    1. securities which are not shares or equities of the special subsidiary company of the company;
    2. real properties not currently used by the company by itself (if the company is not currently using a part of the real properties, limited to the relevant part);
    3. rights relating to the use of golf courses or other facilities (excluding the rights held for the use for the business of the company);
    4. paintings, sculptures, crafts and other movables which are tangible cultural outcome, precious metal and jewelry (excluding the rights held for the use for the business of the company); and
    5. cash and deposits with domestic financial institutions and any other assets similar thereto;
  - (c) the amount of the dividend of surplus, etc. (meaning a dividend or surplus or profits pertaining to shares or equities) and salary (including the benefit of release of debts and other economic benefits) paid to the representative of the company or the connected parties of the representative in five years before the relevant day, which are not included in the deductions for the purpose of calculation of the income for each business year of the company pursuant to Articles 34 and 36 of the Corporation Tax Act (Act No. 34 of 1965);

- (vii) an issuer of the equity in foreign business subject to investment (but only if the holder of the right is a qualified institutional investor, an issuer of equity in business subject to investment, persons specified in Article 17-12, paragraph (1), items (i) through (xiv) of the Order or a person specified in the preceding items and the following item); and
  - (viii) a company for which, judging reasonably from the status of transactions and other circumstances, the proportion of the total amount of investment income from the specified assets to the gross income for a single business year is expected to be 75 percent or more, and which holds or invests its assets for the persons specified in the preceding items.
- (5) The term "special subsidiary company" in paragraph (4), item (vi), (b), 1. means the other company if the company and the representative and the connected parties of the representative hold voting rights exceeding 50 percent of the voting rights held by all shareholders, etc. of the other company, in which case the other company falls under neither of the following conditions;
- (i) that the proportion of the total book value of the securities (excluding the shares or equities in the other company if the company and the representative and the connected parties of the representative hold voting rights exceeding 50 percent of the voting rights held by all shareholders, etc. of the other company (including a foreign company)) and the assets specified in paragraph (4), item (vi), (b), 2. through 5. (referred to as "special specific asset" in the following item) to the aggregate book value of the assets is expected to be 70 percent or more, judging reasonably from the status of transactions and other circumstances;
  - (ii) that, judging reasonably from the status of transactions and other circumstances, the proportion of the total amount of investment income from the special specified assets to the gross income for the business year immediately preceding the business year in which the relevant day falls is expected to be 75 percent or more.
- (6) The term "connected party" in paragraph (4), item (vi), (c) and the preceding paragraph means a related party of the representative of the company (including a person that was formerly a representative of the company; hereinafter the same applies in this paragraph):
- (i) a relative of the representative;
  - (ii) a person that has not submitted a notification of marriage with the representative but is in a situation similar to a de-facto marriage relationship with the representative;
  - (iii) an officer of the representative;
  - (iv) a person other than the persons specified in the preceding three items that makes a living by receiving money or any other assets from the representative;

- (v) a relative of these persons that shares livelihood with the persons specified in the preceding three items; and
- (vi) a company specified in the following:
  - (a) a company of which voting rights exceeding 50 percent of the voting rights held by all shareholders, etc. of the company are held by a representative, etc. (meaning the representative and the persons related to the representative specified in the preceding items; the same applies in (b) and (c));
  - (b) the other company, if a representative, etc. or a company in relationship under (a) with the representative, etc. has voting rights exceeding 50 percent of the voting rights held by all shareholders, etc. of the other company; and
  - (c) the other company, if a representative, etc. or a company in relationship under (a) or (b) with the representative, etc. has voting rights exceeding 50 percent of the voting rights held by all shareholders, etc. of the other company.

(Person Having Knowledge of and Experience in Matters Concerning Investment)

Article 233-3 The person specified by Cabinet Office Order as referred to in Article 17-12, paragraph (2) of the Order is a person that falls under any of the following items at the time when the person becomes the counterparty to the private placement or handling of private placement related to the equity in business subject to investment the person acquires:

- (i) an officer of a company which is an issuer of share certificates listed on a financial instruments and exchange;
- (ii) an officer of a corporation with an amount of stated capital or amount of net assets of 50 million yen or more, which has submitted an annual securities report (meaning an annual securities report provided in that paragraph; the same applies in item (ix)) pursuant to Article 24, paragraph (1) of the Act;
- (iii) an officer of a corporation which falls under the requirements specified in Article 233-2, paragraph (4), item (iv), (b);
- (iv) a person that fell under any of the requirements specified in the preceding three items within five years before the day when the person became the counterparty to the private placement or handling of private placement;
- (v) a person that acquired an equity in business subject to investment issued by the same issuer as the equity in business subject to investment as a person that falls under the preceding item or this item, within five years before the day when the person became the counterparty to the private placement or handling of private placement;
- (vi) a person that was a corporation satisfying the requirement specified in



- Article 233-2, paragraph (4), item (iv), (b) within five years before the day when the person became the counterparty to the private placement or handling of private placement;
- (vii) a person that is found to have engaged in any of the following businesses for a period of one year or more in total as an officer or employee of a company (limited to a person that had engaged in the business using the highly specialized ability that is indispensable to the continuation of the business) or as a person that had concluded a contract with a company in which the person promised to provide the company with advice about the relevant business, and the company promised to pay remuneration for this, if the period from the last day on which the person engaged in such business to the day on which the person becomes the counterparty to such private placement or handling of private placement is five years or less:
- (a) business concerning implementation of incorporation of a company, solicitation of persons to subscribe for shares for subscription or share options for subscription, or new business activity (meaning a different type of business from those currently implemented by the company, which is a newly implemented business activity such as development or production of a new product, development or the provision of a new service, introduction of a new means of producing or selling a product, introduction of a new means of providing a service, or research and development concerning technology and the use of the results thereof);
  - (b) business relating to merger, company split, share exchange, share transfer, share delivery, acquisition or transfer of business or acquisition of share or equity in other companies;
  - (c) business relating to listing of issued shares on a financial instruments exchange;
  - (d) business relating to the preparation of the company's management strategies, preparation of a balance sheet or profit and loss statement or management of shareholders meeting or board of directors;
- (viii) a person listed as one of the first- to fiftieth-ranked shareholders based on the descending order of the numbers of shares held in a securities registration statement (limited to a report submitted by a company intending to list its issued shares on a financial instruments exchange) submitted within five years before the day when the person became the counterparty to the private placement or handling of private placement;
- (ix) a person listed as one of the first- to tenth-ranked shareholders based on the descending order of the numbers of shares held in a securities registration statement (excluding a statement provided in the preceding item) or annual securities report submitted within five years before the day when the person became the counterparty to the private placement or

- handling of private placement;
- (x) a certified business innovation assisting organization (meaning a certified business innovation assisting organization provided in Article 31, paragraph (2) of the Small and Medium-Sized Enterprises Business Enhancement Act (Act No. 18 of 1999));
- (xi) a company, partnership or other business entity similar thereto which falls under any of the following (including entities equivalent thereto in a foreign state; hereinafter referred to as "company, etc." in this item and the following item) which pertains to an individual who falls under any of the preceding items (excluding item (vi)):
  - (a) a company, etc. for which the individual holds voting rights exceeding 50 percent of the voting rights held by all shareholders, etc. (including subsidiary companies, etc. and affiliated company, etc. of the company, etc.);
  - (b) a company, etc. for which the individual holds voting rights not less than 20 percent but not exceeding 50 percent of the voting rights held by all shareholders, etc.; and
- (xii) a subsidiary company, etc. or affiliated company, etc. of the company, etc. which falls under any of items (i) through (x).

(Requirements for Specially-Permitted Business for Qualified Institutional Investors for Persons with Knowledge and Experience in Matters Relating to Investment)

- Article 233-4 (1) The amount to be specified by Cabinet Office Order as referred to in Article 17-12, paragraph (2), item (i), (a) of the Order is the sum of cash and deposits.
- (2) The securities to be specified by Cabinet Office Order as referred to in Article 17-12, paragraph (2), item (i), (a) of the Order are as follows:
- (i) share certificates, share option certificates and corporate bond certificates with share options; and
  - (ii) instruments or certificates issued by a foreign entity which have the nature of the securities specified in the preceding item.
- (3) The securities to be specified by Cabinet Office Order as referred to in Article 17-12, paragraph (2), item (i), (a) of the Order are the securities specified in the following items issued by any of the persons set forth therein at the time of the investment in the securities:
- (i) issuer of the securities: the following securities which are listed on a financial instruments exchange or foreign financial instruments exchange market or which are registered in a registry of over-the-counter traded securities (meaning the registry of over-the-counter traded securities under Article 67-11, paragraph (1) of the Act; hereinafter the same applies in this

paragraph):

- (a) share certificates, share option certificates and corporate bond certificates with share options;
  - (b) instruments or certificates issued by a foreign entity which have the nature of the securities specified in (a);
  - (ii) a parent company, etc. of the issuer of the securities (limited to a large company provided in Article 2, item (vi) of the Companies Act): the securities specified in (a) or (b) of the preceding item which are listed on a financial instruments exchange or foreign financial instruments exchange market or which are registered in a registry of over-the-counter traded securities; and
  - (iii) a subsidiary company, etc. of the issuer of the securities: the securities specified in item (i), (a) or (b) which are listed on a financial instruments exchange or foreign financial instruments exchange market or which are registered in a registry of over-the-counter traded securities.
- (4) The cases to be specified by Cabinet Office Order as referred to in Article 17-12, paragraph (2), item (i), (b) of the Order are borrowing of funds or guarantee of obligations which falls under any of the following items, wherein the total amount of the borrowing and guarantee obligation does not exceed 15 percent of the value of money or other properties invested or paid by the investor (meaning the investor provided in that item; the same applies in Article 239-2, paragraph (1)):
- (i) borrowing of funds for which the period before the due date is 120 days or shorter (if the period is extended, including the extension period);
  - (ii) guarantee of obligations for which the guarantee period is 120 days or shorter (if the guarantee period is extended, including the extension period); and
  - (iii) guarantee of obligations (limited to the guarantee for which the amount of guarantee obligation does not exceed the amount of the securities) of an issuer of the securities specified in the items of paragraph (2) which pertain to the business subject to investment (excluding those listed on a financial instruments exchange or those provided in the preceding paragraph).

(Newly-Issued Rights of the Same Type)

Article 234 The other rights to be specified by Cabinet Office Order as being the same type of rights as the respective rights as referred to in Article 17-12, paragraph (4), item (ii), (b) of the Order are the rights as securities whose issuer and business subject to investment are identical to such rights as securities.

(Cases When the State of the Operation of Business Is Likely to Compromise the Protection of Investors)

Article 234-2 (1) The case to be specified by Cabinet Office Order as the case which may compromise the protection of investors as referred to in Article 63, paragraph (1), item (i) of the Act is a private placement related to the equity in business subject to investment which falls under any of the conditions specified in the following items:

(i) that all qualified institutional investors to hold the right are investment limited partnerships (meaning an investment limited partnership provided in Article 2, paragraph (2) of the Limited Partnership Act for Investment, and excluding those for which the aggregate amount of money or other properties invested for counterparties to limited partnership agreements for investment under that agreements after deducting the amount of debts is expected to be 500 million yen or more, judging reasonably from the status of transactions and other circumstances; the same applies in item (i) of the following paragraph);

(ii) that the ratio of the aggregate amount of money or other properties invested or paid by the following persons (excluding qualified institutional investors, a person that falls under any of the items of Article 17-12, paragraph (1) of the Order (excluding item (vi)), and the officers, employees and parent companies, etc. of the fund assets investment manager) for the rights to the aggregate amount of money or other properties invested or paid by the persons to hold the rights is 50 percent or more:

(a) a person specified in Article 233-2, paragraph (1), items (ii) through (vi);  
and

(b) a person specified in the items of Article 233-3.

(iii) in cases where the rights are indicated on financial values, that the measures specified in sub-item (a) or (b) have not been taken in accordance with the categories of the cases respectively set forth therein:

(a) where the acquirer responding to solicitation for acquisition (meaning the solicitation for acquisition prescribed in Article 2, paragraph (3) of the Act; the same applies in sub-item (b) of the rights falls under a Qualified Institutional Investor (limited to such investor who does not fall under any of Article 63, paragraph (1), item (i), sub-item (a) to (c) of the Act; hereinafter the same applies in this item): technical measures to make it impossible to transfer the relevant financial values to persons other than Qualified Institutional Investors; or

(b) where the acquirer responding to solicitation for acquisition of the rights falls under an Investor Subject to Specially Permitted Services (meaning the Investor Subject to Specially Permitted Services prescribed in Article 17-12, paragraph (4), item (ii) of the Cabinet Order; hereinafter the same applies in sub-item (b)): technical measures to make it impossible to transfer the relevant financial values except for cases where the person

who has acquired or purchased the rights transfers the financial values on which said rights are indicated all at once to another Qualified

Institutional Investor or Investor Subject to Specially Permitted Services.

(2) The case to be specified by Cabinet Office Order as the case which may compromise the protection of investors as referred to in Article 63, paragraph (1), item (ii) of the Act is the act specified in Article 2, paragraph (8), item (xv) of the Act relating to the investment of money or other properties invested or paid by the person that holds the right related to the equity in business subject to investment, which falls under any of the conditions specified in the following items:

- (i) if all of the qualified institutional investors which are the holders of the equity are investment limited partnerships;
- (ii) that the ratio of the aggregate amount of money or other properties invested or paid by the following persons (excluding qualified institutional investors, a person that falls under any of the items of Article 17-12, paragraph (1) of the Order (excluding item (vi)), and the officers, employees and parent companies, etc. of the fund assets investment manager) for the rights to the aggregate amount of money or other properties invested or paid by the persons to become holders of the rights is 50 percent or more:
  - (a) a person specified in Article 233-2, paragraph (1), items (ii) through (vi); and
  - (b) a person specified in the items of Article 233-3.

(Persons Excluded from Definition of Qualified Institutional Investor)

Article 235 The persons to be specified by Cabinet Office Order as referred to in Article 63, paragraph (1), item (i) of the Act are as follows:

- (i) a special purpose company, if any person other than a qualified institutional investor has acquired the rights indicated on the securities specified in Article 2, paragraph (1), item (v), (ix) or (xv) of the Act or on the securities specified in item (xvii) of that paragraph (limited to those having the nature of the securities specified in items (v), (ix) or (xv) of that paragraph) issued by such specified purpose company, or has acquired the rights specified in paragraph (2), item (iii) or (iv) of that Article in regard to such special purpose company (excluding the rights wherein no property in excess of the amount of the consideration for the acquisition thereof is to be delivered);
- (ii) a person that, in accordance with a contract or other juridical act pertaining to the investment for the right specified in Article 2, paragraph (2), item (v) or (vi) of the Act (but only if the right under such contract or other juridical act falls under the category of the right specified in item (v) or (vi) of that paragraph) concluded with any person other than a qualified institutional investor (excluding those specified in the following), makes or

intends to make such investment by using the money or other properties invested or contributed by such other party:

- (a) limited partnership agreement for investment and limited liability partnership agreement pertaining to the investment (including a contract concluded under the laws and regulations of a foreign state similar thereto; the same applies in 2.), if the total of the numbers listed in the following is 49 or less:
  - 1. the number of the persons other than qualified institutional investors that are entitled to the rights under contracts or other juridical acts pertaining to the business subject to investment, to which money or other properties invested or contributed as the investment is to be appropriated (excluding a person that makes or intends to make such investment); and
  - 2. the number of the persons other than qualified institutional investors that are entitled to the rights under limited partnership agreements for investment or limited liability partnership agreements pertaining to the investment (other than if the person that makes or intends to make the investment is a financial instruments business operator, etc. (limited to an operator engaged in an investment management business));
- (b) a contract or another juridical act pertaining to the investment, if a person that makes or intends to make the investment and a person that makes or intends to carry out the business subject to investment using money or other properties invested or contributed as the investment are the same, and if the total of the numbers listed in the following is 49 or less:
  - 1. the number of the persons other than qualified institutional investors that are entitled the rights under the contract or other juridical act pertaining to the business subject to investment (excluding a person that makes or intends to make such investment); and
  - 2. the number of persons other than qualified institutional investors that are entitled to the rights under the contracts or other juridical acts pertaining to the investment.

(Notification of Specially-Permitted Business for Qualified Institutional Investors)

Article 236 (1) A person that intends to file a notification under Article 63, paragraph (2) of the Act must submit a written notification on specially-permitted business for qualified institutional investors, etc. prepared in accordance with Appended Form No. 20, attaching a copy thereof, to a competent Director-General of a Local Finance Bureau, etc. for specially-

permitted business (meaning a Director-General of a Local Finance Bureau with jurisdiction over the location of the notifying person's head office, etc. (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the person has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau); the same applies in Article 238-4, paragraph (1), Article 239, paragraph (1) and Article 348, paragraph (3)).

(2) The written notification set forth in the preceding paragraph may be prepared in English, in the same manner as Appended Form No. 20.

(Employees of Notifier of Specially-Permitted Business)

Article 237 (1) The person to be specified by Cabinet Office Order as referred to in Article 17-13, item (i) of the Order is a person that holds a position whereby the person may exercise authority on behalf of a person that supervises the business operation as prescribed in that item, such as a general manager, vice-chief, section manager or any other person irrespective of the job title.

(2) The persons to be specified by Cabinet Office Order as referred to in Article 17-13, item (ii) of the Order are persons that make Investment decisions based on analysis of the values, etc. of financial instruments.

(Matters to Be Notified in Relation to Specially-Permitted Business for Qualified Institutional Investors)

Article 238 The matters to be specified by Cabinet Office Order as referred to in Article 63, paragraph (2), item (ix) of the Act are the following matters:

- (i) the principal office or other office, and the telephone number of the office or other office for conducting specially-permitted business for qualified institutional investors, etc. as well as the website URL of the notifying person;
- (ii) in cases of conducting business pertaining to the act specified in Article 63, paragraph (1), item (i) of the Act, the following matters:
  - (a) the name and type (meaning the type of equity in business subject to investment and in cases where the equity in business subject to investment falls under an electronically recorded transferable right, or any of the rights prescribed in Article 1-12, item (ii) of the Cabinet Order, including to that effect; the same applies in (b) of the following item) of the equity in business subject to investment pertaining to the business;
  - (b) the contents of the business subject to investment pertaining to the business;
  - (c) the trade name, name or type (meaning the types under the items of Article 10, paragraph (1) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; the same applies

- in (c) of the following item) and number of the qualified institutional investor that acquires the equity in business subject to investment pertaining to the business;
- (d) in the case of making a private placement of equities in business subject to investment pertaining to the business for any person other than qualified institutional investors, to that effect;
- (e) in the case of making a private placement of equities in business subject to investment pertaining to the business for any person specified in the items of Article 233-3; and
- (f) in the case provided in (e), the name of the certified public accountant or audit corporation (including persons having the qualifications equivalent to those qualifications in a foreign state; the same applies in (f) of the following item and item (viii) of that paragraph) that conducts an audit of a balance sheet and profit and loss statement of the business subject to investment pertaining to the business or a document in lieu thereof (referred to as "financial statements, etc." in (f) of the following item and Article 239-2, paragraph (1), items (viii) and (ix));
- (iii) in cases of conducting business pertaining to the act specified in Article 63, paragraph (1), item (ii) of the Act, the following matters:
  - (a) the name and type of the equity in business subject to investment pertaining to the business;
  - (b) the contents of the business subject to investment pertaining to the business;
  - (c) the trade name or name, type and number of the qualified institutional investor (if there are two or more of qualified institutional investors, at least one of them) that acquires the equity in business subject to investment pertaining to the business;
  - (d) if any person other than qualified institutional investors holds equities in business subject to investment pertaining to the business, to that effect;
  - (e) if any person specified in the items of Article 233-3 holds equities in business subject to investment pertaining to the business, to that effect; and
  - (f) in cases provided in (e), the name of the certified public account or audit corporation that conducts the audit of the financial statements, etc. of the business subject to investment pertaining to the business;
- (iv) in cases of a foreign corporation, the location or address and telephone number of the representative person in Japan; and
- (v) in cases of an individual domiciled in a foreign state, the name, trade name, location or address and telephone number of the agent in Japan.

(Documents to Be Attached to Written Notification on Specially-Permitted



Business for Qualified Institutional Investors)

Article 238-2 (1) The documents to be specified by Cabinet Office Order as referred to in Article 63, paragraph (3), item (iii) of the Act are the following documents; provided, however, that the documents specified in item (iii) or (iv) may be submitted without delay after submission of the written notification under paragraph (2) of that Article, if any unavoidable ground exists:

- (i) if the applicant is a corporation, the following documents:
  - (a) the resume of the officer and major employees (meaning the officer provided in Article 17-13 of the Order; hereinafter the same applies in this Section) (if the officer is a corporation, a document containing the background of the officer);
  - (b) the extracts of the certificates of residence of the officers and major employees (if any of the officers is a corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
  - (c) if the former surname and given name of the officer or major employee are stated together with the current name of the officer or major employee in a written notification under Article 63, paragraph (2) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the officer or major employee, a document certifying the former surname and given name;
  - (d) the certificates issued by a public agency evidencing that none of the officers and major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof; and
  - (e) a document containing a pledge by the officer and major employee that they do not fall under Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act and are not members, etc. of an organized crime group (meaning the members, etc. of an organized crime group provided in Article 63, paragraph (7), item (i), (c) of the Act; the same applies hereinafter); and
- (ii) if the notifying person is an individual, the following documents:
  - (a) the resumes of the notifying person and major employee;
  - (b) extracts of the certificates of residence of the notifying person and major employees (if the notifying person is an individual domiciled in a foreign state, including the representative person in Japan; the same applies in (c)), or any other document in lieu thereof;
  - (c) if the former surname and given name of the notifying person or major employee are stated together with the notifying person's or the major employee's current name in a written notification under Article 63, paragraph (2) of the Act, and the document specified in (b) is not a document certifying the notifying person's or the major employee's former

- surname and given name, a document certifying the former surname and given name;
- (d) the certificates issued by a public agency evidencing that none of the notifying person and major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof; and
  - (e) a document containing a pledge by the major employee that such employee does not fall under Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act and is not a member, etc. of an organized crime group;
- (iii) if the applicant conducts the business pertaining to the acts specified in Article 63, paragraph (1), item (i) of the Act, the following documents:
- (a) if all of the qualified institutional investors to hold the equity in business subject to investment pertaining to the act are investment limited partnerships (meaning an investment limited partnership provided in Article 2, paragraph (2) of the Limited Partnership Act for Investment; the same applies hereinafter), a document certifying the following matters:
    1. the aggregate amount of money or other properties invested for the counterparties to the limited partnership agreement for investment in accordance with such agreement; and
    2. the amount of debt of the qualified institutional investor
  - (b) a document certifying the following matters:
    1. the aggregate amount of money or other properties to be invested or paid by persons to hold the equity in business subject to investment pertaining to the act;
    2. the aggregate amount of money or other properties to be invested or paid by persons to hold the equity in business subject to investment pertaining to the act as specified in Article 134-2, paragraph (1), item (ii);
- (iv) if the notifying person conducts the business pertaining to the acts specified in Article 63, paragraph (1), item (ii) of the Act, the following documents:
- (a) if all of the qualified institutional investors holding the equity in business subject to investment pertaining to the act are investment limited partnerships, a document certifying the following matters:
    1. the aggregate amount of money or other properties invested for the counterparties to the limited partnership agreement for investment in accordance with such agreement; and
    2. the amount of debt of the qualified institutional investor;
  - (b) a document certifying the following matters:
    1. the aggregate amount of money or other properties to be invested or paid

- by a holder of the equity in business subject to investment pertaining to the act; and
2. the aggregate amount of money or other properties to be invested or paid by a holder of the equity in business subject to investment pertaining to the act as specified in Article 134-2, paragraph (2), item (ii).
- (2) The documents under the items of the preceding paragraph may be prepared in English.

(Electronic or Magnetic Record)

Article 238-3 (1) The electronic or magnetic records to be specified by Cabinet Office Order as referred to in Article 63, paragraph (4) of the Act must have a structure specified in the following:

- (i) a 90mm flexible magnetic disc cartridge conforming to JIS X6223;
  - (ii) a 120mm optical disc conforming to JIS X0606 and X6282.
- (2) Entry of information into the electronic or magnetic records under the preceding paragraph must be completed in accordance with the following specifications:
- (i) track format: the formalities prescribed in JIS X6225
  - (ii) volume and file composition: the formalities prescribed in JIS X0605.
- (3) The following matters must be recorded in the electronic or magnetic record under paragraph (1):
- (i) the trade name or name of the notifying person; and
  - (ii) the date of the notification.

(Public Inspection of Notified Matters Relating to Specially-Permitted Business for Qualified Institutional Investors by the Commissioner of the Financial Services Agency or Other Official)

Article 238-4 (1) The Commissioner of the Financial Services Agency, competent Director-General of a Local Finance Bureau, etc. for the notification of specially-permitted business or competent Director-General of a Local Finance Bureau, etc. is to keep the records of the matters stated in Appended Form 20-2 of the notifier of specially-permitted Business or financial instruments business operator, etc. (meaning a person who makes a notification pursuant to the provisions of Article 63-3, paragraph (1) of the Act and excluding a person who makes a notification of the fact of falling under Article 63-2, paragraph (3), item (ii) of the Act as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act, pursuant to the provisions of Article 63-2, paragraph (3) of the Act; hereinafter the same applies in this Section, excluding Article 244, paragraph (1)) at the Financial Services Agency or the local finance bureau with jurisdiction over the location of the head office, etc. of the notifier of specially-permitted business or financial instruments business operator, etc.

(if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the operator has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau) and make them available for public inspection or publicize them by the use of the internet or other means.

- (2) The matters to be specified by Cabinet Office Order as referred to in Article 63, paragraph (5) of the Act (including as applied mutandis pursuant to Article 63-3, paragraph (2) of the Act) are the matters specified in Appended Form 20-2.

(Public Inspection of Notified Matters Relating to Specially-Permitted Business for Qualified Institutional Investors by Persons Notifying of Specially-Permitted Business and Financial Instruments Business Operators)

Article 238-5 (1) Pursuant to the provisions of Article 63, paragraph (6) of the Act (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act; the same applies in the following paragraph), a notifier of specially-permitted business or financial instruments business operator, etc. is to keep the copy of a document prepared using Appended Form 20-2 at its head office or other office or all business office or other office for specially-permitted business for qualified institutional investors, etc. and make such information available for public inspection, or publicize them by the use of the internet or other means in a way which allows easy access by investors any time.

- (2) The matters to be specified by Cabinet Office Order as referred to in Article 63, paragraph (6) of the Act are the matters specified in Appended Form 20-2.
- (3) The document under paragraph (1) may be prepared in English in accordance with Appended Form 20-2.

(Notification of Change of Matters Notified in Relation to Specially-Permitted Business for Qualified Institutional Investors)

Article 239 (1) A notifier of specially-permitted business that intends to file a notification under Article 63, paragraph (8) of the Act must submit a written notification stating the particulars and date of and reasons for the change, attaching a document stating the particulars after such change prepared in accordance with Appended Form No. 20 and a copy thereof, to the competent Director-General of a Local Finance Bureau, etc. for specially-permitted business (meaning the Commissioner of the Financial Services Agency, in the case of a notifier of specially-permitted business designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Order or the competent Director-General of a Local Finance Bureau, etc. for specially-permitted business; the same applies hereinafter), in the case of

any other notifier of specially-permitted business.

- (2) The documents specified in the preceding paragraph are to be attached to the written notification set forth in paragraph (1) in accordance with the category of cases listed in those items; provided, however, that if there are unavoidable circumstances, it is sufficient to submit it without delay after the written notification is submitted:
- (i) if there is a change to the matters specified in Article 63, paragraph (2), item (i) of the Act: the following documents:
    - (a) a certificate of registered information (in cases of an individual, an extract of residence certificate) stating the matters relating to the change or a document in lieu thereof; and
    - (b) if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 20, and the document specified in (a) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  - (ii) if there is a change to the matters specified in Article 63, paragraph (2), item (ii) or (vi) of the Act: the certificate of the registered matters stating the matters pertaining to the change or any other document in lieu thereof;
  - (iii) in the case of a change to the matters specified in Article 63, paragraph (2), item (iii) or (iv) of the Act: the following documents:
    - (a) in the case of change of officers, the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
    - (b) the following documents relevant to the person that has newly assumed positions as officer or major employee:
      1. the resume (if the officer is a corporation, a document containing the background of the officer);
      2. the extracts of the certificates of residence (if any of the officers is a corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
      3. if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 20, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
      4. the certificates issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
      5. a document containing a pledge by the officer or major employee that such officer or employee does not fall under Article 29-4, paragraph (1),

- item (ii), sub-items (a) or (c) through (i) of the Act and is not a member, etc. of an organized crime group;
- 6. when the Specially Permitted Business Notifying Person is a juridical person, a document to pledge that the person does not fall under Article 63, paragraph (7), item (i), sub-item (b) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act); and
- 7. when the Specially Permitted Business Notifying Person is an individual, a document to pledge that the person does not fall under Article 63, paragraph (7), item (i), sub-item (b) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act); and
- (iv) in the case of any change in the matters specified in Article 238, item (v): the following document related to the person that newly assumed the position of the agent in Japan:
  - (a) an extract of the certificate of residence or a document in lieu thereof; and
  - (b) in the case of indicating the former surname and given name on the document stating the details after change that is created in accordance with Appended Form No. 20 together with the current name and the document specified in (a) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
- (3) The written notification under paragraph (1) and the documents specified in the items of the preceding paragraph may be prepared in English.
- (4) The document under paragraph (1) may be prepared in English in accordance with Appended Form 20.

(Procedures for Submission of Copy of Contract)

- Article 239-2 (1) The matters to be specified by Cabinet Office Order as referred to in Article 63, paragraph (9) of the Act (including if it is applied mutandis pursuant to Article 63-3, paragraph (2) of the Act; hereinafter the same applies in this Article) are the following matters:
- (i) the name of the equity in business subject to investment;
  - (ii) the details of the business subject to investment;
  - (iii) the location of business office or other office if the business subject to investment is to be conducted;
  - (iv) the trade names or names and addresses of equity investors and the person who manages money and other properties invested or paid by the equity investors (hereinafter referred to as a "fund asset manager" in this paragraph);
  - (v) the amount to be invested or paid by the equity investors (if properties

- other than money are to be invested or paid, the details and value thereof);
  - (vi) if a contract period is provided for the equity in business subject to investment, the contract period;
  - (vii) the business year of the business subject to investment;
  - (viii) that the fund asset manager prepares financial statements, etc. for each business year of the business subject to investment and receives an audit by a certified public account or audit corporation;
  - (ix) that the fund asset manager provides investors with a copy of the financial statements, etc. and the report on the audit under the preceding paragraph within a reasonable period after the end of the business year pertaining to the business subject to investment;
  - (x) that the fund asset manager assembles investors and provides them with a report on the management of the business subject to investment and status of investment of properties after a reasonable period from the end of the business year pertaining to the business subject to investment;
  - (xi) that, in the case of making investment using money and other assets invested or paid by investors, the fund asset manager notifies the investors of the details of investment in writing;
  - (xii) that a fund asset manager may be dismissed with the consent of a majority of equity in business subject to investment held by investors if any justifiable reason exists;
  - (xiii) that a new fund asset manager may be appointed with the consent of all investors if the fund asset manager resigns; and
  - (xiv) that, in the case of a change to the contract for equity in business subject to investment (excluding minor changes), an approval of a majority (or, if a higher proportion has been provided, such proportion) of the equity in business subject to investment held by investors is required.
- (2) The matters specified in the items of Article 63, paragraph (2) of the Act to be specified by Cabinet Office Order, as referred to in paragraph (9) of that Article, are the following matters:
- (i) the matters specified in Article 238, item (ii), (e) (limited to the matter relating to the change if the business provided in that item is to be newly commenced);
  - (ii) the matters specified in Article 238, item (iii), (e) (limited to the matter relating to the change if the business provided in that item is to be newly commenced).
- (3) When a notifier of specially-permitted business or financial instruments business operator, etc. submits a copy of the contract for equity in business subject to investment pursuant to Article 63, paragraph (9) of the Act, it must submit it to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business in the case of a

notifier of specially-permitted business or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator, etc., within three months from the day specified in the following items according the categories respectively set forth therein:

- (i) the notification pursuant to Article 63, paragraph (2) or Article 63-3, paragraph (1) of the Act: the date of submission of the notification; and
  - (ii) the notification pursuant to Article 63, paragraph (8) of the Act (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act (limited to a notification pertaining change of the matters specified in the items of the preceding paragraph): the day when the change occurred.
- (4) If a notifier of specially-permitted business or financial instruments business operator, etc. is unable to submit a copy of the contract within the period provided in the preceding paragraph, it may receive an extension of the period for three years only, if it notifies such fact to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business in the case of a notifier of specially-permitted business or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator, etc.
- (5) For making a notification under the preceding paragraph, a written notification attaching a document stating the reason for the difficulty in submitting the documents within the period provided in paragraph (3) must be submitted.
- (6) If a notifier of specially-permitted business or financial instruments business operator, etc. is unable to conclude a contract for the equity in business subject to investment within the period provided in paragraph (3) (in the case of extension of the period pursuant to paragraph (4), within the extended period), it must notify such fact to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business in the case of a notifier of specially-permitted business or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator, etc., without delay after the elapse of the relevant period.
- (7) When a notifier of specially-permitted business or financial instruments business operator, etc. submits a copy of the contract relating to change pursuant to Article 63, paragraph (10) of the Act (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act), it must attach a document stating the detail, date and reason for change and submit it to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business in the case of a notifier of specially-permitted business or to the Commissioner of the Financial Services Agency or



other competent official in the case of a financial instruments business operator, etc., without delay after the change.

- (8) Notwithstanding the provisions of Article (2), paragraph (3), if a copy of the contract under paragraph (3) and the preceding paragraph is not written in Japanese or English (limited to a contract pertaining to the notifier of specially-permitted business or a financial instruments business operator, etc. that is subject to the application of the provisions of paragraph (1) of that Article), its Japanese or English translation must be attached.
- (9) The written notification under paragraphs (4) and (6) and the document under paragraph (5) (limited to a document pertaining to the notifier of specially-permitted business) may be prepared in English.

(Notification in Cases of Exclusion from Definition as a Specially-Permitted Business for Qualified Institutional Investors)

Article 240 (1) A notifier of specially-permitted business that intends to file a notification under Article 63, paragraph (13) of the Act must submit a written notification stating such fact, the date when the business came to be excluded from the definition of the specially-permitted business for qualified institutional investors, etc. and the reasons therefor, to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business.

- (2) The written notification set forth in the preceding paragraph may be prepared in English.

(Notification of Succession of Status of a Notifier of Specially-Permitted Business)

Article 241 (1) A person that intends to file a notification under Article 63-2, paragraph (2) of the Act must submit a written notification stating the following particulars, to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business pertaining to the notifier of specially-permitted business set forth in paragraph (1) of that Article:

- (i) the trade name or name of the successor;
- (ii) the date of and reasons for the succession;
- (iii) the means of succession;
- (iv) if the successor is a corporation, the amount of stated capital or the total amount of investment;
- (v) if the successor is a corporation, the name of its officers;
- (vi) in cases if the successor has major employees, their names;
- (vii) the name and address of the principal office or other office of the successor;

- (viii) the name and address of the business office or other office if the successor conducts the specially-permitted business for qualified institutional investors, etc.;
  - (ix) if the successor conducts other business, the type of such business;
  - (x) the principal office or other office of the successor and the telephone number of the office or other office for conducting the specially-permitted business for qualified institutional investors, etc. as well as the website URL of the successor;
  - (xi) if the successor is a foreign corporation, the location or address and telephone number of the representative person in Japan; and
  - (xii) if the successor is an individual domiciled in a foreign state, the name, trade name, location or address and telephone number of the agent in Japan.
- (2) The following documents must be attached to the written notification under the preceding paragraph; provided, however, that the documents may be submitted without delay after submission of the written notification, if any unavoidable ground exists:
- (i) if the successor is a corporation, the following documents:
    - (a) a document to pledge that it does not fall under any of Article 63, paragraph (7), item (i), (a) through (d) of the Act, its articles of incorporation (including a document equivalent thereto) and a certificate of registered information of the corporation (including a document equivalent thereto);
    - (b) the resume of the officers and major employees (if the officer is a corporation, a document containing the background of the officer);
    - (c) the extracts of the certificates of residence of the officers and major employees (if any of the officers is a corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
    - (d) if the former surname and given name of the officer or major employee are stated together with the current name of the officer or major employee in a written notification under the preceding paragraph, and the document specified in (c) is not a document certifying the former surname and given name of the officer or major employee, a document certifying the former surname and given name;
    - (e) the certificates issued by a public agency evidencing that none of the officers and major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
    - (f) a document containing a pledge by the officer and major employee that they do not fall under Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act and are not members, etc. of an organized crime group;

- (ii) if the successor is an individual, the following documents:
  - (a) a document to pledge that the successor does not fall under any of Article 63, paragraph (7), item (ii), (a) through (d) of the Act;
  - (b) the resumes of the successor and major employees;
  - (c) extracts of the certificates of residence of the successor and major employees (if the successor is an individual domiciled in a foreign state, including the representative person in Japan; the same applies in (d)), or any other document in lieu thereof;
  - (d) if the former surname and given name of the successor or major employee are stated together with the successor's or the major employee's current name in a written notification under the preceding paragraph, and the document specified in (c) is not a document certifying the successor's or the major employee's former surname and given name, a document certifying the former surname and given name;
  - (e) the certificates issued by a public agency evidencing that none of the successor and major employees falls under Article 29-4, paragraph (1), item (ii), (a) and (b) of the Act, or any other document in lieu thereof;
  - (f) a document containing a pledge by the successor and major employee that they do not fall under Article 29-4, paragraph (1), item (ii), (c) through (i) of the Act and are not members, etc. of an organized crime group;
- (iii) if the applicant conducts the business pertaining to the acts specified in Article 63, paragraph (1), item (i) of the Act, the following documents:
  - (a) if all of the qualified institutional investors to hold the equity in business subject to investment pertaining to the act are investment limited partnerships, a document certifying the following matters:
    1. the aggregate amount of money or other properties invested for the counterparties to the limited partnership agreement for investment in accordance with such agreement; and
    2. the amount of debt of the qualified institutional investor;
  - (b) a document certifying the following matters:
    1. the aggregate amount of money or other properties to be invested or paid by persons to hold the equity in business subject to investment pertaining to the act; and
    2. the aggregate amount of money or other properties to be invested or paid by the persons specified in Article 234-2, paragraph (1), item (ii) that are to hold the equity in business subject to investment pertaining to the act;
- (iv) in cases of conducting the business pertaining to the acts specified in Article 63, paragraph (1), item (ii) of the Act, the following documents:
  - (a) if all of the qualified institutional investors holding the equity in business subject to investment pertaining to the act are investment limited

partnerships, a document certifying the following matters:

1. the aggregate amount of money or other properties invested for the counterparties to the limited partnership agreement for investment in accordance with such agreement; and
2. the amount of debt of the qualified institutional investor.

(b) a document certifying the following matters:

1. the aggregate amount of money or other properties to be invested or paid by a holder of the equity in business subject to investment pertaining to the act;
2. the aggregate amount of money or other properties to be invested or paid by the persons specified in Article 234-2, paragraph (2), item (ii) that hold the equity in business subject to investment pertaining to the act.

(3) The written notification under paragraph (1) and the documents set forth in the items of the preceding paragraph may be prepared in English.

(Cases of Notification of Discontinuation of Business by a Notifier of Specially-Permitted Business)

Article 241-2 The cases to be specified by Cabinet Office Order as referred to in Article 63-2, paragraph (3), item (iii) of the Act are as follows:

- (i) if the notifier of specially-permitted business falls under Article 199, item (ii), sub-item (a) or Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services) or sub-item (c) of that item, or item (iii) of that paragraph (excluding item (ii), sub-item (a) of that paragraph and the part pertaining to major employees);
- (ii) if any officer or major employee has become aware that any of its officers, etc. or major employees has come to fall under Article 199, item (ii), sub-item (a) or (b);
- (iii) in cases of any change to its articles of incorporation;
- (iv) if the notifier of specially-permitted business has become aware that any of its officers or employees has committed any act in breach of the laws and regulations (in cases of acts pertaining to the business other than specially-permitted business for qualified institutional investors, etc., limited to acts which may give material impact on the management of business or status of properties of the notifier of specially-permitted business; hereinafter referred to as the "problematic conduct, etc." in this item and following item, and Article 241-3, paragraph (1), items (vi) and (vii)) (the above excludes a case in which the problematic conduct, etc. falls under the act specified in Article 118, item (i), (a) through (d) or Article 118, item (ii), (a) or (b), or in (c) of that item (excluding the act in breach of laws and regulations), and such act was caused through negligence; the same applies in the following item);

- (v) if the details of the problematic conduct, etc. under the preceding item have been revealed;
- (vi) if the notifier of specially-permitted business has become a party to any action or conciliation (with regard to any action or conciliation relevant to a business other than the specially-permitted business for qualified institutional investors, etc., limited to that which may have a material impact on the person notifying of specially-permitted business or the status of its property), or if such action or conciliation has been concluded; and
- (vii) if the notifier of specially-permitted business is a foreign corporation or an individual domiciled in a foreign state, and such notifier of specially-permitted business has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of the foreign state equivalent to the Act (other than if such notifier of specially-permitted business falls under Article 29-4, paragraph (1), item (i), (a) of the Act).

(Notification of Discontinuation of a Person Notifying of Specially-Permitted Business)

Article 242 (1) A notifier of specially-permitted business that intends to file a notification under Article 63-2, paragraph (3) of the Act must submit a written notification stating the matters listed in the following in accordance with the categories of the cases set forth respectively therein, to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business:

- (i) the cases falling under Article 63-2, paragraph (3), item (i) of the Act: period of suspension or date of resumption, and the reasons for such suspension or resumption;
- (ii) the cases falling under Article 63-2, paragraph (3), item (ii) of the Act: the date of and reasons for the discontinuation; and
- (iii) in the case of falling under item (vii) of the preceding Article: the matters specified in the following (a) through (c) in accordance with the categories of cases specified in those (a) through (c):
  - (a) in the case of falling under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following matters:
    1. contents of the same type of the registration, etc. obtained by the person notifying of specially-permitted business in the foreign state pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services or the same type of the notification under Article 63, paragraph (2) or Article 63-3, paragraph (1), Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the

- Act made by the notifier of specially-permitted business pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services;
2. the date of the registration, etc. or notification;
  3. the date of and reason for the rescission of the registration, etc. or order for suspension of the business pertaining to the notification;
  4. the details of the business for which the registration, etc. was rescinded or suspension of the business pertaining to the notification was ordered;
- (b) in cases of falling under Article 29-4, paragraph (1), item (i), (c) of the Act, the following matters:
1. the provisions of the laws and regulations which were violated; and
  2. the date when the punishment became final and binding, and the amount of the fine imposed;
- (c) in the case of falling under Article 199, item (ii), sub-item (a) or Article 29-4, paragraph (1), item (iii) of the Act (excluding item (ii), sub-item (a) of that paragraph and the part pertaining to the Major Employees ), the following matters:
1. the name of the person that has come to fall under that provisions;
  2. if the person has come to fall under Article 199, item (ii), the date when such person came to fall under such provision and the reasons therefor;
  3. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when such person became subject to the order for the commencement of bankruptcy proceedings;
  4. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
  5. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  6. if the person falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act, and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7 (including as applied mutandis pursuant to Article 60-14, paragraph (2) of the Act; the same applies in the following item), Article 63-2, paragraph (2), Article 63-2, paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act; the same applies in the following item), Article 63-2, paragraph (4), Article 63-10, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act; the same applies

hereinafter in the following item) or paragraph (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1), or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services;

7. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;

(iv) the cases falling under item (ii) of the preceding Article: the following matters:

(a) the name of the officer or major employees that have come to fall under Article 199, item (ii), sub-item (a) or (b);

(b) if the officer or major employee has come to fall under Article 199, item (ii), sub-item (a), the date when the Officer or Major Employee came to fall under such provision and the reasons therefor;

(c) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when the officer or major employee became subject to the order for the commencement of bankruptcy proceedings;

(d) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;

(e) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;

(f) if the officer or major employee falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;

(g) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;

(v) the cases falling under item (iii) of the preceding Article: the following matters:

(a) the particulars and reasons for the change; and

(b) the date of change;

(vi) the cases falling under item (iv) of the preceding Article: the following matters:

- (a) the name of the business office or other office where the problematic conduct, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) outline of the problematic conduct, etc.;
- (vii) in cases falling under item (v) of the preceding Article: the following matters:
- (a) the name of the business office or other office if the problematic conduct, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.;
  - (c) details of the problematic conduct, etc.; and
  - (d) if any internal action has been taken, the details thereof;
- (viii) in the case of falling under item (vi) of the preceding Article: the matters specified in the following (a) and (b) in accordance with the categories of cases specified in those (a) and (b):
- (a) if it has become the party to a suit or conciliation: the following matters:
    1. the name and address of the party of the suit or conciliation;
    2. the day when the action or conciliation was filed;
    3. the name of the court with jurisdiction; and
    4. the details of the case;
  - (b) if the action or conciliation has been concluded, the following matters:
    1. the name and address of the party of the suit or conciliation;
    2. the day when the action or conciliation was concluded; and
    3. the details of the judgment or settlement;
- (ix) the cases falling under item (vii) of the preceding Article: the following matters:
- (a) the details of the adverse disposition; and
  - (b) the date when the financial instruments business operator, etc. came to be subject to the adverse disposition and the reasons therefor.
- (2) The written notification set forth in the preceding paragraph may be prepared in English.

(Documents to Be Attached to Written Notification for Discontinuation of Business by a Notifier of Specially-Permitted Business)

Article 242-2 (1) In cases of falling under any of the categories of the cases listed in the following items, a notifier of specially-permitted business which files a notification under Article 63-2, paragraph (3) of the Act must attach the document specified in the relevant item to the written notification stating the matters prescribed in paragraph (1) of the preceding Article:

- (i) in the case of falling under Article 241-2, item (i): the matters specified in



the following (a) through (c) in accordance with the categories of cases listed in those (a) through (c):

(a) if a notifier of specially-permitted business has come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following documents:

1. a copy of the written order for rescission or discontinuation, or any other document in lieu thereof; and
2. a copy of the laws and regulations of the foreign state and the Japanese translation thereof;

(b) if a notifier of specially-permitted business has come to fall under Article 29-4, paragraph (1), item (i), (c) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;

(c) if a notifier of specially-permitted business has come to fall under Article 29-4, paragraph (1), item (iii) of the Act (excluding item (ii), sub-item (a) of that paragraph and the part pertaining to Major Employees), the following documents:

1. if the notifier of specially-permitted business has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
2. if the notifier of specially-permitted business has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (g) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
3. if the notifier of specially-permitted business has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the written order for rescission or discontinuation of business or a document in lieu thereof, as well as a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation of business and the Japanese translation thereof;

(ii) the cases falling under Article 241-2, item (ii) (limited to the part pertaining to Article 199, item (ii), sub-item (b)): the following documents

(a) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy

- proceedings;
- (b) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
  - (c) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation of business and the Japanese translation thereof;
  - (iii) the cases falling under Article 241-2, item (iii): the following documents;  
and
  - (iv) the cases falling under Article 199, item (x): a copy of the laws and regulations of a foreign state which provides for the adverse disposition, and the Japanese translation thereof.
- (2) The documents under the items of the preceding paragraph may be prepared in English.

(Notification of Dissolution of a Notifier of Specially-Permitted Business)

- Article 243 (1) A person that intends to file a notification under Article 63-2, paragraph (4) of the Act must submit a written notification stating the date of and reasons for the dissolution, to the Commissioner of the Financial Services Agency, if the notifier of specially-permitted business regarding the notification is a one designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Order, or, to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, etc. of the notifier of specially-permitted business (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof, or if the person has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau), in the case of any other notifier of specially-permitted business.
- (2) The written notification set forth in the preceding paragraph may be prepared in English.

(Matters to Be Notified by Financial Instruments Business Operator in Relation to Specially-Permitted Business for Qualified Institutional Investors)

- Article 244 (1) A financial instruments business operator, etc. which intends to file a written notification under Article 63-3, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a notification on the specially-permitted business for

qualified institutional investors, etc. prepared in accordance with Appended Form No. 21, attaching a copy thereof.

(2) The matters provided for by Cabinet Office Order prescribed in Article 63-3, paragraph (1) of the Act or Article 63, paragraph (8) of the Act as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act following the deemed replacement of terms are the matters specified in Article 238, items (i) through (iii).

(3) The documents specified in the following items are to be attached to the written notification under paragraph (1):

(i) if the applicant conducts the business pertaining to the acts specified in Article 63, paragraph (1), item (i) of the Act, the following documents:

(a) if all of the qualified institutional investors to hold the equity in business subject to investment pertaining to the act are investment limited partnerships, a document certifying the following matters

1. the aggregate amount of money or other properties invested for the counterparties to the limited partnership agreement for investment in accordance with such agreement;
2. the amount of debt of the qualified institutional investor.

(b) a document certifying the following matters:

1. the aggregate amount of money or other properties to be invested or paid by persons to hold the equity in business subject to investment pertaining to the act;
2. the aggregate amount of money or other properties to be invested or paid by persons to hold the equity in business subject to investment pertaining to the act as specified in Article 134-2, paragraph (2), item (i);

(ii) if the applicant conducts the business pertaining to the acts specified in Article 63, paragraph (1), item (ii) of the Act, the following documents:

(a) if all of the qualified institutional investors holding the equity in business subject to investment pertaining to the act are investment limited partnerships, a document certifying the following matters

1. the aggregate amount of money or other properties invested for the counterparties to the limited partnership agreement for investment in accordance with such agreement;
2. the amount of debt of the qualified institutional investor.

(b) a document certifying the following matters:

1. the aggregate amount of money or other properties to be invested or paid by a holder of the equity in business subject to investment pertaining to the act; and
2. the aggregate amount of money or other properties to be invested or paid by a holder of the equity in business subject to investment pertaining

to the act as specified in Article 134-2, paragraph (2), item (ii).

(Notification of Change in Notified Matters Pertaining to a Specially-Permitted Business for Qualified Institutional Investors by the Financial Instruments Business Operator)

Article 244-2 The financial instruments business operator, etc. making a notice pursuant to the provisions of Article 63, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act must attach a document stating the content after the change prepared in accordance with Appended Form No. 21 and a copy of the document to a written notification stating the content of change, date of change, and reasons for the change, and submit it to the Commissioner of the Financial Services Agency or other competent official.

(Notification to Be Filed by Financial Instruments Business Operator in Case of Exclusion from Category of Specially-Permitted Business for Qualified Institutional Investors)

Article 245 A financial instruments business operator, etc. which files a notification pursuant to Article 63, paragraph (13) as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating such fact, the date when its business no longer falls under the specially-permitted business for qualified institutional investors, etc. and the reasons therefor.

(Notification by Financial Instruments Business Operator in Relation to the Discontinuation of a Specially-Permitted Business for Qualified Institutional Investors)

Article 246 A financial instruments business operator, etc. which intends to file a notification under Article 63-2, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the matters prescribed in the following items, in accordance with the categories of the cases set forth respectively therein:

- (i) the cases falling under Article 63-2, paragraph (3), item (i) of the Act as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act: the period of suspension or date of resumption, and the reasons for such suspension or resumption;
- (ii) the cases falling under Article 63-2, paragraph (3), item (ii) of the Act as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act: the date of and reasons for the discontinuation; and

(Books and Documents Related to Business Affairs)

- Article 246-2 (1) The books and documents to be prepared by a notifier of specially-permitted business or financial instruments business operator, etc. pursuant to Article 63-4, paragraph (1) of the Act (including as applied *mutatis mutandis* pursuant to Article 63-3, paragraph (2) of the Act) are as follows:
- (i) the books and documents specified in Article 157, paragraph (1), item (i), (a), 1. through 4. and (d), and Article 157, item (ii), (a);
  - (ii) in cases of a person conducting the business pertaining to the act specified in Article 63, paragraph (1), item (i) of the Act, the books and documents specified in Article 157, paragraph (1), items (vii) and (ix); and
  - (iii) in cases of a person conducting the business pertaining to the act specified in Article 63, paragraph (1), item (ii) of the Act, the books and documents specified in Article 157, paragraph (1), items (xvii), (a) through (c).
- (2) The books and documents under the items of the preceding paragraph may be prepared in English.
- (3) The books and documents specified in paragraph (1), item (i) must be kept for five years from the day of preparation thereof (in the case of the books and documents specified in Article 157, paragraph (1), item (ii), (a), from the day when such documents cease to be in effect), and the books and documents specified in paragraph (1), items (ii) and (iii) for ten years from the day of preparation thereof (in the case of the books and documents specified in Article 157, paragraph (1), item (xvii), (a), from the day of termination of the business pertaining to the contract or any other juridical act).

(Business Report)

- Article 246-3 (1) A business report to be submitted by a notifier of specially-permitted business or a financial instruments business operator, etc. pursuant to Article 63-4, paragraph (2) of the Act (including as applied *mutatis mutandis* pursuant to Article 63-3, paragraph (2) of the Act) must be prepared using Appended Form 21-2.
- (2) The business report under the preceding paragraph (limited to a report pertaining to a notifier of specially-permitted business) may be prepared in English in accordance with Appended Form 21-2.
- (3) When a notifier of specially-permitted business (limited to a company) prepares a business report under paragraph (1), it is to be subject to the corporate accounting practices that are generally accepted as fair and appropriate, the designated international accounting standards or Japan's modified international standards (if the notifier of specially-permitted business is a foreign company, including fair and appropriate corporate accounting practices of a foreign state where its principal business office or other office or

the business office or other office for specially-permitted business for qualified institutional investors, etc. is located).

- (4) When a notifier of specially-permitted business (excluding a company) prepares a business report under paragraph (1), it is to be subject to the accounting practices that are generally accepted as being fair and appropriate (if the notifier of specially-permitted business is an individual domiciled in a foreign country, including fair and appropriate accounting practices of a foreign state where its principal business office or other office or the business office or other office for specially-permitted business for qualified institutional investors, etc. is located).
- (5) When specially-permitted business for qualified institutional investors, etc. (limited to companies, but excluding those registered under Article 29 of the Act for conducting the acts under the items of Article 63, paragraph (1) of the Act in the course of trade) prepares a business report under paragraph (1), it is to be subject to accounting standards generally accepted as fair and appropriate.
- (6) When a financial instruments business operator conducting specially-permitted business for qualified institutional investors, etc. (excluding companies and those registered under Article 29 of the Act for conducting the acts under the items of Article 63, paragraph (1) of the Act in the course of trade) prepares a business report under paragraph (1), it is to be subject to accounting standards generally accepted as fair and appropriate.

(Procedures for Obtaining Approval on Time Limits for the Submission of Business Reports)

- Article 246-4 (1) When a notifier of specially-permitted business or financial instruments business operator, etc. which is a foreign corporation or an individual domiciled in a foreign state (hereinafter referred to as "notifier of specially-permitted business which is foreign judicial person, etc." in this Article and Article 246-6) intends to obtain an approval under the proviso to Article 17-13-3 of the Order, it must submit a written application for approval stating the following particulars to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business in the case of a notifier of specially-permitted business or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator, etc.:
- (i) the trade name or name;
  - (ii) the date of notification under Article 63, paragraph (2) of the Act or Article 63-3, paragraph (1);
  - (iii) the period for which the approval is sought in relation to the submission of the business report;

- (iv) the last day of the business year pertaining to the business report; and
  - (v) the reasons for seeking the approval with regard to the submission of the business report.
- (2) The following documents must be attached to the written application specified in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the notifier of specially-permitted business which is foreign corporation, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as specified in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval under paragraph (1) was filed, and if it is found that impossible for the notifier of specially-permitted business which is foreign corporation, etc. to submit the business report within three months after the end of the business year due to the laws and regulations or practices of its own state, the competent Director-General of a Local Finance Bureau, etc. for specially-permitted business or the Commissioner of the Financial Services Agency or other competent official is to grant an approval with regard to the business report covering the business year containing the day of the filing of such application (if such day falls within three months from the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in item (v) of that paragraph for which the application was filed would be extinguished or changed.
- (4) The approval specified in the preceding paragraph is to be granted on the condition that the notifier of specially-permitted business, etc. which is foreign corporation, etc. as specified in that paragraph submits documents stating the following particulars to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business in the case of a notifier of specially-permitted business, or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator, etc., within three months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document

submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:

- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.
- (5) The written application for approval under paragraph (1), the documents specified in the items of paragraph (2) and the documents under the preceding paragraph (limited to those pertaining to a notifier of specially-permitted business) may be prepared in English.

(Public Inspection of Explanatory Documents)

Article 246-5 (1) Pursuant to the provisions of Article 63-4, paragraph (3) of the Act (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act; hereinafter the same applies in this Article), a notifier of specially-permitted business or financial instruments business operator, etc. must make available for public inspection the explanatory documents under Article 63-4, paragraph (3) of the Act by means of keeping the copies of the explanatory documents prepared using Appended Form 21-3 or the business report under Article 246-3, paragraph (1) at its principal office or other office and all business offices or offices for specially-permitted business for qualified institutional investors, etc. or other means, or publicize such information by the use of the internet or other means so as to allow easy access by the investors.

- (2) The explanatory documents under the preceding paragraph (limited to a document pertaining to a notifier of specially-permitted business) may be prepared in English in accordance with Appended Form 21-3.
- (3) The matters to be specified by Cabinet Office Order as referred to in Article 63-4, paragraph (3) of the Act are the matters specified in Appended Form 21-3 or a business report under Article 246-3, paragraph (1).

(Procedures for Obtaining Approval on Period of Public Inspection of Explanatory Documents)

Article 246-6 (1) When a notifier of specially-permitted business which is a foreign corporation, etc. intends to obtain an approval under the proviso to Article 17-13-4 of the Order, it must submit a written application for approval stating the following particulars to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business in the case of a notifier of specially-permitted business or to the Commissioner of the Financial Services Agency or other competent official in



the case of a financial instruments business operator, etc.:

- (i) the trade name or name;
  - (ii) the date of notification under Article 63, paragraph (2) of the Act or Article 63-3, paragraph (1);
  - (iii) the period for which the approval is sought in relation to the inspection of the explanatory documents;
  - (iv) the last day of the business year pertaining to the explanatory documents; and
  - (v) the reasons for seeking the approval with regard to the inspection of the explanatory documents.
- (2) The following documents must be attached to the written application specified in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the notifier of specially-permitted business which is a foreign corporation, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as specified in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval specified in paragraph (1) was filed, and if it is found that impossible for the notifier of specially-permitted business which is a foreign corporation, etc. to make the explanatory document available for public inspection within four months after the end of the business year due to the laws and regulations or practices of its own state, the competent Director-General of a Local Finance Bureau, etc. for specially-permitted business or the Commissioner of the Financial Services Agency or other competent official is to grant an approval with regard to the explanatory document covering the business year containing the day of the filing of such application (if such day falls within four months from the commencement of the business year (if the approval has been granted with regard to the inspection of an explanatory document covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in item (v) of that paragraph for which the application was filed would be extinguished or changed.
- (4) The approval specified in the preceding paragraph is to be granted on the condition that the notifier of specially-permitted business, etc. which is a foreign corporation, etc. as specified in that paragraph submits documents

stating the following particulars to the competent Commissioner of the Financial Services Agency or other competent official for specially-permitted business in the case of a notifier of specially-permitted business or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator, etc., within four months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:

- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.
- (5) The written application for approval under paragraph (1), the documents specified in the items of paragraph (2) and the documents under the preceding paragraph (limited to those pertaining to a notifier of specially-permitted business) may be prepared in English.

(Public Notice of Supervisory Disposition)

Article 246-7 The public notice prescribed in Article 63-5, paragraph (6) of the Act (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act) is to be given by means of publication in the Official Gazette.

## **Section 6-2 Special Rules on Specially Permitted Services for Foreign Investors**

(Cases When the State of the Operation of Business Is Likely to Compromise the Protection of Investors)

Article 246-8 The cases to be specified by Cabinet Office Order as the cases which may compromise the protection of investors as referred to in the items of Article 63-8, paragraph (1) of the Act are the cases where technical measures have not been taken so that financial values in cases where the rights are indicated on financial values cannot be transferred to a person other than foreign investors, etc. (meaning the foreign investors, etc. prescribed in paragraph (2) of that Article and limited to those who do not fall under any of (a) through (c) of Article 63-8, paragraph (1), item (i); the same applies in Article 246-19).

(Persons Excluded from Foreign Investors, etc.)

Article 246-9 The persons to be specified by Cabinet Office Order as referred to in Article 63-8, paragraph (1), item (i), (c) of the Act are the following persons:

- (i) a special purpose company, if any person other than foreign investors, etc. (meaning foreign investors, etc. prescribed in Article 63-8, paragraph (2) of the Act; the same applies in the following item) has acquired the rights indicated on the securities specified in Article 2, paragraph (1), item (v), (ix), or (xv) of the Act or securities specified in item (xvii) of that paragraph (limited to those having the nature of the securities specified in item (v), (ix), or (xv) of that paragraph) issued by such specified purpose company, or has acquired the rights listed in paragraph (2), item (iii) or (iv) of said Article in regard to such special purpose company (excluding the rights wherein no property in excess of the amount of the consideration for the acquisition thereof is to be delivered); and
- (ii) a person that, in accordance with a contract or other juridical act pertaining to the investment for the right specified in Article 2, paragraph (2), item (v) or (vi) of the Act (but only if the right under said contract or other juridical act falls under the category of the right specified in item (v) or (vi) of that paragraph) concluded with any person other than a foreign investor, etc., makes or intends to make said investment by using the money or other properties invested or contributed by said other party (excluding a financial instruments business operator, etc. (limited to an operator engaged in an investment management business)).

(Scope of Foreign Investors, etc.)

Article 246-10 (1) The requirements to be specified by Cabinet Office Order as referred to in Article 63-8, paragraph (2), item (i) of the Act are to be a foreign corporation or an individual domiciled in a foreign state who falls under any of the following requirements:

- (i) the individual fulfills all of the following:
  - (a) judging reasonably from the status of transactions and other circumstances, the amount obtained by deducting the total amount of liabilities from the total amount of assets held at the time of acquiring the equity in business subject to investment pertaining to the act as specified in Article 63-8, paragraph (1), item (i) of the Act is expected to be 300 million yen or more;
  - (b) judging reasonably from the status of transactions and other circumstances, the total amount of assets (limited to the assets listed in Article 62, item (ii), (a) through (g)) held at the time of acquiring the equity in business subject to investment pertaining to the act as specified in Article 63-8, paragraph (1), item (i) of the Act is expected to be 300 million yen or more; and

- (c) one year has elapsed from the day when an account was opened with a financial instruments business operator, etc. (including a person equivalent thereto under the laws and regulations of a foreign state) for securities transactions or derivatives transactions;
  - (ii) the individual is a person equivalent to the professional investor under the laws and regulations of a foreign state at the time of acquiring the equity in business subject to investment pertaining to the act as specified in Article 63-8, paragraph (1), item (i) of the Act.
- (2) The persons to be specified by Cabinet Office Order as referred to in Article 63-8, paragraph (2), item (ii) of the Act are the following persons (excluding a person who falls under the qualified institutional investor):
- (i) a professional investor; and
  - (ii) a fund similar to an employees' pension fund or a corporate pension fund that is established in accordance with the laws and regulations of a foreign state and that is operated mainly for the purpose of administration or payment of retirement pension benefits, retirement allowances and any other similar compensation in the foreign state.
- (3) The persons to be specified by Cabinet Office Order as referred to in Article 17-13-5, paragraph (3), item (iv) of the Order are the following persons:
- (i) a subsidiary company, etc. of the person engaging in the act or a subsidiary company, etc. of the parent company, etc. of the person engaging in the act;
  - (ii) a person that has received an entrustment of all or part of the authority for the investment of a set of investment property to be conducted by the person engaging in the act (meaning money or other property that the person manages for the right holder pertaining to the operations to execute said act; the same applies in the following item);
  - (iii) a person that has concluded a contract with a person engaging in the act in which the person promises to provide the person engaging in the act with oral, written (excluding newspapers, magazines, books, or any other written work that is issued for sale to many and unspecified persons and which many and unspecified persons can buy as needed), or any other form of advice about the value, etc. of the subject of transactions conducted by the person engaging in the act as an investment of a set of investment property (hereinafter the subject is referred to as the "transaction property" in this item and the value, etc. means the value of the transaction property, the amount of the consideration for the options, or the trend of an indicator pertaining to the transaction property; hereinafter the same applies in this item) or about investment decisions based on analysis of the value, etc. (meaning decisions as to the types, quantities, and prices of investment property, whether the type of transaction is a purchase or sale, methods and timing thereof, or decisions on the details and timing of the transactions to

- be conducted), and the person engaging in the act promises to pay remuneration for this, or another person that has concluded a contract with said person in which said other person promises to provide said person with advice about investment decisions by these methods, and said person promises to pay remuneration for this;
- (iv) an officer or employee of any of the persons specified in Article 17-13-5, paragraph (3), item (iii) of the Order and the preceding three items; and
  - (v) a relative (limited to the spouse and a relative by blood or by affinity within the third degree) of the person engaging in the act (limited to one that is an individual) or of any of the persons specified in Article 17-13-5, paragraph (3), items (i) and (ii) and the preceding three items.

(Notification of Specially Permitted Services for Foreign Investors)

- Article 246-11 (1) A person that intends to file a notification under Article 63-9, paragraph (1) of the Act must submit a written notification on specially permitted services for foreign investors, etc. prepared in accordance with Appended Form No. 21-4 and a copy thereof, to a competent Director-General of a Local Finance Bureau, etc. for the notification of specially permitted services for foreign investors, etc. (meaning a Director-General of a Local Finance Bureau with jurisdiction over the location of the notifying person's head office, etc. (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof); the same applies hereinafter).
- (2) The written notification under the preceding paragraph may be prepared in English in accordance with Appended Form No. 21-4.

(Employees of Notifier of Specially Permitted Services for Foreign Investors)

- Article 246-12 (1) The person to be specified by Cabinet Office Order as referred to in Article 17-13-6, item (i) of the Order is a person that holds a position whereby the person may exercise authority on behalf of a person that supervises the business operation as prescribed in that item, such as a general manager, vice-chief, section manager or any other person irrespective of the job title.
- (2) The persons to be specified by Cabinet Office Order as referred to in Article 17-13-6, item (ii) of the Order are persons that make investment decisions based on analysis of the values, etc. of financial instruments.

(Matters to Be Notified in Relation to Specially Permitted Services for Foreign Investors)

- Article 246-13 The matters to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (1), item (ix) of the Act are the following matters:

- (i) the principal business office or other office (in the case of a foreign corporation, including the principal business office or other office in Japan), and the telephone number and the website URL of the business office or other office for specially permitted services for foreign investors, etc.;
- (ii) the name and type (meaning the type of equity in business subject to investment and in cases where the equity in business subject to investment falls under an electronically recorded transferable right or any of the rights prescribed in Article 1-12, item (ii) of the Order, including to that effect) of the equity in business subject to investment pertaining to the specially permitted services for foreign investors, etc.;
- (iii) the contents of the business subject to investment pertaining to the specially permitted services for foreign investors, etc.;
- (iv) if the notifier is a corporation, the following matters:
  - (a) the name of a person who is found to have the same or a higher authority over the corporation as directors, executive officers or any persons holding a position equivalent thereto, irrespective of their job title such as advisor, consultant or others; and
  - (b) the following matters related to the major shareholders (meaning the major shareholders defined in Article 63-9, paragraph (6), item (ii), (e) of the Act; hereinafter the same applies in this Section):
    1. the trade name or name;
    2. the location of the head office or principal office (in the case of an individual, the domicile or residence); and
    3. in the case of a corporation, the name of its representative; and
- (v) if the notifier is a foreign corporation, the location or address and telephone number of the representative person in Japan.

(Documents to Be Attached to Written Notification on Specially Permitted Services for Foreign Investors)

Article 246-14 (1) The documents to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (2), item (iii) of the Act are the following documents:

- (i) a document stating the system for conducting business, such as its structure of personnel and the organization pertaining to the business;
- (ii) internal rules concerning the specially permitted services for foreign investors, etc.;
- (iii) if the notifier is a corporation, the following documents:
  - (a) the resume of the officers (including those found to have the same or a higher authority over the corporation as directors, executive officers or any persons holding position equivalent thereto, irrespective of their job title such as advisor, consultant or others; the same applies in this Section,

- excluding Article 246-20, paragraph (2), item (iii), (a), Article 246-24, paragraph (1), item (vi), (b), and Article 246-25, paragraph (1), item (iv), (b)) and major employees (meaning the employee provided for in Article 17-13-6 of the Order; hereinafter the same applies in this Section) (if any of the officers is a corporation, a document containing the background of the officer);
- (b) the extracts of the certificates of residence of the officers and major employees (if any of the officers is a corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
  - (c) if the former surname and given name of the officer or a major employee are stated together with the current name of the officer or major employee in a written notification under Article 63-9, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the officer or the major employee, a document certifying the former surname and given name;
  - (d) the certificate issued by a public agency evidencing that none of the officers or major employees falls under Article 29-4, paragraph (1), item (ii), (b) of the Act, or any other document in lieu thereof; and
  - (e) documents in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), (a) or (c) through (i) of the Act; and
  - (f) a document stating the number of the subject voting rights held by the major shareholders (meaning the subject voting rights defined in Article 29-4, paragraph (2) of the Act, and including those deemed to be held pursuant to the provisions of paragraph (5) of that Article; the same applies in Article 246-20, paragraph (2), item (iv), (a) and Article 246-22, paragraph (2), item (iii), (g));
- (iv) if the notifier is an individual, the following documents:
- (a) the resumes of the notifier and the major employees;
  - (b) the extracts of the certificates of residence of the notifier and the major employees, or any other documents in lieu thereof;
  - (c) if the former surname and given name of the notifier or a major employee are stated together with the current name of the notifier or the major employee in a written notification under Article 63-9, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the notifier or the major employee, a document certifying the former surname and given name;
  - (d) the certificate issued by a public agency evidencing that none of the notifier and major employees falls under Article 29-4, paragraph (1), item (ii), (b) of the Act, or any other document in lieu thereof; and

- (e) documents in which each of the major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), (a) or (c) through (i) of the Act; and
- (v) a document describing the following matters related to the acts specified in the items of Article 63-8, paragraph (1) of the Act:
  - (a) the type of a person who holds or will hold the equity in business subject to investment (meaning the type prescribed in the items of Article 63-8, paragraph (2) of the Act);
  - (b) if there is a resident among persons who hold or will hold the equity in business subject to investment, the scheduled total amount of money and other properties to be invested in or paid by the resident and the scheduled total amount of money and other properties to be invested in or paid by non-residents; and
  - (c) if there is a person who falls under the requirements specified in Article 246-10, paragraph (1), item (ii) among persons who hold or will hold the equity in the business subject to investment, outline of the laws and regulations of the foreign state prescribed in said item.
- (2) The documents under the items of the preceding paragraph may be prepared in English.

(Electronic or Magnetic Record)

- Article 246-15 (1) The electronic or magnetic record to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (3) of the Act must have a structure specified in the following:
- (i) a 90mm flexible magnetic disc cartridge conforming to Japanese Industrial Standards X6223; and
  - (ii) a 120mm optical disc conforming to Japanese Industrial Standards X0606 and X6282.
- (2) Entry onto an electronic or magnetic record under item (i) of the preceding paragraph must be completed by the following means:
- (i) with regard to the track format, the means designated by JIS X6225; and
  - (ii) with regard to volume and file configuration, the means designated by JIS X0605.
- (3) With regard to the electronic or magnetic record set forth in paragraph (1), a document containing the following matters must be affixed:
- (i) the trade name or name of the notifier; and
  - (ii) the date of notification.

(Public Inspection of Notified Matters Relating to Specially Permitted Services for Foreign Investors by the Commissioner of the Financial Services Agency or Other Official)



- Article 246-16 (1) The Commissioner of the Financial Services Agency, competent Director-General of a Local Finance Bureau, etc. for the notification of specially permitted services for foreign investors, etc. or competent Director-General of a Local Finance Bureau, etc. is to keep the records of the matters stated in Appended Form No. 21-5 of the notifier of specially permitted services for foreign investors, etc. or financial instruments business operators (meaning a person who files a notification pursuant to the provisions of Article 63-11, paragraph (1) of the Act and excluding a person who files a notification of the fact of falling under Article 63-10, paragraph (3), item (ii) of the Act as applied *mutatis mutandis* pursuant to Article 63-11, paragraph (2), pursuant to the provisions of Article 63-10, paragraph (3) of the Act; hereinafter the same applies in this Section, excluding Article 246-27, paragraph (1)) at the Financial Services Agency or the local finance bureau with jurisdiction over the location of the head office, etc. of the notifier of specially permitted services for foreign investors, etc. or financial instruments business operator (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the operator has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau) and make them available for public inspection or publicize them by the use of the internet or other means.
- (2) The matters to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (4) of the Act (including as applied *mutatis mutandis* pursuant to Article 63-11, paragraph (2) of the Act) are the matters stated in Appended Form No. 21-5.

(Public Inspection of Notified Matters Relating to Specially Permitted Services for Foreign Investors by Notifier of Specially Permitted Services for Foreign Investors or Financial Instruments Business Operators)

- Article 246-17 (1) Pursuant to the provisions of Article 63-9, paragraph (5) of the Act (including as applied *mutatis mutandis* pursuant to Article 63-11, paragraph (2) of the Act; the same applies in the following paragraph), a notifier of specially permitted services for foreign investors, etc. or financial instruments business operator is to keep a copy of the document prepared using Appended Form No. 21-5 at its principal business office or other office, or all business offices or other offices for specially permitted services for foreign investors, etc. (in the case of a foreign corporation or an individual domiciled in a foreign state, meaning the principal business office or other office in Japan and all business offices or other offices in Japan for specially permitted services for foreign investors, etc.) and make the information available for public inspection, or publicize them by the use of the internet or other means in a way which allows easy access by investors any time.

- (2) The matters to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (5) of the Act are the matters stated in Appended Form No. 21-5.
- (3) The document under paragraph (1) may be prepared in English in accordance with Appended Form No. 21-5.

(A Person Who Lacks the Personnel Structure Sufficient to Conduct Specially Permitted Services for Foreign Investors in an Appropriate Manner)

Article 246-18 The person to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (6), item (i), (b) of the Act is a person that falls under any of the following items:

- (i) a person who is not able to conduct the business in a proper manner, considering the status of securing officers or employees having sufficient knowledge and experience for conducting the business as well as its organizational structure;
- (ii) a person who is likely to cause a loss of confidence in specially-permitted services for foreign investors, etc., on the grounds of having any officer or employee with qualities unfit for the operation of the business in light of such officer's or employee's career, relationship with the organized crime group set forth in Article 2, item (ii) of the Act on Prevention of Illegal Acts by Organized Crime Group Members or relationship with the organized crime group members set forth in item (vi) of that Article or any other circumstances;

(A Person Who is Not Found to Have Established a System Necessary for Conducting Specially Permitted Services for Foreign Investors in an Appropriate Manner)

Article 246-19 The person to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (6), item (i), (c) of the Act is a person who has not created internal rules for conducting specially permitted services for foreign investors, etc. in an appropriate manner (limited to internal rules that include provisions on measures to prevent persons other than foreign investors, etc. to become a right holder) or a person who has not established a system to comply with the internal rules.

(Notification of Change of Matters Notified in Relation to Specially Permitted Services for Foreign Investors)

Article 246-20 (1) A notifier of specially permitted services for foreign investors, etc. that intends to file a notification under Article 63-9, paragraph (7) of the Act must submit a written notification stating the particulars and the date of and the reasons for the change, attaching a document stating the particulars

after said change prepared in accordance with Appended Form No. 21-4 and a copy thereof, to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc. (meaning the Commissioner of the Financial Services Agency in the case of a notifier of specially permitted services for foreign investors, etc. designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Order, and meaning the competent Director-General of a Local Finance Bureau, etc. for the notification of specially permitted services for foreign investors, etc. in the case of other notifier of specially permitted services for foreign investors, etc.; the same applies hereinafter).

- (2) The documents specified in the following items are to be attached to the written notification set forth in the preceding paragraph in accordance with the category of cases set forth in those items; provided, however, that the documents may be submitted without delay after submission of the written notification, if any unavoidable ground exists:
- (i) if there is a change to the matters specified in Article 63-9, paragraph (1), item (i) of the Act: the following documents:
    - (a) a certificate of registered information (in the case of an individual, an extract of residence certificate) stating the matters relating to the change or a document in lieu thereof; and
    - (b) in the case of indicating the former surname and given name on the document stating the details after change that is prepared in accordance with Appended Form No. 21-4 together with the current name, and the document specified in (a) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  - (ii) if there has been a change to the matters specified in Article 63-9, paragraph (1), item (ii) or (vi) of the Act: the certificate of the registered matters stating the matters pertaining to the change or any other document in lieu thereof;
  - (iii) if there has been a change to the matters specified in Article 63-9, paragraph (1), item (iii) or (iv) of the Act or the matters specified in Article 246-13, item (iv), (a): the following documents:
    - (a) in the case of any change of officers, the certificate of the registered matters stating the matters relating to the change or any other document in lieu thereof;
    - (b) the following documents relevant to the person that has newly assumed positions as officer or major employee:
      1. the resumes (if any of the officers is a corporation, a document containing the background of the officer);
      2. the extracts of the certificates of residence (if any of the officers is a

- corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
3. if the former surname and given name are stated in the document stating the details after change that is prepared in accordance with Appended Form No. 21-4 together with the current name and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  4. the certificates issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), (b) of the Act, or any other document in lieu thereof;
  5. documents in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), (a) or (c) through (i) of the Act;
  6. if the notifier of specially permitted services for foreign investors, etc. is a corporation, a document to pledge that it does not fall under Article 63-9, paragraph (6), item (ii), (a) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), (a) of the Act); and
  7. if the notifier of specially permitted services for foreign investors, etc. is an individual, a document to pledge that the person does not fall under Article 63-9, paragraph (6), item (iii), (a) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), (a) of the Act);
- (iv) if there has been a change to the matters specified in Article 246-13, item (iv), (b): the following documents:
- (a) a document stating the number of subject voting rights held by major shareholders;
  - (b) if there is a person who newly becomes a major shareholder and the major shareholder is an individual, a document to pledge that the person does not fall under Article 63-9, paragraph (6), item (ii), (e) of the Act; and
  - (c) if there is a person who newly becomes a major shareholder and the major shareholder is a corporation, a document to pledge that the person does not fall under article 63-9, paragraph (6), item (ii), (f).
- (3) The written notification under paragraph (1) and the documents specified in the items of the preceding paragraph may be prepared in English.
- (4) The document under paragraph (1) may be prepared in English in accordance with Appended Form No. 21-4.

(Notification in Cases of Exclusion from Definition as Specially Permitted Services for Foreign Investors)

Article 246-21 (1) A notifier of specially permitted services for foreign investors, etc. that intends to file a notification under Article 63-9, paragraph (10) of the

Act must submit a written notification stating that fact, the date when the business came to be excluded from the definition of the specially permitted services for foreign investors, etc. and the reasons therefor, to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc.

(2) The written notification under the preceding paragraph may be prepared in English.

(Notification of Succession of Status of a Notifier of Specially Permitted Services for Foreign Investors)

Article 246-22 (1) A person that intends to file a notification under Article 63-10, paragraph (2) of the Act must submit a written notification stating the following particulars, to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc. pertaining to the notifier of specially permitted services for foreign investors, etc. set forth in paragraph (1) of that Article:

- (i) the trade name or name of the successor;
- (ii) the date of and the reasons for the succession;
- (iii) the means of succession;
- (iv) if the successor is a corporation, the amount of stated capital or the total amount of investment;
- (v) if the successor is a corporation, the names of its officers;
- (vi) if the successor has major employees, their names;
- (vii) the name and address of the principal business office or other office (in the case of a foreign corporation, including the principal business office or other office in Japan; the same applied in item (x)) of the successor;
- (viii) the name and address of the business office or other office if the successor conducts specially permitted services for foreign investors, etc.;
- (ix) if the successor conducts other business, the type of such business;
- (x) the principal business office or other office of the successor and the telephone number and the website URL of the business office or other office for specially permitted services for foreign investors, etc.;
- (xi) if the successor is a corporation, the following matters related to major shareholders:
  - (a) the trade name or name;
  - (b) the location of the head office or principal office (in the case of an individual, the domicile or residence); and
  - (c) in the case of a corporation, the name of its representative;
- (xii) if the successor is a foreign corporation, the location or address and telephone number of the representative person in Japan.

(2) The following documents must be attached to the written notification under

the preceding paragraph; provided, however, that the documents may be submitted without delay after submission of the written notification, if any unavoidable ground exists:

- (i) the documents stating the system for conducting business, such as its structure of personnel and the organization pertaining to the business;
- (ii) internal rules concerning the specially permitted services for foreign investors, etc.;
- (iii) if the successor is a corporation, the following documents:
  - (a) a document to pledge that it does not fall under Article 63-9, paragraph (6), items (i) and (ii) (excluding (d)) of the Act, its articles of incorporation (including a document equivalent thereto) and a certificate of registered information of the corporation (including a document equivalent thereto);
  - (b) the resumes of the officers and major employees (if any of the officers is a corporation, a document containing the background of the officer);
  - (c) the extracts of the certificates of residence of the officers and major employees (if any of the officers is a corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
  - (d) if the former surname and given name of the officer or major employee are stated together with the current name of the officer or major employee in a written notification under the preceding paragraph, and the document specified in (c) is not a document certifying the former surname and given name of the officer or major employee, a document certifying the former surname and given name;
  - (e) the certificate issued by a public agency evidencing that none of the officers and major employees falls under Article 29-4, paragraph (1), item (ii), (b) of the Act, or any other document in lieu thereof;
  - (f) a document in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), (a) or (c) through (i) of the Act; and
  - (g) a document stating the number of subject voting rights held by major shareholders;
- (iv) if the successor is an individual, the following documents:
  - (a) a document to pledge that the successor does not fall under Article 63-9, paragraph (6), items (i) and (iii) of the Act;
  - (b) the resumes of the successor and major employees;
  - (c) extracts of the certificates of residence of the successor and major employees, or any other document in lieu thereof;
  - (d) if the former surname and given name of the successor and major employee are stated together with the successor's or the major employee's current name in a written notification under the preceding paragraph, and

- the document specified in (c) is not a document certifying the successor's or the major employee's former surname and given name, a document certifying the former surname and given name;
- (e) the certificate issued by a public agency evidencing that none of the successor and major employees falls under Article 29-4, paragraph (1), item (ii), (b) of the Act, or any other document in lieu thereof; and
  - (f) a document in which each of the major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), (a) or (c) through (i) of the Act.
- (3) The written notification under paragraph (1) and the documents specified in the items of the preceding paragraph may be prepared in English.

(Cases of Notification of Discontinuation of Business by a Notifier of Specially Permitted Services for Foreign Investors)

Article 246-23 The cases to be specified by Cabinet Office Order as referred to in Article 63-10, paragraph (3), item (iii) of the Act are as follows:

- (i) if the notifier is a corporation, the following cases:
  - (a) in cases where the notifier has come to fall under Article 29-4, paragraph (1), item (i), (a) (limited to the part pertaining to the provisions of the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services) or (c);
  - (b) in cases where the notifier has become aware that any of its officers or major employees has come to fall under Article 199, item (ii), (a) or (b);
  - (c) in cases where its articles of incorporation (including a document equivalent thereto) have been changed; and
  - (d) in cases where the notifier has become aware that any of its major shareholders has come to fall under any of Article 199, item (xi), (c), 1. through 4.;
- (ii) if the notifier is an individual, the following cases:
  - (a) in cases where the notifier has come to fall under Article 199, item (ii), (a) or under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services) or (c) of that item, or item (ii), (b) through (h), or (i) of that paragraph of the Act (excluding the part pertaining to the provisions of the Act as specified in item (i), (c) of that paragraph); and
  - (b) in cases where the notifier has become aware that any of its major employees has come to fall under Article 199, item (ii), (a) or (b);
- (iii) in cases where there is a change to the content of the documents specified in Article 246-14, paragraph (1), item (i) or (ii);
- (iv) in cases where the notifier has become aware that any of its officers has

- committed any act in breach of the laws and regulations (including the laws and regulations, etc. of a foreign state) (in the case of acts pertaining to a business other than specially permitted services for foreign investors, etc., limited to acts which may give material impact on the management of business or status of properties of the notifier of specially permitted services for foreign investors, etc.; hereinafter referred to as the "problematic conduct, etc." in this item and the following item, and paragraph (1), items (vii) and (viii) of the following Article) (excluding the cases in which the problematic conduct, etc. falls under the act specified in Article 118, item (i), (a) through (d) or item (ii), (a) or (b), or the act specified in in (c) of that item (excluding the act in breach of the laws and regulations), and such act was caused through negligence; the same applies in the following item);
- (v) if the details of the problematic conduct, etc. under the preceding item have been revealed;
  - (vi) in cases where the notifier of specially permitted services for foreign investors, etc. has become a party to any action or conciliation (with regard to any action or conciliation relevant to a business other than the specially permitted services for foreign investors, etc., limited to those that may have a material impact on the management of business or status of properties of the notifier of specially permitted services for foreign investors, etc.), or if such an action or conciliation has been concluded; and
  - (vii) in cases where the notifier has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of the foreign state equivalent to the Act (limited to those pertaining to specially permitted services for foreign investors, etc. and excluding the cases falling under Article 29-4, paragraph (1), item (i), (a) of the Act).

(Notification of Discontinuation of a Notifier of Specially Permitted Services for Foreign Investors)

- Article 246-24 (1) A notifier of specially permitted services for foreign investors, etc. that intends to file a notification under Article 63-10, paragraph (3) of the Act must submit a written notification stating the matters listed in the following items in accordance with the categories of the cases set forth respectively therein, to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc.:
- (i) the cases falling under Article 63-10, paragraph (3), item (i) of the Act: period of suspension or date of resumption, and the reasons for such suspension or resumption;
  - (ii) the case falling under Article 63-10, paragraph (3), item (ii) of the Act: the date of and the reasons for the discontinuation; and



- (iii) the case falling under item (i), (a) or item (ii), (a) of the preceding Article: the matters specified in (a) through (c) below in accordance with the categories of the cases set forth respectively in (a) through (c):
- (a) in the case of having come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following matters:
1. contents of the same type of the registration, etc. obtained by the notifier of specially permitted services for foreign investors, etc. in the foreign state pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services or the same type of the notification under Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the Act made by the notifier of specially permitted services for foreign investors, etc. pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services;
  2. the date of the registration, etc. or notification;
  3. the date of and the reasons for the rescission of the registration, etc. or order for suspension of the business pertaining to the notification; and
  4. the details of the business for which the registration, etc. was rescinded or suspension of the business pertaining to the notification was ordered;
- (b) in the case of having come to fall under Article 29-4, paragraph (1), item (i), (c) of the Act, the following matters:
1. the provisions of the laws and regulations which were violated; and
  2. the date when the punishment became final and binding, and the amount of the fine imposed;
- (c) in cases where the notifier of specially permitted services for foreign investors, etc. who is an individual has come to fall under Article 199, item (ii), (a) or under Article 29-4, paragraph (1), item (ii), (b) through (h) of the Act (excluding the part pertaining to the provisions of the Act as specified in item (i), (c) of that paragraph; the same applies in 3.), the following matters:
1. in the case of having come to fall under Article 199, item (ii), (a), the date when the notifier came to fall under such provision and the reasons therefor;
  2. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the date when the notifier became subject to the order for the commencement of bankruptcy proceedings;
  3. in the case of having come to fall under Article 29-4, paragraph (1), item

- (ii), (c) or (i) of the Act, the date when the punishment became final and binding, and the type of punishment;
  - 4. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  - 5. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7 (including as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act; the same applies hereinafter in this Article), Article 63-2, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act; the same applies hereinafter in this Article) or paragraph (4), Article 63-10, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act; the same applies hereinafter in this Article) or paragraph (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
  - 6. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;
- (iv) the cases falling under item (i), (b) or item (ii), (b) of the preceding Article: the following matters:
- (a) the name of the officer or major employee that has come to fall under Article 199, item (ii), (a) or (b);
  - (b) if the officer or major employee has come to fall under Article 199, item (ii), (a), the date when the officer or major employee came to fall under such provision and the reasons therefor;
  - (c) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the date when the officer or major employee became subject to the order for the commencement of bankruptcy proceedings;
  - (d) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the date when the punishment became final and binding, and the type of punishment;
  - (e) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  - (f) if the officer or major employee has come to fall under Article 29-4,

- paragraph (1), item (ii), (f) or (g) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
- (g) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;
- (v) the cases falling under item (i), (c) or item (iii) of the preceding Article: the following matters:
- (a) the particulars and the reasons for the change; and
  - (b) the date of the change;
- (vi) the cases falling under item (i), (d) of the preceding Article: the matters specified in (a) and (b) below in accordance with the categories of cases set forth respectively in (a) and (b):
- (a) in cases where the notifier has become aware that any of its major shareholders has come to fall under Article 199, item (xi), (c), 1. or 2., the following matters:
    1. the name of the major shareholder that has come to fall under such provision;
    2. if the major shareholder has come to fall under Article 199, item (xi), (c), 1., the date when the major shareholder came to fall under such provision and the reasons therefor;
    3. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the date when the major shareholder or the agent became subject to the order for the commencement of bankruptcy proceedings;
    4. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the date when the punishment became final and binding, and the type of punishment;
    5. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
    6. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1),

Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and

7. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when dismissal or removal was ordered and the reasons therefor;
- (b) in cases where the notifier has become aware that any of its major shareholders has come to fall under Article 199, item (xi), (c), 3. or 4.: the following matters:
1. the trade name or name of the major shareholder which has come to fall under such provision;
  2. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (a) of the Act, the details and date of the registration, etc. granted to said major shareholder, and the date of and the reasons for the rescission of said registration, etc., and the details and the date of the business for which the registration, etc. was rescinded, or the content of the notification under Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the Act made by the major shareholder, and the date of and the reasons for the order of discontinuation of business for which the notification was made and the details of the business;
  3. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (b) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraph (2) or (3), Article 63-10, paragraph (2) or (3), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
  4. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (c) of the Act, the provisions of the laws and regulations violated, the date when the punishment became final and binding, and the amount of the fine imposed;
  5. if the major shareholder has come to fall under Article 199, item (xi), (c), 4., the name of the officer representing the corporation which has come to fall under either of (c), 4, i. or ii. of that item;
  6. if the officer representing the corporation which is the major shareholder has come to fall under Article 199, item (xi), (c), 4., i., the date when the officer came to fall under such provision and the reasons therefor;
  7. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the

- Act, the date when the officer became subject to an order for the commencement of bankruptcy proceedings;
8. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the date when the punishment became final and binding, and the type of punishment;
  9. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  10. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act, Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
  11. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when the dismissal or removal was ordered, and the reasons therefor;
- (vii) the cases falling under item (iv) of the preceding Article; the following matters:
- (a) the name of the business office or other office where the problematic conduct, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) outline of the problematic conduct, etc.;
- (viii) the cases falling under item (v) of the preceding Article: the following matters:
- (a) the name of the business office or other office where the problematic conduct, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) details of the problematic conduct, etc.; and
  - (d) if any internal action has been taken, the details thereof;
- (ix) the cases falling under item (vi) of the preceding Article: the matters specified in (a) and (b) below in accordance with the categories of cases set forth respectively in (a) and (b):
- (a) in the case of becoming a party to any action or conciliation, the following

matters:

1. the name and address of the party of the suit or conciliation;
2. the date when the action or conciliation was filed;
3. the name of the court with jurisdiction; and
4. the details of the case;

(b) if the action or conciliation has been concluded, the following matters:

1. the name and address of the party of the action or conciliation;
2. the date when the action or conciliation was concluded; and
3. the details of the judgment or settlement;

(x) the cases falling under item (vii) of the preceding Article: the following matters:

- (a) the details of the adverse disposition; and
- (b) the date when becoming subject to the adverse disposition and the reasons therefor.

(2) The written notification under the preceding paragraph may be prepared in English.

(Documents to Be Attached to Written Notification for Discontinuation of

Business by a Notifier of Specially Permitted Services for Foreign Investors)  
Article 246-25 (1) In the case of falling under any of the categories of the cases set forth in the following items, a notifier of specially permitted services for foreign investors, etc. which files a notification under Article 63-10, paragraph (3) of the Act must attach the document specified in the relevant item to the written notification stating the matters prescribed in paragraph (1) of the preceding Article:

(i) the cases falling under Article 246-23, item (i), (a) or item (ii), (a): the matters specified in (a) through (c) below in accordance with the categories of cases set forth respectively in (a) through (c):

(a) in the case of having come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following documents:

1. a copy of the written order for rescission or discontinuation, or any other document in lieu thereof; and
2. a copy of the laws and regulations of the foreign state and the Japanese translation thereof;

(b) in the case of having come to fall under Article 29-4, paragraph (1), item (i), (c) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;

(c) in cases where the notifier of specially permitted services for foreign

investors, etc. who is an individual has come to fall under Article 29-4, paragraph (1), item (ii), (b) through (e) or (i) of the Act (excluding the part pertaining to the provisions of the Act as specified in item (i), (c) of that paragraph; the same applies in 2.), the following documents:

1. if the notifier of specially permitted services for foreign investors, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  2. if the notifier of specially permitted services for foreign investors, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment; and
  3. if the notifier of specially permitted services for foreign investors, etc. has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the written order for rescission or discontinuation of business or a document in lieu thereof, as well as a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation of business and the Japanese translation thereof;
- (ii) the cases falling under Article 246-23, item (i), (b) or item (ii), (b) (limited to the parts pertaining to Article 199, item (ii), (b) among those provisions): the following documents:
- (a) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  - (b) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment; and
  - (c) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation of business and the Japanese translation thereof;
- (iii) the cases falling under Article 246-23, item (i), (c): the articles of incorporation after the change (including a document equivalent thereto);

(iv) the cases falling under Article 246-23, item (i), (d): documents specified in (a) and (b) below in accordance with the categories of cases set forth respectively in (a) and (b):

(a) in cases where the notifier has become aware that any of its major shareholders has come to fall under Article 199, item (xi), (c), 1. or 2., the following documents:

1. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
2. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
3. if the major shareholder or an agent has been punished in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of such punishment and the Japanese translation thereof;  
and
4. if the major shareholder or an agent has had the registration, etc. rescinded or was ordered to discontinue its business in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of such rescission of registration, etc. or discontinuation of business and the Japanese translation thereof;

(b) in cases where the notifier has become aware that any of its major shareholders has come to fall under Article 199, item (xi), (c), 3. or 4., ii.: the following documents:

1. if the major shareholder has come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act, a copy of the written order for rescission or discontinuation of business or a document in lieu thereof;
2. if the major shareholder falls under Article 29-4, paragraph (1), item (i), (a) of the Act or if the officer representing the corporation which is a major shareholder falls under item (ii), (d) or (e) of that paragraph and the registration, etc. was rescinded or the discontinuation of business was ordered in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of the rescission or discontinuation of business and the Japanese translation thereof;
3. if the major shareholder has come to fall under Article 29-4, paragraph (1), item (i), (c) of the Act or if the officer representing the corporation which is a major shareholder falls under item (ii), (c) or (i) of that paragraph, a copy of the judgment document on the final and binding



judgment, or a document stating the details of the final and binding judgment; and

4. if any officer representing the corporation which is a major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  - (v) the cases falling under Article 246-23, item (iii): documents specified in article 246-14, paragraph (1), item (i) or (ii) after change; and
  - (vi) the cases falling under Article 246-23, item (vii): a copy of the laws and regulations of the foreign state which provides for the adverse disposition and the Japanese translation thereof.
- (2) The documents under the items of the preceding paragraph may be prepared in English.

(Notification of Dissolution of a Notifier of Specially Permitted Services for Foreign Investors)

Article 246-26 (1) A person that intends to file a notification under Article 63-10, paragraph (4) of the Act must submit a written notification stating the date of and the reasons for the dissolution to the Commissioner of the Financial Services Agency, if the notifier of specially permitted services for foreign investors, etc. regarding the notification is the one designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Order, or, to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, etc. of the notifier of specially permitted services for foreign investors, etc. (if said location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof) in the case of the notifier of specially permitted services for foreign investors, etc. other than the above.

- (2) The written notification under the preceding paragraph may be prepared in English.

(Matters to Be Notified by Financial Instruments Business Operator in Relation to Specially Permitted Services for Foreign Investors)

Article 246-27 (1) A financial instruments business operator which intends to file a notification under Article 63-11, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency, etc. a written notification on the specially permitted services for foreign investors, etc. prepared in accordance with Appended Form No. 21-6, attaching a copy thereof.

- (2) The matters to be specified by Cabinet Office Order as referred to in Article 63-11, paragraph (1) of the Act or Article 63-9, paragraph (7) of the Act as

applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act following the deemed replacement of terms are the matters specified in Article 246-13, items (i) through (iii).

- (3) The documents stating the following matters related to the acts specified in the items of Article 63-8, paragraph (1) of the Act are to be attached to the written notification under paragraph (1):
- (i) type of a person who holds or is to hold the equity in business subject to investment (meaning the type prescribed in the items of Article 63-8, paragraph (2) of the Act);
  - (ii) if there is a resident among persons who hold or are to hold the equity in business subject to investment, the scheduled total amount of money and other properties to be invested or paid by the resident and the scheduled total amount of money and other properties to be invested or paid by non-residents; and
  - (iii) if there is a person who falls under the requirements specified in Article 246-10, paragraph (1), item (ii) among persons who hold or are to hold the equity in business subject to investment, outline of laws and regulations of a foreign state prescribed in said item.

(Notification of Change in Notified Matters Pertaining to Specially Permitted Services for Foreign Investors by the Financial Instruments Business Operator)

Article 246-28 A financial instruments business operator who makes a notice pursuant to the provisions of Article 63-9, paragraph (7) of the Act as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act must attach a document stating the content after the change prepared in accordance with Appended Form No. 21-6 and a copy thereof to a written notification stating the content of change, the date of change, and the reasons for the change, and submit them to the Commissioner of the Financial Services Agency or other competent official.

(Notification to Be Filed by Financial Instruments Business Operator in Case of Exclusion from Definition as Specially Permitted Services for Foreign Investors)

Article 246-29 A financial instruments business operator which files a notification pursuant to Article 63-9, paragraph (10) of the Act as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating such fact, the date when its business ceased to fall under specially permitted services for foreign investors, etc. and the reasons therefor.

(Case Where a Financial Instruments Business Operator Is Required to File a Notification on Suspension of Specially Permitted Services for Foreign Investors)

Article 246-30 The cases to be specified by Cabinet Office Order as referred to in Article 63-10, paragraph (3), item (iii) of the Act as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act are as follows:

- (i) if the financial instruments business operator has become aware that any of its officers or employees has committed any act in breach of the laws and regulations, etc. of a foreign state (with regard to any act pertaining to a business other than specially permitted services for foreign investors, etc., limited to an act which may have a material impact on the management of business or status of properties of the financial instruments business operator; hereinafter referred to as the "problematic conduct, etc." in this item, the following item, and paragraph (1), items (iii) and (iv) of the following Article) (excluding the cases in which the problematic conduct, etc. falls under the act specified in Article 118, item (i), (a) through (d) or item (ii), (a) or (b), or the act specified in (c) of that item (excluding the act in breach of laws and regulations), and said act was caused through negligence; the same applies in the following item);
- (ii) if the details of the problematic conduct, etc. under the preceding item have been revealed; and
- (iii) in cases where the financial instruments business operator has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of a foreign state equivalent to the Act (limited to those pertaining to specially permitted services for foreign investors, etc. and excluding the cases falling under Article 199, item (x), or under Article 29-4, paragraph (1), item (i), (a) of the Act).

(Notification on Suspension of Specially Permitted Services for Foreign Investors by a Financial Instruments Business Operator)

Article 246-31 (1) A financial instruments business operator which intends to file a notification under Article 63-10, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the matters prescribed in the following items, in accordance with the categories of the cases respectively set forth therein:

- (i) the cases falling under Article 63-10, paragraph (3), item (i) of the Act as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act: the period of suspension or date of resumption, and the reasons for such

- suspension or resumption;
- (ii) the cases falling under Article 63-10, paragraph (3), item (ii) of the Act as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act: the date of and the reasons for the discontinuation;
- (iii) the cases falling under item (i) of the preceding Article: the following matters:
  - (a) the name of the business office or other office where the problematic conduct, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) outline of the problematic conduct, etc.;
- (iv) the cases falling under item (ii) of the preceding Article: the following matters:
  - (a) the name of the business office or other office where the problematic conduct, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) details of the problematic conduct, etc.; and
  - (d) if any internal action has been taken, the details thereof;
- (v) the cases falling under item (iii) of the preceding Article: the following matters:
  - (a) the details of the adverse disposition; and
  - (b) the date when the financial instruments business operator, etc. came to be subject to the adverse disposition and the reasons therefor.
- (2) The written notification prescribed in the preceding paragraph (limited to the one pertaining to the cases specified in item (v) of that paragraph) is to be attached with a copy of the laws and regulations of the foreign state which provides for the adverse disposition, and the Japanese translation thereof.

(Books and Documents Related to Business Affairs)

Article 246-32 (1) The books and documents to be prepared by a notifier of specially permitted services for foreign investors, etc. or financial instruments business operator pursuant to Article 63-12, paragraph (1) of the Act (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act) are as follows:

- (i) the books and documents specified in Article 157, paragraph (1), item (i), (a), 1. through 4. and (d), and item (ii), (a);
- (ii) the books and documents specified in Article 157, paragraph (1), item (xvii), (a) through (c) (including a copy of the documents prescribed in Article 134, paragraph (5), item (v) in the cases falling under that item);
- (iii) in the case of a person conducting the business pertaining to the act

specified in Article 63-8, paragraph (1), item (ii) of the Act, the books and documents specified in Article 157, paragraph (1), items (vii) and (ix).

- (2) The books and documents under the items of the preceding paragraph may be prepared in English.
- (3) The books and documents specified in paragraph (1), item (i) must be kept for five years from the day of preparation thereof (in the case of the books and documents specified in Article 157, paragraph (1), item (ii), (a), from the day when such documents ceased to be in effect), and the books and documents specified in paragraph (1), items (ii) and (iii) must be kept for ten years from the day of preparation thereof (in the case of the books and documents specified in Article 157, paragraph (1), item (xvii), (a), from the day of termination of the business pertaining to the contract or any other juridical act).

(Business Report)

Article 246-33 (1) A business report to be submitted by a notifier of specially permitted services for foreign investors, etc. or a financial instruments business operator pursuant to Article 63-12, paragraph (2) of the Act (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act) must be prepared using Appended Form No. 21-7.

- (2) The business report under the preceding paragraph (limited to a report pertaining to a notifier of specially permitted services for foreign investors, etc.) may be prepared in English in accordance with Appended Form No. 21-7.
- (3) When a notifier of specially-permitted services for foreign investors, etc. (limited to a company) prepares a business report under paragraph (1), it is to be subject to the corporate accounting practices that are generally accepted as fair and appropriate, the designated international accounting standards or Japan's modified international standards (if the notifier of specially-permitted services for foreign investors, etc. is a foreign company, including fair and appropriate corporate accounting practices of the foreign state where its principal business office or other office or the business office or other office for specially-permitted business for qualified institutional investors, etc. is located).
- (4) When a notifier of specially permitted services for foreign investors, etc. (excluding a company) prepares a business report under paragraph (1), it is to be subject to the accounting practices that are generally accepted as being fair and appropriate.
- (5) When a financial instruments business operator (limited to a company) prepares a business report under paragraph (1), it is to be subject to the accounting practices that are generally accepted as being fair and appropriate.
- (6) When a financial instruments business operator (excluding a company)

prepares a business report under paragraph (1), it is to be subject to the accounting practices that are generally accepted as being fair and appropriate.

(Procedures for Obtaining Approval on Time Limits for the Submission of Business Reports)

Article 246-34 (1) When a notifier of specially permitted services for foreign investors, etc. or a financial instruments business operator which is a foreign corporation or an individual domiciled in a foreign state (hereinafter collectively referred to as a "notifier of specially permitted services for foreign investors, etc. which is a foreign corporation, etc." in this Article and Article 246-36) intends to obtain an approval under the proviso to Article 17-13-8 of the Order, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc. in the case of a notifier of specially permitted services for foreign investors, etc., or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator:

- (i) the trade name or name;
- (ii) the date of notification under Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the Act;
- (iii) the period for which the approval is sought in relation to the submission of the business report;
- (iv) the last day of the business year pertaining to the business report; and
- (v) the reasons for seeking the approval with regard to the submission of the business report.

(2) The following documents must be attached to the written application for approval specified in the preceding paragraph:

- (i) the articles of incorporation, or any other document in lieu thereof;
- (ii) a document evidencing that the representative of the notifier of specially permitted services for foreign investors, etc. which is a foreign corporation, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and
- (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices stated in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in the letter of legal opinion.

(3) If the application for approval under paragraph (1) was filed, and if it is found to be impossible for the notifier of specially permitted services for foreign investors, etc. which is a foreign corporation, etc. to submit the business report

within three months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc. or the Commissioner of the Financial Services Agency or other competent official is to grant an approval with regard to the business report covering the business year containing the day of the filing of said application (if that day falls within three months from the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reasons specified in item (v) of that paragraph for which the application was filed would be extinguished or changed.

- (4) The approval specified in the preceding paragraph is to be granted on the condition that the notifier of specially permitted services for foreign investors, etc. which is a foreign corporation, etc. as specified in that paragraph submits documents stating the following particulars to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc. in the case of a notifier of specially permitted services for foreign investors, etc., or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator, within three months after the end of each business year; provided, however, that if the substance of the particular set forth in item (ii) is identical to what is stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) the fact that the reasons for the application for approval have not been extinguished or changed in the relevant business year; and
  - (ii) a letter of legal opinion prepared by a law expert regarding the matter set forth in the preceding item, as well as copies of the relevant provisions of the applicable laws and regulations referred to in the letter of legal opinion.
- (5) The written application for approval under paragraph (1), the documents specified in the items of paragraph (2) and the documents under the preceding paragraph (limited to those pertaining to a notifier of specially permitted services for foreign investors, etc.) may be prepared in English.

(Public Inspection of Explanatory Documents)

Article 246-35 (1) Pursuant to the provisions of Article 63-12, paragraph (3) of the Act (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act; hereinafter the same applies in this Article), a

notifier of specially permitted services for foreign investors, etc. or a financial instruments business operator must make available for public inspection the explanatory documents under Article 63-12, paragraph (3) of the Act by means of keeping the copies of the explanatory documents prepared in accordance with Appended Form No. 21-8 or the business report under Article 246-33, paragraph (1) at its principal business office or other office and all business offices or offices for specially permitted services for foreign investors, etc. (in the case of a foreign corporation or an individual domiciled in a foreign state, at the principal business office or principal office in Japan and all business offices or other offices in Japan for specially permitted services for foreign investors, etc.) or other means, or publicize such information by the use of the internet or other means in a way which allows easy access by investors any time.

- (2) The explanatory documents under the preceding paragraph may be prepared in English in accordance with Appended Form No. 21-8.
- (3) The matters to be specified by Cabinet Office Order as referred to in Article 63-12, paragraph (3) of the Act are the matters specified in Appended Form No. 21-8 or a business report under Article 246-33, paragraph (1).

(Procedures for Obtaining Approval on Period of Public Inspection of Explanatory Documents)

Article 246-36 (1) When a notifier of specially permitted services for foreign investors, etc. which is a foreign corporation, etc. intends to obtain an approval under the proviso to Article 17-13-9 of the Order, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc. in the case of a notifier of specially permitted services for foreign investors, etc., or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator:

- (i) the trade name or name;
  - (ii) the date of notification under Article 63-9, paragraph (1) or Article 63-11, paragraph (1) of the Act;
  - (iii) the period for which the approval is sought in relation to the inspection of the explanatory documents;
  - (iv) the last day of the business year pertaining to the explanatory documents; and
  - (v) the reasons for seeking the approval with regard to the inspection of the explanatory documents.
- (2) The following documents must be attached to the written application for approval specified in the preceding paragraph:



- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the notifier of specially permitted services for foreign investors, etc. which is a foreign corporation, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices stated in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in the letter of legal opinion.
- (3) If the application for approval under paragraph (1) was filed, and if it is found to be impossible for the notifier of specially-permitted services for foreign investors, etc. which is a foreign corporation, etc. to make the explanatory documents available for public inspection within four months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc. or the Commissioner of the Financial Services Agency or other competent official is to grant an approval with regard to the explanatory documents covering the business year containing the day of the filing of said application (if that day falls within four months from the commencement of the business year (if the approval has been granted with regard to the inspection of explanatory documents covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reasons specified in item (v) of that paragraph for which the application was filed would be extinguished or changed.
- (4) The approval specified in the preceding paragraph is to be granted on the condition that the notifier of specially permitted services for foreign investors, etc. which is a foreign corporation, etc. as specified in that paragraph submits documents stating the following particulars to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for foreign investors, etc. in the case of a notifier of specially permitted services for foreign investors, etc., or to the Commissioner of the Financial Services Agency or other competent official in the case of a financial instruments business operator, within four months after the end of each business year; provided, however, that if the substance of the particular as set forth in item (ii) is identical to what is stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) the fact that the reasons for the application for approval have not been

- extinguished or changed in the relevant business year; and
- (ii) a letter of legal opinion prepared by a law expert regarding the matter set forth in the preceding item, as well as copies of the relevant provisions of the applicable laws and regulations referred to in the letter of legal opinion.
- (5) The written application for approval under paragraph (1), the documents specified in the items of paragraph (2) and the documents under the preceding paragraph (limited to those pertaining to a notifier of specially permitted services for foreign investors, etc.) may be prepared in English.

(Public Notice of Supervisory Disposition)

Article 246-37 The public notice prescribed in Article 63-13, paragraph (6) of the Act (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act) is to be given by means of publication in the Official Gazette.

## **Section 7 Sales Representatives**

(Matters to Be Entered into Registry of Sales Representatives)

Article 247 The matters to be specified by Cabinet Office Order as referred to in Article 64, paragraph (1) of the Act are as follows:

- (i) the trade name or name of the applicant for registration; and
- (ii) the following matters with regard to the sales representatives:
  - (a) whether the sales representative is an officer (in the case of a foreign corporation, meaning an officer stationed at a business office or any other office in Japan (including a director, accounting advisor, company auditor or executive officer, or a person that holds any position equivalent thereto)) or employee; and
  - (b) if any sales representative has been ordered to suspend business pursuant to the provisions of Article 64-5, paragraph (1) of the Act, the day and period of and reasons for such disposition.

(Place to Be Equipped with Registry of Sales Representatives)

Article 248 The place to be specified by Cabinet Office Order as referred to in Article 64, paragraph (1) of the Act is a local finance bureau or the Fukuoka Local Finance Branch Bureau (with regard to the registry pertaining to the sales representatives of the financial instruments business operator, etc. which designates an association to handle the registration works (meaning the registration works prescribed in Article 64-7, paragraph (1) of the Act; the same applies hereinafter) pursuant to the provisions of Article 64-7, paragraph (1) or (2) of the Act, such association).

(Application for Registration)

Article 249 A financial instruments business operator, etc. which intends to obtain a registration under Article 64, paragraph (1) of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written application for registration under paragraph (3) of that Article prepared in accordance with Appended Form No. 22, attaching a copy thereof and the documents to be attached thereto pursuant to the provisions of paragraph (4) of that Article.

(Matters to Be Specified in a Written Application for Registration)

Article 250 The matters to be specified by Cabinet Office Order as referred to in Article 64, paragraph (3), item (iv) of the Act are information as to whether the sales representative regarding the application for registration has conducted any financial instruments business, and, with regard to sales representatives which has conducted any financial instruments business, the period of conducting such business.

(Documents to Be Attached to a Written Application for Registration)

Article 251 The documents to be specified by Cabinet Office Order as referred to in Article 64, paragraph (4) of the Act are as follows:

- (i) the extracts of the certificates of residence of sales representatives regarding the application for registration, or any other document in lieu thereof;
- (ii) if the former surname and given name of the sales representatives regarding the application for registration are stated together with the current name of the sales representatives regarding the application for registration in a written application for registration under Article 64, paragraph (3) of the Act, and the document specified in the preceding item is not a document certifying the former surname and given name of the sales representatives regarding the application for registration, a document certifying the former surname and given name; and
- (iii) the documents in which the applicant and the sales representative regarding the application for registration pledge that such sales representative does not fall under any of the items of Article 64-2, paragraph (1) of the Act.

(Notification of Changes to Registered Matters)

Article 252 (1) A financial instruments business operator, etc. which intends to file a notification under Article 64-4, item (i) of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written notification of change prepared in accordance with Appended Form No. 23.

- (2) A financial instruments business operator, etc. which intends to file a notification under Article 64-4, item (ii) to (iv) of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written notification stating the matters listed in the following items, in accordance with the categories of the cases set forth respectively therein:
- (i) the case falling under Article 64-4, item (ii) of the Act: the following matters:
    - (a) the name of the sales representative that has come to fall under such provision; and
    - (b) the date when the Sales Representative came to fall under such provision and the reasons therefor;
  - (ii) the case falling under Article 64-4, item (iii) of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act): the following matters:
    - (a) the name of the sales representative that has come to fall under such provision; and
    - (b) the day when the sales representative became subject to the order for the commencement of bankruptcy proceedings;
  - (iii) the case falling under Article 64-4, item (iii) of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act): the following matters:
    - (a) the name of the sales representative that has come to fall under such provision; and
    - (b) the day when the punishment became final and binding, and the type of punishment;
  - (iv) the case falling under Article 64-4, item (iii) of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act): the following matters:
    - (a) the name of the sales representative that has come to fall under such provision; and
    - (b) the date of rescission or order and the reasons therefor;
  - (v) in the cases falling under Article 64-4, item (iii) of the Act (limited to the case of falling under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act): the following matters:
    - (a) the name of the person that has come to fall under that provision;
    - (b) the date of and reason for the notice under Article 15 of the Administrative Procedure Act, and the date of and reason for the notification under Article 50-2, paragraph (1) of the Act, Article 60-7 of the Act (including as applied mutandis pursuant to Article 60-14, paragraph (2) of the Act), Article 63-2, paragraph (2) of the Act, Article 63-2, paragraph (3) of the Act (including as applied mutatis mutandis pursuant

- to Article 63-3, paragraph (2) of the Act), Article 63-2, paragraph (4) of the Act, Article 63-10, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act) or paragraph (4), Article 66-19, paragraph (1) of the Act, Article 66-40, paragraph (1) of the Act or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
- (vi) the case falling under Article 64-4, item (iii) of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (f) of the Act): the following matters:
- (a) the name of the sales representative that has come to fall under such provision; and
  - (b) the date when the dismissal or removal was ordered and the reasons therefor;
- (vii) the case falling under Article 64-4, item (iv) of the Act: the following matters:
- (a) the name of the person that has ceased to conduct business;
  - (b) the reason for ceasing to conduct the duties of a sales representative.
- (3) A financial instruments business operator, etc. which files a notification under Article 64-4, item (ii) to (iv) of the Act must, in cases of falling under any of the categories of the cases listed in the following items, attach the document specified in the relevant item to the written notification stating the matters prescribed in the preceding paragraph:
- (i) the case falling under Article 64-4, item (iii) of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act): a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  - (ii) the case falling under Article 64-4, item (iii) of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act): a copy of the judgment document on the final and binding judgment, or a document stating the particulars of the final and binding judgment;
  - (iii) the case falling under Article 64-4, item (iii) of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if the rescission or order was effected in a foreign state): a copy of the written order for the rescission or discontinuation of business or any other document in lieu thereof, as well as a copy of the laws and regulations of a foreign state which served as the basis of such rescission or discontinuation of business and a Japanese translation thereof.
- (4) The case specified by Cabinet Office Order as referred to in Article 64-4, item (ii) of the Act is the case where a person has come to have a mental impairment

and has come to find it extremely difficult to continue performing the duties of a Sales Representative.

(Notification to Be Filed Upon Retirement of Sales Representatives)

Article 253 A financial instruments business operator, etc. which intends to file a notification under Article 64-4, item (iv) of the Act must, if there exists any fact pertaining to the sales representative which falls under Article 64-5, paragraph (1), item (ii) of the Act, submit the document stating the details of such fact to the competent Director-General of a Local Finance Bureau, etc. prior to the filing of such notification, pursuant to the provisions of Article 50, paragraph (1) of the Act.

(Registration Work of Sales Representatives to Be Handled by Association)

Article 254 Pursuant to the provisions of Article 64-7, paragraphs (1) and (2) of the Act, the following registration works related to the sales representatives of the financial instruments business operator, etc. belonging to the association are to be delegated to the association, and the following registration works relevant to financial instruments business operator, etc. not belonging to an association are to be delegated to an association designated by a the Commissioner of the Financial Services Agency under that paragraph:

- (i) an acceptance of a written application for registration pursuant to Article 64, paragraph (3) of the Act;
- (ii) a registration pursuant to Article 64, paragraph (5) of the Act;
- (iii) notices pursuant to Article 64, paragraph (6), Article 64-2, paragraph (3) and Article 64-5, paragraph (3) of the Act;
- (iv) a refusal of registration pursuant to Article 64-2, paragraph (1) of the Act;
- (v) a hearing pursuant to Article 64-2, paragraph (2) of the Act;
- (vi) an acceptance of a notification pursuant to Article 64-4 of the Act;
- (vii) a rescission of a registration and order for suspension of business pursuant to Article 64-5, paragraph (1) of the Act;
- (viii) a hearing pursuant to Article 64-5, paragraph (2) of the Act; and
- (ix) deletion of the registration pursuant to Article 64-6 of the Act.

(Notification to the Director-General of a Local Finance Bureau)

Article 255 An Association which intends to file a notification pursuant to the provisions of Article 64-7, paragraph (5) of the Act must submit a written notification specifying the following matters to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, etc. of the financial instruments business operator, etc. to which the sales representative pertaining to the registration work belongs (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the

Director-General thereof; or if the operator has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau):

- (i) the trade name or name of the financial instruments business operator, etc. to which the sales representatives pertaining to the registration work belongs;
- (ii) the name and date of birth of the sales representatives pertaining to the registration works;
- (iii) the details of the registration works which have been handled and the day of the handling thereof; and
- (iv) if the details of the registration works set forth in the preceding item is an order for suspension of duties or deletion of registration, the reasons therefor.

(Amount of Registration Fees)

Article 256 The amount to be specified by Cabinet Office Order as referred to in Article 17-15, paragraph (1) of the Order is one thousand yen.

### **Chapter III Financial Instruments Intermediary Service Providers**

#### **Section 1 General Provisions**

(Application for Registration)

Article 257 A person that intends to obtain a registration under Article 66 of the Act must submit to the Director-General of a Local Finance Bureau with jurisdiction over the location of such person's head office, etc. (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the person has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau) a written application for registration set forth in Article 66-2, paragraph (1) of the Act prepared in accordance with Appended Form No. 24, attaching a copy thereof and the documents or electronic or magnetic record to be attached thereto pursuant to the provisions of paragraph (2) or (3) of that Article.

(Matters to Be Stated in Written Applications for Registration)

Article 258 The matters to be specified by Cabinet Office Order as referred to in Article 66-2, paragraph (1), item (vi) of the Act are as follows:

- (i) if the applicant for registration is an individual regularly engaged in the business of any other company, the trade name and type of business of such other company;
- (ii) if the applicant for registration is a corporation any of whose officers is engaged in ordinary business of any other company or carries out any business, the name of such officer, as well as the trade name and business type of such other company, or the type of business carried out;

- (iii) if the applicant for registration has two or more entrusting financial instruments business operators, etc., the trade name or name of the entrusting financial instruments business operator, etc. which compensates for losses arising from the applicant for registration's problematic conduct (meaning the problematic conduct prescribed in Article 39, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act; hereinafter the same applies in this item, Articles 277 through 279 and Article 281, item (xii), (c)); and
- (iv) the name and location of the head office, etc.

(Contents and Methods of Business)

Article 259 The matters to be specified by Cabinet Office Order as referred to in Article 66-2, paragraph (2), item (ii) of the Act are as follows:

- (i) the contents and methods of business; and
- (ii) if the applicant for registration is a corporation, the methods of allocation of business operations.

(Documents to Be Attached to Written Application for Registration)

Article 260 The documents to be specified by Cabinet Office Order as referred to in Article 66-2, paragraph (2), item (iv) of the Act are as follows:

- (i) if the applicant for registration is a corporation, the following documents:
  - (a) the resumes of the officers (if any of the officers is a corporation, the document describing the background of the officer);
  - (b) the extracts of the certificates of residence of the officers (if any of the officers is a corporation, the certificate of registered matters of the officer), or any other document in lieu thereof;
  - (c) if the former surname and given name of an officer are stated together with the current name of the officer in a written application for registration under Article 66-2, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the officer, a document certifying the former surname and given name;
  - (d) the certificates issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  - (e) the documents in which each of the officers pledges that the officers do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
- (ii) if the applicant for registration is an individual, the following documents:
  - (a) resume of the applicant for registration;
  - (b) the extracts of the certificates of residence of the applicant for



- registration, or any other documents in lieu thereof;
- (c) if the former surname and given name are stated together with the current name in a written application for registration under Article 66-2, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  - (d) the certificate issued by a public agency evidencing that the applicant for registration does not fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
- (iii) a copy of the business entrustment contract for the financial instruments intermediary service concluded with the entrusting financial instruments business operator, etc.; and
- (iv) a copy of the contract pertaining to the matters specified in Article 258, item (iii).

(Electronic or Magnetic Records)

Article 261 (1) The electronic or magnetic record to be specified by Cabinet Office Order as referred to in Article 66-2, paragraph (3) of the Act must have a structure specified in the following:

- (i) a 90mm flexible magnetic disc cartridge conforming to JIS X6223;
  - (ii) a 120mm optical disc conforming to JIS X0606 and X6282.
- (2) Entry onto the electronic or magnetic record under item (i) of the preceding paragraph must be completed in accordance with the following means:
- (i) with regard to the track format, the means designated by the JIS X6225;
  - and
  - (ii) with regard to volume and file configuration, the means designated by the JIS X0605.
- (3) With regard to the electronic or magnetic record set forth in paragraph (1), a document containing the following matters must be affixed:
- (i) the trade name or name of an applicant for registration; and
  - (ii) the date of application.

(Public Inspection of the Registry of Financial Instruments Intermediary Service Providers)

Article 262 A competent Director-General of a Local Finance Bureau, etc. is to keep the registry of financial instruments intermediary service providers containing information on the financial instruments intermediary service providers to which such person has granted registrations, at the local finance bureau with jurisdiction over the location of the relevant financial instruments intermediary service provider's head office, etc. (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, at the

Fukuoka Local Finance Branch Bureau; or if the service provider has no business office or other office in Japan, at the Kanto Finance Bureau) and make it available for public inspection.

(Notification on Changes of Matters to Be Stated in Written Applications for Registration)

Article 263 (1) A financial instruments intermediary service provider which intends to file the notification under Article 66-5, paragraph (1) of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written notification stating the particulars and date of and reasons for the change, attaching a document containing the particulars after such change prepared in accordance with Appended Form No. 24, a copy thereof and a document specified in the following items in accordance the categories of documents set forth respectively therein:

- (i) if there has been any change to the matters specified in Article 66-2, paragraph (1), item (i) of the Act: the certificate of the registered matters (if the applicant for registration is an individual, the extract copy of the certificate of residence) containing the particulars so changed, or any other document in lieu thereof;
- (ii) if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 24, and the document specified in the preceding item is not a document certifying the former surname and given name, a document certifying the former surname and given name;
- (iii) if there has been any change to the matters specified in Article 66-2, paragraph (1), item (ii) of the Act: the following documents:
  - (a) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof; and
  - (b) the following documents in relation to a person that has newly assumed the position of officer:
    1. resumes of the officer (if the officer is a corporation, the document containing the background of the officer);
    2. the extracts of certificate of residence of the officer (if the officer is a corporation, the certificate of registered matters of the officer), or any other document in lieu thereof;
    3. if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 24, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
    4. the certificate issued by a public agency evidencing that the officer does

- not fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
5. documents in which the officer pledges that the officer does not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
  6. documents to pledge that the person does not fall under Article 66-4, item (ii), sub-item (b) of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act);
- (iv) if there has been any change to the matters specified in Article 66-2, paragraph (1), item (iv) of the Act (but only if the applicant for registration newly accepts entrustment): a copy of the entrustment contract for the financial instruments intermediary service concluded with the entrusting financial instruments business operator, etc. from which the applicant for registration newly accepts entrustment;
- (v) if there has been any change to the matters specified in Article 258, item (iii) (but only if the applicant for registration has two or more entrusting financial instruments business operators, etc.): the following documents:
- (a) the statement on the reasons for the change; and
  - (b) the document specified in Article 260, item (iv); and
- (vi) if there has been any change to the matters specified in Article 258, item (iv): the certificate of registered information containing the particulars so changed, or any other document in lieu thereof.
- (2) If the competent Director-General of a Local Finance Bureau, etc. has received from any financial instruments intermediary service provider a notification on the relocation of the head office, etc. filed beyond the jurisdictional district, such person is to send the written notification, the portion of the registry of the financial instruments intermediary service providers referring to the financial instruments intermediary service provider and any other documents to the Director-General of a Local Finance Bureau with jurisdiction over the relocated address of the head office, etc. notified thereunder (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the service operator has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau).
- (3) The Director-General of a Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau who has received the documents sent pursuant to the provisions of the preceding paragraph is to register the matters related to the financial instruments intermediary service provider in the registry of financial instruments intermediary service providers.

(Notification on Change of Contents and Method of Business)

Article 264 A financial instruments intermediary service provider which intends to file the notification under Article 66-5, paragraph (3) of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written notification containing the particulars and date of and reasons for the change, attaching a document containing the matters specified in the items of Article 259 (limited to one whose details have been changed).

## **Section 2 Business**

(Form of Signs to Be Posted)

Article 265 The form to be specified by Cabinet Office Order as referred to in Article 66-8, paragraph (1) of the Act is the form set forth in Appended Form No. 25.

(Acts Similar to Advertising)

Article 266 The acts to be specified by Cabinet Office Order as referred to in the paragraphs of Article 66-10 of the Act mean the provision of identical information to many persons, by means of postal mail, correspondences delivery, transmission by facsimile devices, transmission by electronic mails, distribution of leaflets or pamphlets or by any other means (excluding those listed in the following):

- (i) distribution of documents prepared in accordance with laws or regulations, or the dispositions rendered by administrative agencies under the laws and regulations;
- (ii) distribution of information materials on the analysis and appraisal of the respective companies not intended to be used for solicitation for the conclusion of a financial instruments transaction contract pertaining to intermediation for financial instruments;
- (iii) provision of premiums or any other goods only indicating all of the following information (limited to premiums or goods clearly and accurately indicating the information listed in (b) through (d)) (if any of the following information is not indicated on the premiums or other goods, such provision includes the provision of such premiums or other goods incorporating other goods indicating such information as an integral part thereof):
  - (a) the name, issue or alias of any of the following:
    1. the financial instruments transaction contract pertaining to intermediation for financial instruments, or the type thereof;
    2. the securities or the types thereof;
    3. the business subject to investment or the types thereof; or
    4. the matters equivalent to those listed in 1. through 3.
  - (b) the trade name, name or alias of the financial instruments intermediary

service providers which provide identical information to many persons by the means specified in this item;

- (c) the matters specified in Article 18, paragraph (2), item (i) of the Order and the matters specified in Article 269, item (iii) (limited to the case where the letters or numerical characters representing such matter are indicated in a size which does not differ substantially from the size of the largest letters or numerical characters representing matters other than such matters);
- (d) a notice to the effect that the recipient thereof should read any of the following documents in relation to intermediation for financial instruments comprehensively:
  - 1. the document for delivery prior to conclusion of a contract;
  - 2. the explanatory document on listed securities, etc.
  - 3. the prospectus prescribed in Article 80, paragraph (1), item (iii) (if there is any document to be delivered as an integral part of such prospectus pursuant to the provisions of that item, such prospectus and such document); and
  - 4. the explanatory document on change to contract information.

(Means of Indication of Advertisement on Contents of Financial Instruments Intermediary Service)

Article 267 (1) If a financial instruments intermediary service provider intends to make an advertisement or to conduct any other acts specified in the preceding Article with regard to the contents of its financial instruments intermediary service (hereinafter referred to as an "advertisement, etc." in this Section), it must clearly and accurately indicate the matters listed in the items of Article 66-10, paragraph (1) of the Act.

- (2) If a financial instruments intermediary service provider intends to make an advertisement, etc. in regard to the contents of its financial instruments intermediary service, it is to indicate the letters or numerical characters representing the matters specified in Article 18, paragraph (1), items (iv) and (v) of the Order and the matters specified in Article 269, item (iii) in a size which does not differ substantially from the size of the largest letters or numerical characters representing matters other than such matters.
- (3) Notwithstanding the provisions of the preceding paragraph, if a financial instruments intermediary service provider intends to make any advertisement of the contents of its financial instruments intermediary service by means of broadcasting using the broadcasting facilities of a basic broadcaster or by the means listed in the items of Article 270, paragraph (1) (excluding the means of sound broadcasting), it is to indicate the letters or numerical characters representing the matters specified in Article 18, paragraph (2), item (i) of the

Order and the matters specified in Article 269, item (iii) in a size which does not differ substantially from the size of the largest letters or numerical characters representing the matters other than such matters.

(Matters Related to Consideration Payable by Customers)

Article 268 (1) The matters to be specified by Cabinet Office Order as referred to in Article 18, paragraph (1), item (i) of the Order are the amount of the consideration payable by customers in relation to a financial instruments transaction contract pertaining to intermediation for financial instruments irrespective of its name such as fees, remuneration, expenses or others (excluding the price of the securities or the amount of security deposit, etc.; hereinafter referred to as the "fees, etc." in this Section) itemized by the types of such consideration or the upper limit thereof, or the outline of the means of calculation thereof (including the ratio to the price of the securities, the amount of the derivative transactions, etc. prescribed in Article 16, paragraph (1), item (iii) of the Order or the amount of investment properties, which pertains to the financial instruments transaction contract, or the ratio to the profit generating from the acts that constitute financial instruments transactions; hereinafter the same applies in this paragraph); and the total of such amount or upper limit thereof, or the outline of the means of calculation thereof; provided, however, that if those details cannot be indicated, such fact and the reason therefor are indicated.

(2) If the financial instruments transaction contract related to intermediation for financial instruments as set forth in the preceding paragraph pertains to the acquisition of the investment trust beneficial interests, etc., and if the properties pertaining to such investment trust beneficial interests, etc. is to be invested or contributed in another investment trust beneficial interests, etc. (such other investment trust beneficial interests, etc. are hereinafter referred to as the "target investment trust beneficial interests, etc." in this Article), the fees, etc. set forth in the preceding paragraph include the trust fee and any other fees, etc. pertaining to such target investment trust beneficial interests, etc.

(3) If the property pertaining to the target investment trust beneficial interests, etc. set forth in the preceding paragraph are to be invested or contributed in another investment trust beneficial interests, etc., such other investment trust beneficial interests, etc. are deemed to be a target investment trust beneficial interests, etc., and the provisions of the preceding two paragraphs apply.

(4) The provisions of the preceding paragraph apply *mutatis mutandis* if the property pertaining to the investment trust beneficial interests, etc. which is deemed to be a target investment trust beneficial interests, etc. pursuant to the provisions of that paragraph (including as applied *mutatis mutandis*

pursuant to this paragraph) is to be invested or contributed in another investment trust beneficial interests, etc.

(Important Matters Which May Have Impact on Customers' Decisions)

Article 269 The matters to be specified by Cabinet Office Order as referred to in Article 18, paragraph (1), item (vi) of the Order are as follows:

- (i) the facts regarding important matters on the financial instruments transaction contract pertaining to intermediation for financial instruments, which would be disadvantageous to the customer; and
- (ii) if the entrusting financial instruments business operator, etc. is a member of a financial instruments firms association (limited to an association having principal association members or members that are persons conducting the business related to the contents of the financial instruments intermediary service), that fact and the name of such financial instruments firms association.
- (iii) in cases of an Advertisement, etc. regarding the Acts of Financial Instruments Intermediation for cryptoassets, the following matters:
  - (a) the fact that cryptoassets are not the Japanese currency or a foreign currency; and
  - (b) 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.

(Means Equivalent to Broadcasting by Use of Broadcasting Facilities of Basic Broadcaster)

Article 270 (1) The means to be specified by Cabinet Office Order as referred to in Article 18, paragraph (2) of the Order are as follows:

- (i) to broadcast using the broadcasting facilities of a private broadcaster;
  - (ii) to make available for the customer's inspection the contents of the information recorded into the files stored on the computer used by a financial instruments intermediary service provider or by a person that has accepted entrustment of an advertisement, etc. to be made by a financial instruments intermediary service provider (limited to information identical to that provided by means of broadcasting using the broadcasting facilities of a basic broadcaster or by the means specified in the preceding item) via telecommunications line; or
  - (iii) to expose to the public an indoor or outdoor advertisement, etc. regularly or continuously for a fixed period, by means of posting or indicating on signboards, standing signboards, bills, notices, advertising towers, billboards, buildings or any other structures, or any other means similar thereto.
- (2) The matters to be specified by Cabinet Office Order as referred to in Article

18, paragraph (2), item (ii) of the Order are the matters specified in Article 266, item (iii), sub-item (d) and item (iii) of the preceding Article.

(Matters Prohibited from Misleading Advertisement)

Article 271 The matters to be specified by Cabinet Office Order as referred to in Article 66-10, paragraph (2) of the Act are as follows:

- (i) the matters related to the cancellation of a financial instruments transaction contract pertaining to intermediation for financial instruments (including the matters related to the provisions of Article 37-6, paragraphs (1) through (4) of the Act);
- (ii) the matters related to sharing of all or a part of the losses or a guarantee of profit, in connection with a financial instruments transaction contract pertaining to intermediation for financial instruments;
- (iii) the matters related to agreement for liquidated damages (including penalties) in connection with a financial instruments transaction contract pertaining to intermediation for financial instruments;
- (iv) the matters related to a financial instruments market or any other market similar thereto located in a foreign state, which relates to the financial instruments transaction contract pertaining to intermediation for financial instruments;
- (v) the matters related to the financial resources or credit of the entrusting financial instruments business operator, etc.;
- (vi) the matters related to the performance of the financial instruments business conducted by the entrusting financial instruments business operator, etc. (in the case of a registered financial institution, the registered financial institution business conducted by the registered financial institution);
- (vii) the matters related to the amount of the fees, etc. payable by customers in connection with a financial instruments transaction contract pertaining to intermediation for financial instruments or the means of calculation therefor, and the means and timing of the payment of those fees, etc. and the payee of those fees, etc.;
- (viii) if any financial instruments intermediary service provider intends to make an advertisement, etc. for the purchase and sale or other transactions related to the mortgage securities, etc. pertaining to intermediation for financial instruments, the following matters:
  - (a) the matters related to the certainty or guarantee of the payment of principal and interest on the claims specified in the mortgage securities, etc. pertaining to intermediation for financial instruments;
  - (b) the matters related to the recommendation regarding the entrusting financial instruments business operator, etc.;



- (c) the matters related to interest; and
- (d) the matters related to the collateral on which the mortgage was created, as specified in the mortgage securities, etc. pertaining to intermediation for financial instruments;
- (ix) if a financial instruments intermediary service provider intends to make an advertisement, etc. regarding an investment advisory contract pertaining to the intermediation for financial instruments, the particulars of the contents and method of the advisory service;
- (x) if a financial instruments intermediary service provider intends to make an advertisement, etc. regarding a discretionary investment contract pertaining to intermediation for financial instruments, the particulars of the contents and method of the investment decisions; and
- (xi) if any financial instruments intermediary service provider intends to make an advertisement, etc. regarding a public offering or private placement of the rights specified in Article 7, item (iv), (d), 1., the matters related to bloodlines of the racehorses and the status of the management of the breeding thereof.
- (xii) in cases of an Advertisement, etc. regarding the Acts of Financial Instruments Intermediation 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) the matters related to the mechanism for the holding and transfer of the electronically recorded transferable rights to be indicated on securities, etc.; and
- (xiii) in cases of an Advertisement, etc. regarding the Acts of Financial Instruments Transactions for cryptoassets:
  - (a) the nature of the cryptoassets;
  - (b) the matters related to the mechanism for the holding and transfer of the cryptoassets;
  - (c) the matters related to changes in transaction volumes or prices of the cryptoassets or prospects for these;
  - (d) the matters related to the content of the rights and obligations indicated on the cryptoassets; and
  - (e) the matters related to the financial resources or credit of the person who issues or intends to issue the cryptoassets, the debtor pertaining to the rights indicated on the cryptoassets, or the person who can exert a material impact on the value or the mechanism of the cryptoassets, or the business conducted by such person.

(Matters to Be Clearly Indicated)

Article 272 The matters to be specified by Cabinet Office Order as referred to in Article 66-11, item (iv) of the Act are as follows:

- (i) if the financial instruments intermediary service provider has two or more entrusting financial instruments business operators, etc., and if the money or the fees, etc. payable by the customer in regard to the transactions to be conducted by the customer varies depending on the entrusting financial instruments business operator, etc., to that effect;
- (ii) if the financial instruments intermediary service provider carries out the investment advisory business and it conducts intermediation for financial instruments (limited to the acts listed in Article 2, paragraph (11), items (i) through (iii) of the Act; hereinafter the same applies in this Article) for the customers of the investment advisory business (other than if the amount of fees, etc. for intermediation for financial instruments to be performed in a certain period has been fixed without regard to the number of occasions of the relevant intermediation for financial instruments, and if the financial instruments intermediary service provider has clearly indicated to the customer of the types or amount of the fees, etc. in advance), the amount of the fees, etc. receivable based on the relevant intermediation for financial instruments (if the amount of fees, etc. has not been fixed in advance, the formula for the calculation thereof);
- (iii) if the financial instruments intermediary service provider has two or more entrusting financial instruments business operators, etc., the trade name or name of the entrusting financial instruments business operator, etc. which will be the counterparty to the customer's transaction.

(Persons Excluded from Definition of Person Closely Related to Financial Instruments Intermediary Service Providers)

Article 273 The persons to be specified by Cabinet Office Order as referred to in the non-itemized part of Article 18-2 of the Order are as follows:

- (i) a financial instruments business operator (limited to an operator engaged in securities, etc. management business);
- (ii) a bank;
- (iii) a cooperative financial institution;
- (iv) an insurance company;
- (v) a trust company; and
- (vi) The Shoko Chukin Bank Limited.

(Exemption from Prohibition of Solicitation for Purchase and Sale of Securities on Condition of Granting of Credit)

Article 274 The acts to be specified by Cabinet Office Order as referred to in Article 66-14, item (i), (f) of the Act are becoming entrusted, etc. with the

purchase and sale of securities on the condition that credit is granted (limited to acceptance of entrustment, etc. pertaining to financial instruments intermediary service; the same applies in item (i)), which fulfills all of the following requirements:

- (i) that the act is becoming entrusted, etc. with the purchase and sale of securities by any individual who has presented or given notice of identification card, etc., in which case such individual makes a lump-sum payment of an amount equivalent to the consideration for such securities within a period of shorter than two months and such amount is delivered to the entrusting financial instruments business operator, etc. (limited to an operator engaged in a securities, etc. management business; the same applies in item (iii));
- (ii) that the credit to be granted to the same person does not exceed 100,000 yen;
- (iii) that the purchase and sale of the securities is conducted under the contract for cumulative investment (meaning a contract wherein an entrusting financial instruments business operator, etc. receives a money deposit from a customer and sells securities to that customer continuously on dates designated in advance while receiving the consideration payable out of such money deposit, which satisfies all of the following requirements):
  - (a) that the contract provides for the types of the securities and the means of appropriation of the deposit for making purchases, as a means of purchasing securities;
  - (b) that the contract provides, as a method for the management of the deposits, that the fruits derived from the money paid or securities deposited by the customer and the money which the entrusting financial instruments business operator, etc. keeps custody due to acceptance of redemption are treated as the cumulative investment deposit, and that accounting of such cumulative investment deposit is managed separately from any other deposit;
  - (c) that the contract provides that, if the securities are to be purchased jointly with another customer or an entrusting financial instruments business operator, it is certain that the customer acquires sole ownership in the securities purchased by such customer when the code and number thereof are identified;
  - (d) that the contract provides, as a method for the management of securities, that the deposited securities (limited to those co-owned by the entrusting financial instruments business operator and the customer) are managed separately from any other securities; and
  - (e) that the contract may be cancelled if the customer so requests.

(Prohibited Acts of Financial Instruments Intermediary Service Providers in Relation to Its Financial Instruments Intermediation Operations)

Article 275 (1) The acts to be specified by Cabinet Office Order as referred to in Article 66-14, paragraph (2), item (iii) of the Act are as follows:

- (i) an act of to make any false representation, or to make any representation which would lead to any material information being misunderstood, in connection with intermediation for financial instruments;
- (ii) an act to promise a customer or the customer's designee to provide any special benefit, or to provide any special benefit to a customer or a third party (including an act to cause any third party to promise to provide, or to provide, any special benefit), in connection with intermediation for financial instruments;
- (iii) an act to use fraudulent means, or to commit an assault or intimidation, in connection with intermediation for financial instruments;
- (iv) an act to refuse or unreasonably delay the performance of all or part of intermediation for financial instruments under the financial instruments transaction contract pertaining to the relevant intermediation for financial instruments;
- (v) in connection with intermediation for financial instruments, an act to solicit a customer (limited to an individual customer, if the relevant intermediation for financial instruments pertains to any transaction other than the purchase and sale or any other transaction of mortgage securities, etc. or a beneficial interest in commodity fund and other than the contract specified in Article 16-4, paragraph (1), item (i) and each item of paragraph (2) of the Order) by telephone or by making a personal visit timed in such a way that the customer would be disturbed;
- (vi) an act to assemble customers (excluding professional investors) and solicit for conclusion of a financial instruments transaction contract specified in Article 38, item (iv) of the Act (excluding those pertaining to the transactions specified in Article 116, paragraph (1), item (iii), (a) and (b)), without clearly indicating to them in advance that the purpose of such assembly is solicitation for conclusion of such financial instruments transaction contract;
- (vi)-2 when confirming with a customer that is an individual (excluding a person that has opened an account for the transactions of securities or derivative transactions with the entrusting financial instruments business operator, etc. which is to become a counterparty to the financial instruments transaction contract to be solicited and a person that has concluded a commodity transaction contract provided in Article 30 of the Order for Enforcement of the Financial Futures Trading Act with the entrusting financial instruments business operator, etc.), in advance of solicitation, whether the customer wishes to receive the solicitation for the conclusion of a

- financial instruments transaction contract provided in Article 38, item (v) of the Act (limited to the solicitation pertaining to the transactions specified in Article 16-4, paragraph (2), item (i), sub-item (e) of the Order), an act of using a means specified in the following:
- (a) to make a visit or phone call;
  - (b) to assemble customers without clearly indicating to them in advance that the purpose of such assembly is solicitation;
- (vii) an act to solicit a customer (excluding a professional investor) to conclude a financial instruments transaction contract as specified in Article 38, item (vi) of the Act (excluding those pertaining to the transactions specified in Article 116, paragraph (1), item (iii), (a) and (b)), notwithstanding that the customer has, in advance, manifested the intention not to conclude such financial instruments transaction contract (including manifesting the intention that the customer does not wish to accept any solicitation for the conclusion of such financial instruments transaction contract);
- (viii) an act to conduct the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions on the customer's account, without the customer's prior consent;
- (ix) an act of an individual-type financial instruments intermediary service provider, or of an officer (if the officer is a corporation, including executive members thereof) or employee (limited to an employee engaged in a financial instruments intermediary service) of a financial instruments intermediary service provider to conduct the purchase and sale or other transaction of securities, solely in pursuit of speculative profit;
- (x) an act to accept a customer's application for an intermediary service for the purchase and sale or any other transaction of securities, an application for an intermediary service for entrustment of the purchase and sale of securities on the financial instruments exchange market or on the foreign financial instruments market, or an application for an intermediary service for entrustment of market transactions of derivatives or foreign market derivatives transactions, knowing that such purchase and sale or any other transaction of securities, or such market transactions of derivatives or foreign market derivatives transactions of such customer violates or may violate the provisions of Article 166, paragraph (1) or (3) or Article 167, paragraph (1) or (3) of the Act;
- (xi) with regard to an intermediary service for the purchase and sale or any other transaction of securities, an intermediary service for entrustment of the purchase and sale of securities on the financial instruments exchange market or on the foreign financial instruments market, or an intermediary service for entrustment of a transaction specified in Article 28, paragraph (8), item (iii) of the Act or a transaction specified in Article 2, paragraph (21),

- item (v) of the Act (limited to a transaction which pertains to securities; the same applies in the following item), an act of soliciting customers while furnishing undisclosed information of the issuer of such securities in regard to the decision on launch or suspension (excluding those corresponding to the standards prescribed in the proviso to Article 167, paragraph (2) of the Act; the same applies in the following item) of the tender offer set forth in Article 27-2, paragraph (1) of the Act (but only if the provisions of the main clause of that paragraph is applicable; the same applies in the following item), the buying-up equivalent thereto with regard to the share certificates, etc. (meaning the share certificates, etc. prescribed in that paragraph; the same applies in the following item) equivalent thereto and the tender offer set forth in Article 27-22-2, paragraph (1) of the Act (but only if the provisions of the main clause of that paragraph is applicable; the same applies in the following item);
- (xi)-2 with regard to an intermediary service for the purchase and sale or any other transaction of securities, an intermediary service for entrustment of the purchase and sale of securities on the financial instruments exchange market or on the foreign financial instruments market, or an intermediary service for entrustment of a transaction specified in Article 28, paragraph (8), item (iii) of the Act or a transaction specified in Article 2, paragraph (21), item (v) of the Act (hereinafter referred to in this item correctively as the purchase and sale of securities, purchase and sale of securities in the financial instruments exchange market or foreign financial instruments market, or transactions specified in Article 28, paragraph (8), item (iii) of the Act or transactions specified in Article 2, paragraph (21), item (v) of the Act as "purchase and sale, etc."), an act of soliciting customers to implement the purchase and sale, etc. for the purpose of having the customer gain profits or avoiding to cause loss with the customer by having the customer implementing the purchase and sale, etc. before disclosing the information pertaining the decision on launch or suspension of the tender offer prescribed in the provisions of Article 27-2, paragraph (1) of the Act by issuer of the securities, buying-up of share certificates, etc. equivalent thereto, and tender offer prescribed in Article 27-22-2, paragraph (1) of the Act (excluding the act specified in the preceding item);
- (xii) an act of a financial instruments intermediary service provider or its officer (if the officer is a corporation, including executive members thereof) or employee receiving from, or provide to, its parent corporation, etc. or subsidiary corporation, etc. any information on ordering trends in the customer's purchase and sale of securities or the customer's market transactions of derivatives or foreign market derivatives transactions or any other special information (except information related to a foreign corporation

(including a foreign organization that is not a corporation and has a provision of a representative or a manager)), which may come to knowledge of the officer or employee of such financial instruments intermediary service provider, or the officer or employee of its parent corporation, etc. or of its subsidiary corporation, etc., in the course of duties (other than if the customer has given prior written consent for the provision of such special information by such financial instruments intermediary service provider, its parent corporation, etc. or its subsidiary corporation, etc., or officers or employees thereof; if the parent corporation, etc. or subsidiary corporation, etc. is the entrusting financial instruments business operator, etc. and if the information listed in Article 123, paragraph (1), item (xviii), (a) through (c) is to be received or the information listed in Article 281, item (xii), (a) through (c) is to be provided; if the financial institution agency service is to be performed based on an entrustment by the principal financial institution which is the parent bank, etc. or subsidiary bank, etc. and if the information specified in item (i) or (ii) of the following paragraph is to be received or the information specified in item (iii) or (iv) of that paragraph is to be provided); or to solicit for the purchase and sale or any other transaction of securities, or for market transactions of derivatives or foreign market derivatives transactions (excluding brokerage for clearing of securities, etc.) by using such special information obtained from the parent corporation, etc. or subsidiary corporation, etc. (excluding information which the parent corporation, etc. or subsidiary corporation, etc. has provided with the customer's prior written consent);

(xiii) an act of soliciting unspecified and many customers to make an application for an intermediary service for, or an intermediary service for the entrustment of, the purchase or sale of the securities of a specified and small portion of the issues or an application for an intermediary service for the entrustment of market derivatives transactions of a specified and small portion of the issues, simultaneously and in an excessively aggressive manner continuously over a certain period, which is likely to prejudice the formation of a fair price (in the case of a market transaction of derivatives, the matter equivalent to the price);

(xiv) an act of soliciting unspecified and many customers to make an application for an intermediary service for, or an intermediary service for the entrustment of, the purchase or sale of securities or an application for an intermediary service for the entrustment of market transactions of derivatives, simultaneously and in an excessively aggressive manner continuously over a certain period, with a view to taking advantage of fluctuations in the prices, indicators, figures or the amount of the consideration based on a customer's transaction and thereby to gain own

- profit or a profit of customer other than such customer;
- (xv) an act of providing an intermediary service for, or an intermediary service for the entrustment of, the purchase or sale of listed financial instruments, etc. or over-the-counter traded securities, or to provide an intermediary service for the entrustment of market transactions of derivatives pertaining to the listed financial instruments, etc. or over-the-counter traded securities, 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 creation of the manipulative quotations which do not reflect actual market status;
- (xvi) an act of providing an intermediary service for the purchase, or an intermediary service for the entrustment of the purchase of the Securities on the financial instruments exchange market or a foreign financial instruments market, without explaining to a customer (excluding a professional investor) that the foreign company notifications, etc. pertaining to the securities is to be prepared in English, or without delivering a document to the customer containing a statement to that effect (excluding the cases where , within one year prior to the day when that such act is conducted, such explanation and document are provided to the customer);
- (xvii) an act of providing an intermediary service for the purchase and sale of mortgage securities, etc. by means other than an endorsement;
- (xviii) in cases of conducting investment advisory business, and in connection with the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions conducted by a customer based on advice pertaining to the investment advisory business, an act to solicit any customer other than such customer to conduct the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions, in order to complete any of the first-mentioned transactions or to have such other customer conduct any reversing trade in relation thereto;
- (xix) in cases of conducting investment management business, and in connection with the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions conducted as the investment of investment property relevant to the investment management business, an act to solicit any customer other than the right holder of such investment property to conduct the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions, in order to complete any of the



- first-mentioned transactions or to have such other customer conduct any reversing trade in relation thereto;
- (xx) in cases of providing a defined contribution pension management service (meaning the defined contribution pension management service prescribed in Article 2, paragraph (7) of the Defined Contribution Pension Act; the same applies in the following item), an act to use any information on investment instruction (limited to instructions pertaining to the purchase and sale of securities; the same applies in the following item) of the subscribers, etc. (meaning the subscribers, etc. prescribed in Article 2, paragraph (7), item (i), (a) of that Act; the same applies in the following item) of such defined contribution pension management service, and thereby to solicit a customer other than any of such subscribers, etc. to conduct the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions;
- (xxi) in cases of providing a defined contribution pension management service, and in connection with purchase and sale of securities conducted based on the investment instruction of any subscriber, etc. of such defined contribution pension management service, an act to solicit any customer other than such subscriber, etc. to conduct the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions, for the purpose of completing the first-mentioned transaction;
- (xxii) in cases of conducting trust business, etc. (meaning trust business as prescribed in Article 2, paragraph (1) of the Trust Business Act, the trust agreement agency business prescribed in paragraph (8) of that Article, the property management business prescribed in Article 21, paragraph (1) of that Act or a business to be conducted based on entrustment of a trust business by a trust company (meaning the trust company prescribed in Article 2, paragraph (2) of that Act) under Article 22, paragraph (1) of that Act; the same applies in the following item), an act to use information on the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions pertaining to the management or disposition of trust property under such trust business, etc., and thereby to solicit a customer other than the customer pertaining to the trust properties to make an entrustment, etc. of the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions;
- (xxiii) in cases of conducting trust business, etc., and in connection with the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions conducted under the trust agreement or a settlor's instruction based on such trust business, etc.,

an act to solicit any customer other than the customer pertaining to the trust agreement to conduct the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions (excluding brokerage for clearing of securities, etc.), in order to complete any of the first-mentioned transactions, or to have such other customer conduct any reversing trade in relation thereto;

(xxiv) in cases of providing a financial institution agency service (including the agency for the business pertaining to the authorization under Article 42, paragraph (3) of the Enhancement and Restructuring Act; the same applies in the following item and item (xxvi), an act of conducting any of the acts listed in the items of Article 2, paragraph (11) of the Act (excluding those conducted through the act specified in item (ii)), on the condition that an agency or intermediation for concluding a contract for loans or for discounting negotiable instrument is provided;

(xxv) in cases of providing financial institution agency service, an act of the financial instruments intermediary service provider or any of its officers (if the officer is a corporation, including executive members thereof) or employees engaged in financial instruments intermediary service, receiving from, or providing to, the financial instruments intermediary service provider or any of its officers or employees engaged in financial institution agency service operation any undisclosed loan information, etc. (limited to undisclosed information on the business of the customer or any other special information which may come to knowledge of the financial instruments intermediary service provider or its officers or employees engaged in financial institution agency service operation (including the services for agency or intermediation for the conclusion of a contract for loaning fund for business of discounting bills among the agency service for the business pertaining to the authorization under Article 42, paragraph (3) of the Enhancement and Restructuring Act; hereinafter the same applies in this item, the following item and Article 281, item (ix)) in the course of duties and which is found to have an impact on the customer's investment decision in regard to the securities solicited by the financial instruments intermediary service provider or any of its officers or employees engaged in financial instruments intermediary service; or information on the customer's ordering trends in the purchase and sale of securities, market transactions of derivatives or foreign market derivatives transactions or any other special information which may come to knowledge of such financial instruments intermediary service provider or any of its officers or employees engaged in financial instruments intermediary service in the course of duties and which is found to have a material impact on the financial institution agency service operation pertaining to the issuer of the

- securities; hereinafter the same applies in this item and Article 281, item (ix)) on any customer which is the issuer of the securities (meaning the securities prescribed in Article 117, paragraph (1), item (xxxi); hereinafter the same applies in this item) (excluding the cases specified as follows):
- (a) if the undisclosed loan information, etc. is to be provided with prior written consent therefor from the customer;
  - (b) if it is deemed necessary that any undisclosed loan information, etc. be received from the financial instruments intermediary service provider engaged in financial institution agency service operations or its officer or employee, so as to ensure compliance with the laws and regulations applicable to the financial instruments intermediary service; or
  - (c) if the undisclosed loan information, etc. is to be provided to the financial instruments intermediary service provider or its officer or employee supervising the operation of the section in charge of the execution of the financial instruments intermediary service (limited to the section in charge of the execution of the financial institution agency service operation beyond the financial instruments intermediary service; the same applies in Article 281, item (ix));
- (xxvi) in cases of conducting a financial institution agency service, an act of the financial instruments intermediary service provider or its officers or employees engaged in the financial institution agency service operation conducting the purchase and sale or any other transaction of securities, market transactions of derivatives or foreign market derivatives transactions (excluding brokerage for clearing of securities, etc.), based on any undisclosed information which may come to such person's knowledge in the course of duties and which is found to have an impact on investment decisions with regard to securities;
- (xxvii) if the entrusting financial instruments business operator (meaning a financial instruments business operator engaged in type I financial instruments business which entrusts financial instruments intermediation operations to a financial instruments intermediary service provider; hereinafter the same applies in this item) becomes an underwriter of securities (meaning the securities prescribed in Article 117, paragraph (1), item (xxxi)) issued by any person owing a debt to the parent corporation, etc. or subsidiary corporation, etc. of such entrusting financial instruments business operator, etc., or an underwriter of the treasury shares to be disposed of, and if the financial instruments intermediary service provider is aware of the circumstance if the proceeds from these securities (if the entrusting financial instruments business operator, etc. conducts those listed in Article 2, paragraph (6), item (iii) of the Act, including securities acquired by the exercise of the share options prescribed in that item; hereinafter the

- same applies in this item) will be appropriated for the payment of such debt pertaining to the borrowing, to conduct an act specified in paragraph (11), item (i) of that Article pertaining to the securities (limited to an act pertaining to a case in which the securities are to be sold between the day when the entrusting financial instruments business operator which has underwritten the securities becomes an underwriter and the day on which six months have elapsed therefrom) or item (iii) of that paragraph, without informing the customer of such circumstance; and
- (xxviii) an act of recommending a customer (excluding a professional investor), in respect of intermediation for financial instruments (limited to the service pertaining to commodity-related market transactions of derivatives), to match the volume and maturity in a sale, purchase, or other equivalent trade in commodity-related market transactions of derivatives to be conducted by the customer with a corresponding transaction (meaning a transaction that would reduce the losses arising from such a transaction).
- (xxix) upon concluding or soliciting for conclusion of a cryptoasset-related contract (meaning the contract prescribed in Article 43-6, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act; the same applies in the following item), or upon placing an Advertisement, etc. regarding the Financial Instruments Intermediary Service that it conducts (limited to the service pertaining to the Acts of Financial Instruments Intermediation for cryptoassets; the same applies in item (xxxiii)), an act to make representation concerning the matters set forth in Article 271, items (v) through (vii) or item (xiii), sub-items (a) through (e) without indicating reasonable grounds that support those matters to customers (excluding Financial Instruments Business Operators, etc. (limited to those conducting the Acts of Financial Instruments Transactions for cryptoassets in the course of trade) and cryptoasset exchange service providers, etc.; the same applies in the following item);
- (xxx) an act to solicit a customer to conclude a cryptoasset-related contract without clearly and accurately indicating the matters set forth in Article 269, item (iii), sub-items (a) and (b) (in cases of delivering a document or employing any other method equivalent thereto, including the failure to indicate the letters or numerical characters representing the matters in a size which does not differ substantially from the size of the largest letters or numerical characters representing matters other than such matters);
- (xxxi) while knowing that a customer is likely to conduct a Market Derivatives Transaction or Foreign Market Derivatives Transaction in violation of Article 185-22, paragraph (1), Article 185-23, paragraph (1) or Article 185-24, paragraph (1) or (2) of the Act (including a transaction conducted in relation to an act violating any of these provisions), an act to accept the customer's

- application for an intermediary service therefor;
- (xxxii) an act to conduct an intermediary service for entrustment of a market derivatives transaction for cryptoassets while knowing that it will result in manipulative quotations not reflecting actual market status through causing fluctuations in the quotations of cryptoassets or the figures calculated based on the quotations or transaction volumes thereof, or by increasing the transaction volumes thereof; and
- (xxxiii) an act to transmit to a third party or utilize material information concerning cryptoassets, etc. pertaining to purchase and sale or other transaction of securities that the Financial Instruments Business Operator, etc. uses or intends to use as the target of its Financial Instruments Business, etc. or concerning said Financial Instruments Business Operator, etc. which is found to have an impact on customers' decision on purchase and sale or other transaction of securities pertaining to cryptoassets, etc. (excluding cases where such material information is being made readily accessible to all customers of the Financial Instruments Business, etc. conducted by said Financial Instruments Business Operator, etc.) for the purpose of gaining own profit or for a profit for the third party (excluding such act that is necessary for the proper and secure conduct of the Financial Instruments Intermediary Service conducted by said Financial Instruments Intermediary Service Provider).
- (2) The information to be received from, or provided to, the principal financial institutions which falls under the category of parent bank, etc. or subsidiary bank, etc. set forth in item (xii) of the preceding paragraph is as follows:
- (i) information on the financial institution agency service to be provided by the financial instruments intermediary service provider, based on entrustment by the principal financial institution which is its parent bank, etc. or subsidiary bank, etc.;
- (ii) information which is deemed necessary to be received by the financial instruments intermediary service provider, so as to assure its compliance with the laws and regulations applicable to the financial institution agency service to be provided based on an entrustment from the principal financial institution which is its parent bank, etc. or subsidiary bank, etc.;
- (iii) information which is deemed necessary to be provided to the principal financial institutions, in order for the financial instruments intermediary service provider to conduct the financial institution agency service to be conducted based on an entrustment from the principal financial institution which is its parent bank, etc. or subsidiary bank, etc.; and
- (iv) information which may come to the knowledge of the financial instruments intermediary service provider in the course of the financial institution agency service which it provides based on an entrustment from the principal

financial institution which is its parent bank, etc. or subsidiary bank, etc., and which is deemed necessary to be provided to such principal financial institution so as to ensure the financial instruments intermediary service provider's compliance with the laws and regulations.

- (3) The provisions of paragraph (1), item (xv) do not apply if an intermediary service for a series of the purchase and sale of securities, etc. is to be provided, if such series of the purchase and sale of securities, etc. is to be conducted on a financial instruments exchange market or an over-the-counter securities market so as to facilitate the public offering of securities (limited to a public offering made to 50 or more persons), the solicitation for acquisition only for professional investors (limited to a solicitation made to 50 or more persons), secondary distribution of securities (limited to such distribution made to 50 or more persons) or solicitation for selling, etc. only for professional investors (limited to such solicitation made to 50 or more persons).

(Persons Excluded from Being Classed as General Investors)

Article 275-2 (1) The persons to be specified by Cabinet Office Order as referred to in Article 66-14-2 of the Act are as follows:

- (i) a person that holds the position of a director, etc. (meaning a director, company auditor, executive officer, board member, auditor or any other person holding a position equivalent thereto) of the issuer of the securities for professional investors, and that, under the person's own name or another person's name, holds the voting rights exceeding 50 percent of the voting rights held by all the shareholders, etc. in the issuer (including the voting rights pertaining to a share or contribution which may not be duly asserted against the issuer pursuant to the provisions of Article 147, paragraph (1) or Article 148, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares (including if these provisions are applied mutatis mutandis pursuant to Article 228, paragraph (1), Article 235, paragraph (1), Article 239, paragraph (1) and Article 276 (limited to the parts pertaining to item (ii))); hereinafter referred to as the "subject voting rights" in this Article) (such person is hereinafter referred to as the "specified officer" in this Article), or the corporation, etc. under control of such specified officer (such corporation excludes the issuer);
- (ii) a company which, under its name or another person's name, holds the subject voting rights exceeding 50 percent of the voting rights held by all the shareholders, etc. in the issuer of the securities for professional investors (excluding the person specified in the preceding item);
- (iii) an officer, etc. of the issuer of the securities for professional investors (such securities are limited to those specified in the following) (such officer, etc. is limited to one that conducts the purchase of the securities for

professional investors (limited to a purchase made under a contract whereby the officer, etc., jointly with other officers, etc. of such issuer, conducts purchases continually in accordance with a certain plan but not based on the respective investment decisions, and by the amount to be contributed by each of such officers, etc. on each occasion is less than one million yen), and excludes the person specified in item (i)):

- (a) the securities specified in Article 2, paragraph (1), item (ix) of the Act;
  - (b) investment securities, certificates of investment equity subscription rights or foreign investment securities similar to investment securities or certificates of investment equity subscription rights out of the securities specified in Article 2, paragraph (1), item (xi) of the Act;
  - (c) the securities specified in Article 2, paragraph (1), item (xvii) of the Act, which have the nature of the securities specified in item (ix) of that paragraph;
  - (d) the certificates of a beneficial interest in a securities trust in trust of which the entrusted securities are the securities specified in (a) through (c); and
  - (e) the securities specified in Article 2, paragraph (1), item (xx) of the Act which indicate the right pertaining to the securities specified in (a) or (b).
- (2) If the total of the subject voting rights held by the specified officer and those held by the corporation, etc. under control of specified officer, under their respective names or under the names of any other persons, constitutes the voting rights exceeding 50 percent of the voting rights held by all the shareholders, etc. in any other corporation, etc. (meaning a corporation or any other organization; hereinafter the same applies in this Article), such other corporation, etc. is deemed to be the corporation, etc. under control of such specified officer, and the provisions of item (i) of the preceding paragraph and this paragraph apply.
- (3) The "corporation, etc. under control" as used in paragraph (1), item (i) and the preceding paragraph means the corporation, etc., whose subject voting rights exceeding 50 percent of the voting rights held by all the shareholders, etc. are held by a specified officer under the name of the specified officer or under the name of any other person.
- (4) The "officer, etc." as used in paragraph (1), item (iii) means the officer, etc. prescribed in Article 1-3-3, item (v) of the Order.

(Exceptions to Limitations on Intermediary Service for Purchase and Sale of Securities for Professional Investors)

Article 275-3 The cases specified by Cabinet Office Order as referred to in Article 66-14-2 of the Act are those in which the financial instruments intermediary service provider provides an intermediary service for the

entrusting financial instruments business operator, etc. in relation to the entrustment of sale on the financial instruments exchange market or foreign financial instruments exchange market to be conducted by a general investor (meaning the general investor prescribed in that Article; hereinafter the same applies in this Article), not based on the solicitation of a general investor.

(Problematic Conduct)

Article 276 The cases specified by Cabinet Office Order as provided in Article 39, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act are those in which a financial instruments intermediary service provider or its representative, etc., in connection with the purchase and sale or other transaction of securities, etc. (meaning the purchase and sale or other transaction of securities, etc. prescribed in Article 39, paragraph (1), item (i) of the Act; the same applies in this Article), has conducted any of the following acts in the course of the business of the financial instruments intermediary service provider, and thereby has caused any loss to a customer;

- (i) an act of providing an intermediary service for the purchase and sale or other transaction of securities, etc. on the customer's account, without confirming the contents of the customer's order;
- (ii) an act of soliciting for a customer in a manner which would lead the customer to misunderstand any of the following matters:
  - (a) the nature of the securities, etc. (meaning the securities, etc. prescribed in Article 39, paragraph (1), item (i) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act);
  - (b) the conditions of the transaction;
  - (c) information as to whether there was any appreciation or decline in the price of the financial instruments or the amount of the consideration for the options; information as to whether there was any increase or decrease in the agreed figure or the actual figure under a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including foreign market derivatives transactions similar thereto); information as to whether there was any increase or decrease in the financial indicators or any appreciation or decline in the prices of the financial instruments, in connection with the transactions specified in Article 2, paragraph (21), item (iv) or item (iv)-2 of the Act; or, information as to whether any event as specified in Article 2, paragraph (21), item (v), (a) or (b) occurred in connection with the transaction specified in Article 2, paragraph (21), item (v) of the Act;
- (iii) to erroneously handle affairs due to any negligence, in the course of providing an intermediary service for the purchase and sale or other transaction of securities, etc. conducted on the customer's account;
- (iv) to erroneously provide an intermediary service for the purchase and sale or



- other transaction of securities, etc. conducted on the customer's account, due to any disorder in the electronic data processing system; or
- (v) to commit any other act in violation of the laws and regulations.

(Cases Exempted from Requirement of Confirmation of Problematic Conduct)

Article 277 (1) The cases specified by Cabinet Office Order as provided in the proviso to Article 39, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act are as follows:

- (i) if a final and binding judgment has been issued by the court;
- (ii) if a judicial settlement (excluding the judicial settlement under Article 275, paragraph (1) of the Code of Civil Procedures) has been reached;
- (iii) if a conciliation as prescribed in Article 16 of the Civil Conciliation Act has been reached; or if a court order has been issued pursuant to the provisions of Article 17 of that Act, in which case no objection was filed within the period specified in Article 18, paragraph (1) of that Act;
- (iv) if a settlement has been reached through mediation by a financial instruments firms association or a certified investor protection organization, or dispute resolution procedures by a designated dispute resolution organization;
- (v) if a settlement has been reached through mediation by an organization as prescribed in the bar association rules under Article 33, paragraph (1) the Attorney Act or in any other rules specified under such bar association rules, or if an arbitral award under arbitration procedure conducted before such organization has been issued;
- (vi) if a settlement has been reached through mediation prescribed in Article 19, paragraph (1) or Article 25 of the Consumer Basic Act, or if a resolution based on an agreement prescribed in that Article has been conducted;
- (vii) if a settlement has been reached through a certified dispute resolution procedure carried out by a certified dispute resolution business operator (meaning the certified dispute resolution business operator prescribed in Article 2, item (iv) of the Act on Promotion of Use of Alternative Dispute Resolution, and limited to a case in which the dispute pertaining to intermediation for financial instruments falls within the scope of the disputes referred to in Article 6, item (i) of that Act);
- (viii) if a settlement has been reached, and such settlement fulfills all of the following requirements:
  - (a) that an attorney or a judicial scrivener (limited to such judicial scrivener who provides the services specified in Article 3, paragraph (1), item (vii) of the Judicial Scriveners Act; the same applies in the following item) has acted as the customer's counsel in connection with the relevant settlement procedures;

- (b) that the amount payable by the entrusting financial instruments business operator, etc. to the customer due to the effectuation of such settlement does not exceed ten million yen (if the judicial scrivener set forth in (a) acted as the customer's counsel, the amount specified in Article 3, paragraph (1), item (vii) of the Judicial Scriveners Act); and
- (c) that a document or an electronic or magnetic record evidencing that the attorney or judicial scrivener set forth in (a) has verified and confirmed that the purpose of the payment under (b) was compensation for all or part of any losses arising from problematic conduct has been delivered or provided to the financial instruments intermediary service provider, and its entrusting financial instruments business operator, etc.
- (ix) if the amount payable to the customer with respect to losses arising from problematic conduct has been specified by and between the entrusting financial instruments business operator, etc. and the financial instruments intermediary service provider, and the customer, and if all of the following requirements are met (excluding the cases listed in the foregoing items):
  - (a) that the amount payable by the entrusting financial instruments business operator, etc. to the customer does not exceed ten million yen (if the committee prescribed in (b) consists only of members that are judicial scriveners, the amount specified in Article 3, paragraph (1), item (vii) of the Judicial Scriveners Act); and
  - (b) that the fact that the payment under (a) is made for the purpose of compensating for losses arising from a problematic conduct has been investigated and confirmed by a committee set up within a financial instruments firms association (meaning such committee that consists of multiple members appointed by the financial instruments firms association (limited to such persons that are attorneys or judicial scriveners that have no special interest in the entrusting financial instruments business operator, etc., the financial instruments intermediary service provider and the customer pertaining to the problematic conduct));
- (x) if a financial instruments intermediary service provider or its representative, etc. has caused any loss to a customer due to any of the acts listed in the items of the preceding Article, and if the amount of the property benefit offered, promised or provided to a customer in relation to the loss suffered by the customer in a daily trading does not exceed the amount equivalent to 100,000 yen (excluding the cases listed in the foregoing items); and
- (xi) if the financial instruments intermediary service provider or its representative, etc. has caused any loss to its customers due to any act specified in item (iii) or (iv) of the preceding Article (but only if it is obvious from the description of the books and documents set forth in Article 46-2,

Article 47 or Article 48 of the Act, the subsidiary book on the financial instruments intermediary service set forth in Article 282, paragraph (1), item (i) or the records of the contents of the customer's orders that the act falls under problematic conduct, and excluding the cases listed in items (i) through (ix));

(2) The benefit set forth in item (x) of the preceding paragraph is to be calculated by the categories of the acts listed in the items of the preceding Article. In this case, in calculating the amount of benefit pertaining to the categories of the act specified in item (iii) or (iv) of that Article, the amount of property benefit offered, promised or provided in the case referred to in item (xi) of that paragraph is to be deducted.

(3) In the case referred to in paragraph (1), items (ix) through (xi), and if an entrusting financial instruments business operator, etc. has offered or promised to provide, or has provided any property benefit to the customer, without obtaining confirmation as set forth in the proviso to Article 39, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-15, it must, no later than the last day of the month immediately after the month containing the day of such offer, promise or provision, report the matters specified in the items of Article 279 to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, or any other business office or office if the problematic conduct pertaining to such offer, promise or provision took place (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if such business operator has no business office or any other office in Japan, to the Director-General of the Kanto Finance Bureau; the same applies in Article 278).

(Exemption of Prohibition of Compensation of Losses)

Article 277-2 The investment trust to be specified by Cabinet Office Order as referred to in Article 39, paragraph (4) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act are the acts specified in the items of Article 119-2.

(Application for Confirmation of Problematic Conduct)

Article 278 A person that intends to obtain the confirmation set forth in the proviso to Article 39, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act must submit to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office or any other business office or office, if the problematic conduct pertaining to such confirmation took place, one original of the written application set forth in paragraph (7) of that Article and the documents attached thereto, as well as

one copy thereof.

(Matters to Be Stated in Applications for Confirmation)

Article 279 The matters to be specified by Cabinet Office Order as referred to in Article 39, paragraph (7) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act are as follows:

- (i) the trade name or name and the registration number of the entrusting financial instruments business operator, etc.;
- (ii) the name and location of the head office or any other business office or office where the problematic conduct took place;
- (iii) the following matters in relation to the fact for which the confirmation is sought:
  - (a) the trade name or name of the financial instruments intermediary service provider involved in the act which falls under the problematic conduct, as well as the name or section of its representative, etc.;
  - (b) the name and address of the customer (if the customer is a corporation, its trade name or name, the location of its principal business office or principal office, and the name of the representative thereof);
  - (c) the outline of the problematic conduct;
  - (d) details of the reasons which prove that the customer's loss which is to be compensated for results from the problematic conduct; and
  - (e) the amount of property benefit to be offered, promised or provided.
- (iv) any other matters which would serve as reference information.

(Documents to Be Attached to Applications for Confirmation)

Article 280 (1) The documents to be specified by Cabinet Office Order as referred to in Article 39, paragraph (7) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act are the documents evidencing that the customer has confirmed the details of the matters listed in the items of the preceding Article, and any other material which would serve as reference information.

(2) The provisions of the preceding paragraph do not apply if the written application under Article 39, paragraph (7) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act pertains to the application set forth in item (ii), paragraph (1) of that Article.

(Circumstances Where the State of the Operation of Business Is Likely to Go Against Public Interest or Compromise the Protection of Investors)

Article 281 The circumstances to be specified by Cabinet Office Order as referred to in Article 40, item (ii) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act are as follows:

- (i) if the financial instruments intermediary service provider frequently

- provides intermediary services for the purchase and sale of securities to be conducted on the customer's account, intermediary services for the entrustment of the purchase and sale of securities on the financial instruments exchange market or foreign financial instruments market to be conducted on the customer's account or intermediary services for the entrustment of market transactions of derivatives or foreign market derivatives transactions to be conducted on the customer's account, without confirming the contents of the customer's order in advance;
- (ii) if the financial instruments intermediary service provider provides intermediary services for the purchase and sale of securities, intermediary services for the entrustment of the purchase and sale of securities on the financial instruments exchange market or foreign financial instruments market, or intermediary services for the entrustment of market transactions of derivatives or foreign market derivatives transactions for a person having been entrusted with the purchase and sale of securities, market transactions of derivatives or foreign market derivatives transactions through the solicitation of unspecified and many investors (excluding a person engaged in acts that constitute financial instruments transactions in compliance with the laws and regulations), knowing that such transactions are to be conducted on such investors' accounts and without confirming the investors' intention in advance;
- (iii) if it is found that the financial instruments intermediary service provider, in connection with the management of the corporate information it handles or the management of the customer's purchase and sale or other transaction of securities, market transactions of derivatives or foreign market derivatives transactions, has not implemented the necessary and appropriate measures for preventing unfair transactions based on the corporate information;
- (iv) if it is found that the financial instruments intermediary service provider, in connection with the security management and supervision of workers related to the information on the individual customers it handles, and the supervision of the entrusted party if the handling of the information is to be entrusted, has not taken the measures necessary and appropriate for the prevention of the leaking, destruction or loss of such information;
- (iv)-2 if it is found that the financial instruments intermediary service provider has not made a report to the competent Director-General of a Local Finance Bureau, etc. or has not taken other appropriate measures when any leaking, destruction or loss of information on the individual customers it handles (limited to information falling under the personal data prescribed in Article 16, paragraph (3) of the Act on the Protection of Personal Information) occurs or any other situation arises in which any leaking, destruction or loss is

- likely to have occurred;
- (v) if it is found that the financial instruments intermediary service provider has not taken measures to ensure that the information it handles regarding the individual customer's race, creed, family origin, registered domicile, health and medical care or criminal records, or any other undisclosed and special information which may come to its knowledge in the course of the business, will not be used for any purpose other than the assurance of the proper operation of the business or any other purpose as may be deemed necessary;
  - (vi) if the financial instruments intermediary service provider solicits a customer for a rollover of investment trust beneficiary certificates, etc., and it has not given the customer (excluding a professional investor) any explanation on important matters regarding such rollover;
  - (vii) if the financial instruments intermediary service provider intends to have others acquire or sell the securities specified in Article 2, paragraph (1), item (v) of the Act or item (xvii) of that paragraph (limited to those which have the nature of the securities specified in any of Article 2, paragraph (1), items (i) through (v) of the Act) through an act specified in Article 2, paragraph (8), item (ix) of the Act, and it has not provided an individual customer (excluding a professional investor) with an explanation on any material circumstances affecting the customer's investment decision which took place during the period for making an application for the acquisition or purchase of such securities;
  - (viii) if the management of an electronic data processing system to be used for the financial instruments intermediary service is found to be insufficient;
  - (ix) if the financial instruments intermediary service provider or its officer (if the officer is a corporation, including executive members thereof) or employee supervising the business of the section in charge of executing the financial instruments intermediary service has personally acquired the undisclosed loan information, etc. on the customer which is the issuer of the securities (meaning the securities specified in Article 117, paragraph (1), item (xxxi)), or has received such information from a financial instruments intermediary service provider or its officer or employee engaged in a financial institution agency service operation, and thereby conducts any of the acts listed in the items of Article 2, paragraph (11) of the Act pertaining to such securities (including in the circumstances in which the financial instruments intermediary service provider or its officer or employee supervising the business provides any financial instruments intermediary service provider or its officer or employee engaged in a financial instruments intermediary service operation with the customer's undisclosed loan information, etc. (excluding corporate information), without obtaining the

- customer's prior written consent for the provision of such information);
- (x) if a financial instruments intermediary service provider establishes its head office or any other business offices or offices in the same building as that of the head office, any other business offices or offices, or agency office (including the business offices or any other offices of a bank agent prescribed in Article 2, paragraph (15) of the Banking Act, a long-term credit bank agent prescribed in Article 16-5, paragraph (3) of the Long-Term Credit Bank Act, Shinkin Bank agent prescribed in Article 85-2, paragraph (3) of the Shinkin Bank Act, credit cooperative agent prescribed in Article 6-3, paragraph (3) of the Act on Financial Businesses by Cooperative, Labor Bank agent prescribed in Article 89-3, paragraph (3) of the Labor Bank Act, specific credit business agent prescribed in Article 92-2, paragraph (3) of the Agricultural Cooperatives Act, specific credit business agent prescribed in Article 106, paragraph (3) of the Fishery Cooperatives Act and Norinchukin Bank agent prescribed in Article 95-2, paragraph (3) of the Norinchukin Bank Act, but excluding the life insurance solicitor prescribed in Article 2, paragraph (19) of the Insurance Business Act and the non-life insurance agent prescribed in paragraph (21) of that Article) of a financial institution (meaning a financial institution such as bank, cooperative financial institution, trust company or any other financial institution specified in the items of Article 1-9 of the Order) and carries out its business therein, and it is found that that the financial instruments intermediary service provider has not implemented the appropriate measures to prevent the customer from confusing the financial instruments intermediary service provider with such financial institution;
- (xi) if the financial instruments intermediary service provider carries out its businesses using a computer connected via telecommunications line, and it is found that it has not implemented appropriate measures for preventing the customer from confusing the financial instruments intermediary service provider with its entrusting financial instruments business operator or any other person;
- (xii) if the financial instruments intermediary service provider provides to the entrusting financial instruments business operator, etc. any information on customers' properties or any other special information which it has obtained (information specified in the following is excluded), without obtaining a prior written consent from the customers; or if the financial instruments intermediary service provider solicits the purchase and sale or other transaction of securities using any information on customers' properties or any other special information obtained from the entrusting financial instruments business operator, etc. (limited to information that is other than those listed in (d) and that is provided by the entrusting financial

instruments business operator, etc. without obtaining the customer's written consent):

- (a) information which is necessary to be provided to the entrusting financial instruments business operator, etc., in order for the financial instruments intermediary service provider to implement intermediation for financial instruments;
  - (b) information obtained in the course of the financial instruments intermediation operations entrusted by the entrusting financial instruments business operator, etc., which is deemed necessary to be provided to the entrusting financial instruments business operator, etc. in order for the financial instruments intermediary service provider to ensure its compliance with the laws and regulations applicable to financial instruments intermediary service; and
  - (c) information which is deemed necessary for compensation to be paid by the entrusting financial instruments business operator for the losses arising from the problematic conduct of the financial instruments intermediary service provider; and
  - (d) if the financial instruments intermediary service provider is the parent corporation, etc. or the subsidiary corporation, etc. of the entrusting financial instruments business operator or if the entrusting financial instruments business operator is the parent corporation, etc. or the subsidiary corporation, etc. of the financial instruments intermediary service provider, information pertaining to a foreign corporation (including a foreign organization that is not a corporation and has a provision of a representative or a manager).
- (xiii) where it is found that the Financial Instruments Intermediary Service Provider has not taken measures necessary for appropriately managing material information concerning cryptoassets, etc. pertaining to purchase and sale or other transaction of securities that the Entrusting Financial Instruments Business Operator, etc. uses or intends to use as the target of its Financial Instruments Exchange Business, etc. or concerning said Entrusting Financial Instruments Business Operator which is found to have an impact on customers' decision on purchase and sale or other transaction of securities pertaining to cryptoassets, etc. (excluding cases where such material information is being made readily accessible to all customers of the Financial Instruments Business, etc. conducted by said Entrusting Financial Instruments Business Operator).

(Cryptoasset-Related Acts)

Article 281-2 The Acts of Financial Instruments Intermediation specified by Cabinet Office Order as referred to in Article 43-6, paragraph (1) of the Act as



applied mutatis mutandis by replacing certain terms pursuant to Article 66-15 of the Act are the following acts:

- (i) the following acts for a Derivative Transaction prescribed in Article 146-3, paragraph (1), item (i):
  - (a) the acts set forth in Article 2, paragraph (11), item (ii) of the Act; and
  - (b) the acts set forth in Article 2, paragraph (11), item (iv) of the Act;
- (ii) the following acts for the cryptoasset-related securities or derivative Transaction prescribed in Article 146-3, paragraph (1), item (ii):
  - (a) the acts set forth in Article 2, paragraph (11), items (i) to (iii) of the act with regard to the cryptoasset-related securities or the acts set forth in item (ii) of that paragraph with regard to the Derivative Transaction; and
  - (b) the acts set forth in Article 2, paragraph (11), item (iv) of the Act.

(Explanation Concerning the Nature of Cryptoassets)

- Article 281-3 (1) When a Financial Instruments Intermediary Service Provider intends to conduct a cryptoasset-related act (meaning the cryptoasset-related act prescribed in Article 43-6, paragraph (1) of the act as applied mutatis mutandis pursuant to Article 66-15 of the Act) vis-a-vis or for a customer (excluding Financial Instruments Business Operators, etc. (limited to those conducting Acts of Financial Instruments Transactions for cryptoassets in the course of trade) and cryptoasset exchange service providers, etc.; hereinafter the same applies in this Article) based on the provisions of that paragraph, the Financial Instruments Intermediary Service Provider must provide an explanation concerning the nature of cryptoassets to the relevant customer in advance by way of delivering a document or by any other appropriate method.
- (2) When providing an explanation under the provisions of the preceding paragraph, a Financial Instruments Intermediary Service Provider is to explain the following matters:
- (i) the fact that cryptoassets are not the Japanese currency or a foreign currency;
  - (ii) when there is a risk of an accrual of loss directly caused by fluctuations in the value of cryptoassets, to that effect and the reasons therefor;
  - (iii) 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;
  - (iv) the outline and the characteristics of the cryptoassets for the cryptoasset-related act (in cases where the value of the cryptoassets has not been guaranteed by a specific person, to that effect, and where the value has been guaranteed by a specific person, the name, trade name or other name of that person and the content of the guarantee); and
  - (v) other matters which should be noted by the customer in relation to the

nature of cryptoassets.

- (3) In cases where a Financial Instruments Intermediary Service Provider conducts the cryptoasset-related act under paragraph (1) at its business office or other office and provides a customer with an explanation as prescribed in that paragraph, the Financial Instruments Intermediary Service Provider is to do so by posting the matters listed in the items of the preceding paragraph at the service counter in a manner easily seen by said customer.

(Matters for which Misleading Representations are Prohibited)

Article 281-4 The matters specified by Cabinet Office Order as referred to in Article 43-6, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 66-15 of the Act are the matters set forth in Article 271, items (v) to (vii) and item (xiii), sub-items (b) to (e).

### **Section 3 Accounting**

(Books and Documents Related to Business Affairs)

Article 282 (1) The books and documents to be prepared by a financial instruments intermediary service provider pursuant to the provisions of Article 66-16 of the Act are as follows:

- (i) a subsidiary book on the financial instruments intermediary service; and
  - (ii) transaction records for the intermediary service for the conclusion of an investment advisory contract or a discretionary investment contract.
- (2) The book specified in item (i) of the preceding paragraph must be preserved for seven years from the day of the preparation thereof, and the document specified in item (ii) of that paragraph must be preserved for ten years from the day of the preparation thereof.

(Matters to Be Stated in Books and Documents Related to Business Affairs)

Article 283 (1) The following information must be stated in a subsidiary book on the financial instruments intermediary service as set forth in item (i), paragraph (1) of the preceding Article:

- (i) information as to whether the entrusting financial instruments business operator itself is dealing or it is a transaction based on entrustment by the customer;
- (ii) the customer's name;
- (iii) the type of transaction (in the case of any of the transactions listed in (a) through (h) below, including the information set forth respectively therein):
  - (a) a margin transaction or when-issued transaction: to that effect, and in the case of a margin transaction, the due date thereof;
  - (b) a transaction with a repurchase/resale agreement: the following matters:

1. to that effect;
  2. information as to whether it is a transaction for starting or transaction for ending;
  3. information as to whether it is a Gensaki transaction based on entrustment from a customer or a Gensaki transaction on dealer basis; and
  4. the yield for the term.
- (c) a short selling of securities: to that effect;
- (d) a transaction specified in Article 2, paragraph (21), items (i) and (ii) of the Act (including foreign market derivatives transactions similar thereto): information specified in the following:
1. contract month;
  2. information as to whether it is a new transaction or a settlement transaction;
- (e) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including a foreign market derivatives transaction similar thereto), and a trading of bonds with options: information specified in the following:
1. the exercise period and exercise price;
  2. information as to whether it is a put option or a call option;
  3. information as to whether it is a new transaction, or a transaction for exercising rights, a resale, buy-back or set-off; and
  4. contract month;
- (f) a transaction specified in Article 2, paragraph (21), item (iv) of the Act and a transaction set forth in item (iv)-2 of that paragraph (including a foreign market derivatives transaction similar thereto): the transaction period and delivery date;
- (g) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including a foreign market derivatives transaction similar thereto): information specified in the following:
1. the exercise period;
  2. information as to whether it is a new transaction, or a transaction for exercising rights, a resale or buy-back;
- (h) a strategy trading prescribed by the rules of the financial instruments exchange: the type thereof.
- (iv) issues (including the financial instruments or financial indicators which will be the subject of a transaction, or any information which identifies the subject of a transaction including the contract number specified in the contract which provides for the conditions of the transaction; hereinafter the same applies in paragraph (3), item (i));
- (v) information as to whether the type of transaction is a sale or purchase (in the case of a transaction specified in any of (a) through (e) below, the type of

such transaction as set forth respectively therein; hereinafter the same applies in paragraph (3), item (i)):

- (a) a transaction specified in Article 2, paragraph (21), item (ii) of the Act (including a foreign market derivatives transaction similar thereto): whether it is a transaction wherein, if the actual figure exceeds the agreed figure, the customer becomes a party paying money, or a party receiving money;
- (b) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including a foreign market derivatives transaction similar thereto): whether it is a transaction wherein the customer becomes a party granting options, or a party acquiring options;
- (c) a transaction specified in Article 2, paragraph (21), item (iv) of the Act (including a foreign market derivatives transaction similar thereto): whether it is a transaction wherein, when the interest rate, etc. of the financial products or financial indicators, as agreed between the customer and the counterparty, increase in the agreed period, the customer becomes a party paying money, or a party receiving money; and
- (d) a transaction specified in Article 2, paragraph (21), item (iv)-2 of the Act: a party becomes a money-paying or receiving party when a financial indicator for the instruments agreed between the customer and the counterparty rises in the agreed period;
- (e) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including a foreign market derivatives transaction similar thereto): whether it is a transaction wherein, when any event agreed by the parties in advance (meaning any of the events specified in that item; the same applies in item (xi), (d)) occurs, the customer becomes a party paying money, or a party receiving money;
- (vi) the volumes of the transactions which were applied for (in cases there is no volume, the number of transactions or any other information equivalent to volumes; the same applies in paragraph (3), item (i));
- (vii) the agreed volume (if there is no volume, the number of transactions or any other information equivalent to the volume; the same applies in paragraph (3), item (i));
- (viii) information as to whether it is a limit order or a market order (in the case of a limit order, the price and the valid period of the order (excluding an order of which valid period is the day of such order) are included);
- (ix) the date and time of the receipt of applications;
- (x) the date and time of the contract;
- (xi) the contract price (in the case of a transaction specified in (a) through (d) below, the information set forth respectively therein):
  - (a) a transaction specified in Article 2, paragraph (21), item (ii) of the Act

- (including a foreign market derivatives transaction similar thereto): an agreed figure;
- (b) a transaction specified in Article 2, paragraph (21), item (iii) of the Act (including a foreign market derivatives transaction similar thereto) and the trading of bonds with options: the amount of the consideration for the options or the option premiums;
- (c) a transaction specified in Article 2, paragraph (21), item (iv) of the Act and a transaction specified in item (iv)-2 of that paragraph (including a foreign market derivatives transaction similar thereto): the interest rates of the financial instruments, or financial indicators, as agreed;
- (d) a transaction specified in Article 2, paragraph (21), item (v) of the Act (including a foreign market derivatives transaction similar thereto): the amount of the consideration for the right to receive money upon occurrence of an event as agreed by the parties in advance.
- (2) The subsidiary book on the financial instruments intermediary service set forth in the preceding paragraph must be prepared in accordance with the following:
- (i) that such book is, in principle, prepared upon the receipt of an application for a transaction from a customer;
- (ii) that, if the financial instruments intermediary service provider has two or more entrusting financial instruments business operators, a book is prepared for each of such entrusting financial instruments business operators;
- (iii) that such book is prepared and preserved in date order;
- (iv) that the portions of such book referring to the transactions which were not concluded are also preserved;
- (v) that, in the portions of such book referring to the details of the transaction, any information which the financial instruments intermediary service provider has learned is stated;
- (vi) if a subsidiary book on a financial instruments intermediary service is to be prepared by means of an electronic or magnetic record, such records are prepared in accordance with the following, beyond the matters set forth in the items of the preceding paragraph:
- (a) that the matters specified in the items of the preceding paragraph (excluding items (vii), (x) and (xi)) are entered onto a computer upon the receipt of an application; and
- (b) that the date and time when the details of the customer's application were entered into a computer are automatically recorded;
- (vii) that, in the case of an order pertaining to a transaction for which a give-up was effected, such fact is specified;
- (viii) in the case of a transaction for which a give-up was effected, a financial instruments intermediary service provider whose entrusting financial

- instruments business operator, etc. is the order executing member, etc. need not state information as to whether it is a new transaction or a settlement transaction, or information as to whether it is a new transaction or a transaction for the exercise of rights, a resale or buy-back.
- (ix) with regard to a transaction for which a give-up was effected, the financial instruments intermediary service provider whose entrusting financial instruments business operator, etc. is a clearance executing member, etc. need not prepare the subsidiary book.
- (3) Notwithstanding the provisions of the preceding two paragraphs, the information listed in the following items may be stated in accordance with the manners set forth respectively therein:
- (i) the matters specified in the items of paragraph (1) with regard to investment trust beneficiary certificates, etc. without price fluctuation on the same day: the customer's name, issues, information as to whether it is sale or purchase, the volumes for which the application was made, the contracted volume, date of receipt of the application and contract date may be specified in lieu of such matters;
- (ii) the matters specified in paragraph (1), item (iii), (d), 2., (e), 3. and (g), 2.: a statement of any of those matters not required to be instructed at the time of order pursuant to the rules prescribed by the financial instruments exchange may be omitted;
- (iii) information prepared by means of an electronic or magnetic record pursuant to the provisions of item (vi) of the preceding paragraph: if such information prepared by means of an electronic or magnetic record is to be displayed on a computer screen or to be printed on paper, such information may be displayed or printed in the form of lists.
- (4) The following matters related to the intermediary service specified in Article 2, paragraph (8), item (xiii) of the Act must be included in a transaction records for an intermediary service for the conclusion of an investment advisory contract or a discretionary investment contract as referred to in item (ii), paragraph (1) of the preceding Article:
- (i) the date when the intermediary service was provided;
- (ii) the customer's name;
- (iii) the contents of the intermediary service;
- (iv) the amount of fees, remuneration or any other consideration receivable in connection with the intermediary services.

(Report on Financial Instruments Intermediary Services)

Article 284 (1) A report to be submitted by a financial instruments intermediary service provider pursuant to the provisions of Article 66-17, paragraph (1) of the Act must be prepared in accordance with Appended Form No. 26.

- (2) A financial instruments intermediary service provider must, pursuant to the provisions of Article 66-17, paragraph (2) of the Act, make available for public inspection the document set forth in paragraph (2) of that Article, by such means as keeping copies of the report set forth in the preceding paragraph at all of its business offices or other offices handling the financial instruments intermediary service or publicize them by the use of the internet or other means in a way which allows easy access by investors any time for a period of one year from the day on which four months have elapsed from the end of each business year.
- (3) The matters to be specified by Cabinet Office Order as referred to in Article 66-17, paragraph (2) of the Act are the matters contained in the report set forth in paragraph (1).

(Public Inspection of Explanatory Documents)

Article 285 A financial instruments intermediary service provider must, pursuant to the provisions of Article 66-18 of the Act, keep the explanatory documents set forth in that Article at all of its business offices or offices handling the financial instruments intermediary service and make them available for public inspection or publicize them by the use of the internet or other means in a way which allows easy access by investors any time for a period of one year from the day on which four months have elapsed from the end of the business year of the entrusting financial instruments business operator, etc.

#### **Section 4 Supervision**

(Notification of the Discontinuation of Business of Financial Instruments Intermediary Service Providers)

Article 286 (1) A person that makes a notification under Article 66-19, paragraph (1) of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written notification stating the matters listed in the following items, in accordance with the categories of the cases set forth respectively therein:

- (i) the case falling under Article 66-19, paragraph (1), item (i) of the Act (but only if the financial instruments intermediary service was discontinued): the date of and reasons for the discontinuation;
- (ii) the case falling under Article 66-19, paragraph (1), item (i) of the Act (but only if the financial instruments intermediary service provider has had all of its business pertaining to financial instruments intermediary service succeeded to through a split): the following matters:
  - (a) the trade name or name of the successor; and

- (b) the date of and reasons for the split;
  - (iii) the case falling under Article 66-19, paragraph (1), item (i) of the Act (but only if all of the financial instruments intermediary service was transferred): the following matters:
    - (a) the trade name or name of the transferee; and
    - (b) the date of the transfer and the reasons therefor;
  - (iv) the case falling under Article 66-19, paragraph (1), item (ii) of the Act: to that effect and the date of the death;
  - (v) the case falling under Article 66-19, paragraph (1), item (iii) of the Act: the following matters:
    - (a) the trade name or name of the other party to the merger;
    - (b) the date of and reasons for the merger; and
    - (c) the method of implementing the merger;
  - (vi) the case falling under Article 66-19, paragraph (1), item (iv) of the Act: the following matters:
    - (a) the day when the petition for the commencement of bankruptcy proceedings was filed; and
    - (b) the day when the corporation became subject to the order for the commencement of bankruptcy proceedings;
  - (vii) the case falling under Article 66-19, paragraph (1), item (v) of the Act: the date of and reasons for the dissolution.
  - (viii) the case falling under Article 66-19, paragraph (1), item (vi) of the Act: that fact and the date when the person obtained a registration or a registration of change.
- (2) A person that files a notification under Article 66-19, paragraph (1) of the Act must attach to the written notification stating the matters prescribed in the preceding paragraph the documents listed in the following items, in accordance with the categories of the cases set forth respectively therein:
- (i) the case falling under Article 66-19, paragraph (1), item (i) or (ii) of the Act (in the case falling under item (i), limited to a case in which financial instruments intermediary service has been discontinued): the following documents:
    - (a) the latest daily accounts sheet; and
    - (b) a document stating the method of settling the claims and obligations held against customers.
  - (ii) the case falling under Article 66-19, paragraph (1), item (i) of the Act (but only if the financial instruments intermediary service provider has had all of its business pertaining to financial instruments intermediary service succeeded to through a split): the following documents:
    - (a) the incorporation-type split plan, or a document specifying the contents of the absorption-type split agreement and the procedures for the split; and



- (b) a document stating the method of transferring the claims and obligations held against customers to the successor.
- (iii) the case falling under Article 66-19, paragraph (1), item (i) of the Act (but only if all of the financial instruments intermediary service was transferred): the following matters:
  - (a) a document stating the contents of the business transfer agreement; and
  - (b) a document stating the method of transferring the claims and debts held against customers to the transferee.
- (iv) the case falling under Article 66-19, paragraph (1), item (iii) of the Act: the following documents:
  - (a) a document stating the contents of the merger agreement and the procedures for the merger; and
  - (b) a document stating the method for the succession of claims and debts held against customers to the corporation surviving the merger;
- (v) the case falling under Article 66-19, paragraph (1), item (iv) of the Act: the following documents:
  - (a) a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings; and
  - (b) a document stating the method of settling the claims and obligations held against customers.
- (vi) the case falling under Article 66-19, paragraph (1), item (v) of the Act: a document stating the method of settling the claims and obligations held against customers.
- (vii) the case falling under Article 66-19, paragraph (1), item (vi) of the Act: a copy of a document related to the notification pursuant to the provisions of Article 14, paragraph (2) of the Act on the Provision of Financial Services (including as applied mutatis mutandis pursuant to Article 16, paragraph (2) of that Act).

## **Section 5 Miscellaneous Provisions**

(Matters to Be Stated in Registry of Sales Representatives)

Article 287 The matters to be specified by Cabinet Office Order as referred to in Article 64, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act are as follows:

- (i) the trade name or name of the applicant for registration;
- (ii) the following matters in relation to the sales representatives:
  - (a) information as to whether the sales representative is an officer (in the case of a foreign corporation, an officer stationed at a business office or other offices in Japan (including the person that is in the position of

director, accounting advisor, company auditor and executive officer or any other position similar thereto)) or employee; and

(b) if the sales representative has been ordered to suspend duties pursuant to the provisions of Article 64-5, paragraph (1) as applied mutatis mutandis pursuant to Article 66-25 of the Act, the day when such disposition was issued, and the reasons therefor and the period thereof.

(Places with a Registry of Sales Representatives)

Article 288 The place to be specified by Cabinet Office Order as referred to in Article 64, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act is the local finance bureau or the Fukuoka Local Finance Branch Bureau (with regard to the registry of the sales representatives of the financial instruments intermediary service provider, for which the association has been instructed to handle the registration works pursuant to the provisions of Article 64-7, paragraph (1) or (2) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act, such association).

(Application for Registration)

Article 289 A financial instruments intermediary service provider which intends to obtain a registration under Article 64, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written application for registration under Article 64, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act prepared in the same manner as Appended Form No. 22, attaching a copy thereof and the documents to be attached thereto under Article 64, paragraph (4) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act.

(Matters to Be Stated in Written Applications for Registration)

Article 290 The matters to be specified by Cabinet Office Order as referred to in Article 64, paragraph (3), item (iv) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act are information as to whether the sales representative for whom the registration is sought has carried out any financial instruments business, and with regard to the sales representative who has conducted any financial instruments business, the period of such business.

(Documents to Be Attached to Written Applications for Registration)

Article 291 The documents to be specified by Cabinet Office Order as referred to in Article 64, paragraph (4) of the Act as applied mutatis mutandis pursuant to

Article 66-25 of the Act are as follows:

- (i) the extracts of the certificates of residence of the sales representative for whom registration is sought, or any other document in lieu thereof; and
- (ii) if the former surname and given name of the sales representatives regarding the application for registration are stated together with the current name of the sales representatives in a written application for registration under Article 64, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act, and the document specified in the preceding item is not a document certifying the former surname and given name of the sales representatives, a document certifying the former surname and given name;
- (iii) the documents in which the applicant and the sales representative for whom registration is sought pledges that such sales representative does not fall under any of the items of Article 64-2, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act.

(Notification of Changes to Registered Matters)

Article 292 (1) A financial instruments intermediary service provider which intends to make a notification under Article 64-4, item (i) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written notification of change prepared in the same manner as Appended Form No. 23.

(2) A financial instruments intermediary service provider which intends to make a notification under Article 64-4, item (ii) to (iv) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act must submit to the competent Director-General of a Local Finance Bureau, etc. a written notification stating the matters listed in the following items, in accordance with the categories of the cases set forth respectively therein:

- (i) the case falling under Article 64-4, item (ii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (a) of the Act): the following matters:
  - (a) the name of the person that has come to fall under such provision; and
  - (b) the date when the person came to fall under such provision and the reasons therefor;
- (ii) the case falling under Article 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act): the following matters:
  - (a) the name of the person that has come to fall under such provision; and
  - (b) the day when the person became subject to the order for the

- commencement of bankruptcy proceedings;
- (iii) the case falling under Article 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (but only if the sales representative has come to fall under the provisions of Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act): the following matters:
    - (a) the name of the person that has come to fall under such provision; and
    - (b) the day when the punishment became final and binding, and the type of punishment;
  - (iv) the case falling under Article 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1) item (ii), (d) or (e) of the Act): the following matters:
    - (a) the name of the person that has come to fall under such provision; and
    - (b) the date of the rescission or order and the reasons therefor;
  - (v) in the cases falling under Article 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act of the Act (limited to the case of falling under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act): the following matters:
    - (a) the name of the person that has come to fall under that provision;
    - (b) the date of and reason for the notice under Article 15 of the Administrative Procedure Act, and the date of and reason for the notification under Article 50-2, paragraph (1) of the Act, Article 60-7 of the Act (including as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act), Article 63-2, paragraph (2) of the Act, Article 63-2, paragraph (3) of the Act (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act), Article 63-2, paragraph (4) of the Act, Article 63-10, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act), or Article 63-10, paragraph (4), Article 66-19, paragraph (1) of the Act, Article 66-40, paragraph (1) of the Act or Article 66-61, paragraph (1) of the Act or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
  - (vi) the case falling under Article 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act): the following matters:
    - (a) the name of the person that has come to fall under such provision; and
    - (b) the date when the dismissal or removal was ordered and the reasons therefor;
  - (vii) the case falling under Article 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act: the following matters:
    - (a) the name of the person that has ceased to conduct duties;

- (b) the reason for ceasing to conduct the duties of a sales representative.
- (3) A financial instruments intermediary service provider which intends to make a notification under Article 64-4, item (ii) to (iv) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act must, in the case of falling under any of the categories listed in the following items, attach to the written notification stating the matters prescribed in the preceding paragraph the documents specified respectively in the relevant item:
- (i) the case falling under Article 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act): a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings;
  - (ii) the case falling under 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act): a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
  - (iii) the case falling under Article 64-4, item (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (but only if the sales representative has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if the rescission or order was effected in a foreign state): a copy of the written order for the rescission or discontinuation of business or any other document in lieu thereof, as well as a copy of the laws and regulations of a foreign state which served as the basis of such rescission or discontinuation of business and a Japanese translation thereof.
- (4) The provisions of Article 252, paragraph (4) apply mutatis mutandis to the case where the provisions of Article 64-4, item (ii) of the Act apply mutatis mutandis pursuant to Article 66-25 of the Act.

(Association's Registration Works in Relation to Sales Representatives)

Article 293 Pursuant to the provisions of Article 64-7, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act, the following registration works which pertain to the sales representatives of the financial instruments intermediary service provider whose entrusting financial instruments business operator, etc. is a financial instruments business operator, etc. belonging to the association are to be delegated to the association:

- (i) the acceptance of a written application for registration under Article 64, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act;

- (ii) a registration under Article 64, paragraph (5) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act;
- (iii) a notice under Article 64, paragraph (6), Article 64-2, paragraph (3) and Article 64-5, paragraph (3) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act;
- (iv) the refusal of a registration under Article 64-2, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act;
- (v) a hearing under Article 64-2, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act;
- (vi) the acceptance of a notification under Article 64-4 of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act;
- (vii) the rescission of a registration and an order for the suspension of business under Article 64-5, paragraph (1) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act;
- (viii) a hearing under Article 64-5, paragraph (2) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act; and
- (ix) the deletion of a registration under Article 64-6 of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act.

(Notification to the Director-General of a Local Finance Bureau)

Article 294 An association which files a notification pursuant to the provisions of Article 64-7, paragraph (5) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act must submit a written notification stating the following particulars to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, etc. of the financial instruments intermediary service provider to which the sales representative pertaining to the registration work belongs (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the financial instruments intermediary service provider has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau):

- (i) the trade name or name of the financial instruments intermediary service provider to which the sales representative pertaining to the registration work belongs;
- (ii) the name and date of birth of the sales representative pertaining to the registration works;
- (iii) the contents of the registration works handled and the day of the handling thereof;
- (iv) if the content of the registration works set forth in the preceding item was an order for the suspension of business or the deletion of a registration, the reasons therefor; and

- (v) the trade name or name of the entrusting financial instruments business operator, etc. of the financial instruments intermediary service provider to which the sales representative pertaining to the registration works belongs.

## **Chapter IV Credit Rating Agencies**

### **Section 1 General Provisions**

(Definitions)

Article 295 (1) In this Chapter (excluding Article 295, paragraph (3), items (i) and (iii), Article 299, item (xxxix), Article 300, paragraph (1), item (ix), Article 306, paragraph (1), item (xv), Article 307, paragraph (1), item (i), Article 309, item (iii), Article 310, Article 313, paragraph (2), item (ii) and Article 318, item (ii), (b), 3.), the meanings of the terms listed in the following items are as prescribed respectively in those items:

(i) corporation: meaning a corporation as set forth in Article 66-27 of the Act;  
and

(ii) officer: meaning an officer as set forth in Article 66-28, paragraph (1), item (ii) of the Act.

(2) In this Chapter, the meanings of the terms listed in the following items are as prescribed respectively in those items:

(i) rating entity, etc.: meaning a rating entity, etc. as set forth in Article 66-33, paragraph (2) of the Act;

(ii) rating policy, etc.: meaning a rating policy, etc. as set forth in Article 66-36, paragraph (1) of the Act; and

(iii) subsidiary corporation: meaning a subsidiary corporation as set forth in Article 66-45, paragraph (2) of the Act.

(3) In this Chapter, the meanings of the terms listed in the following items are as prescribed respectively in those items:

(i) asset securitization products: meaning securities as set forth in Article 2, paragraph (1) of the Act (excluding securities as set forth in item (i), item (ii), item (vi), item (vii), items (ix) through (xi), item (xvi), item (xvii) (limited to securities which have the natures of instruments or certificates as specified in item (i), item (ii), item (vi), item (vii), item (ix) or item (xvi) of that paragraph; hereinafter the same applies in this item), item (xix), item (xx) (limited to securities which indicate the right pertaining to instruments or certificates as specified in item (i), item (ii), item (vi), item (vii), item (ix) to item (xi), item (xvi), item(xvii) or item (xix) of that paragraph; hereinafter the same applies in this item) and item (xxi) of that paragraph (hereinafter referred to as "excluded securities" in this item); and including the rights which are regarded as securities pursuant to the provisions of paragraph (2) of that Article (excluding the rights pertaining to the excluded securities and

also excluding the rights as listed in items (iii) through (vi) of that paragraph; the same applies in Article 307, paragraph (3))) or claim pertaining to a monetary loan, which satisfy any of the following requirements listed in (a) through (e) (excluding those satisfying any of requirements listed in (f) through (h)):

(a) securities or claims which satisfy all of the following requirements:

1. that there exist monetary claims or any other assets (hereinafter referred to as the "underlying assets" in this item) to be directly or indirectly transferred (including the acquisition) from the owner thereof to a corporation (referred to as a "special purpose corporation" in 2., (c), and Article 307, paragraph (2), item (iii)) incorporated or operated for the purpose of the issuance of such securities or the borrowing of such money (limited to a borrowing pertaining to the aforementioned money; hereinafter the same applies in this item); and
2. that the special purpose corporation issues such securities or takes out such monetary loan, and that it allocates money derived from the management, investment or disposition of the underlying assets as referred to in 1., to satisfy the obligations pertaining to such securities or monetary loans (including securities to be issued for the purpose of refinancing those securities or loans; and also including loans taken out for the purpose of such refinancing);

(b) securities or claims which satisfy any of the following requirements:

1. that underlying asset is entrusted by the means specified in Article 3, item (i) or (iii) of the Trust Act (including other similar means thereto based on foreign acts; the same applies in 2. and (d), 1.) and the obligations pertaining to trust beneficiary certificates of the trust (meaning trust beneficiary certificates under Article 1, item (iv) of Cabinet Office Order on Disclosure of Information on Regulated Securities, trust bond certificates under the same Article, item (iv)-2 of the same Cabinet Office Order, foreign loan claim trust beneficiary certificates under the same Article, item (iv)-4 and rights listed in Article 2, paragraph (2), items (i) and (ii); hereinafter the same applies in (b) and (d), 2.) or loan related to the trust (including trust beneficiary certificates of the trust, trust beneficiary certificates issued for the rollover or loan for the rollover) are performed with the money derived from the management, investment or disposition of the said underlying asset;
2. that the trust is made by the means specified in Article 3, item (i) or (iii) of the Trust Act, the special purpose corporation obtains underlying assets by allotting the money from the relevant trust, issuing trust bond certificates pertaining to that trust (meaning trust bond



- certificates prescribed in Article 1, item (iv)-2 of Cabinet Office Order on Disclosure of Information, etc. on regulated securities; the same applies in (d), 2.) or monetary loan pertaining to that trust, and obligations pertaining to trust beneficiary certificates or monetary loan are performed by allotting the money from management or disposition;
- (c) securities or claims which satisfy all of the following requirements:
1. that the contracts have been concluded, whereby the risk of loss pertaining to the underlying assets, in whole or part, will be transferred from a third party to the special purpose corporation; and
  2. that the special purpose corporation issues the securities or takes out the monetary loan, and that it allocates money derived from the management, investment or disposition of monetary claims or any other assets pertaining to the contract as referred to in 1., the issuance of those securities or the borrowing to satisfy the obligations pertaining to those securities or monetary loan (including securities to be issued for the purpose of refinancing those securities or monetary loan; and also including monetary loans taken out for the purpose of the refinancing);
- (d) securities or claims which satisfy all of the following requirements:
1. that the trust has been created in accordance with the means specified in Article 3, items (i) or (iii) of the Trust Act, and that the contracts have been concluded wherein the risk of loss pertaining to the underlying assets, in whole or part, will be transferred from a third party to the trustee; and
  2. that the money derived from the management, investment or disposition of money claims and any other assets obtained from pertaining to the contract referred to in 1., the relevant trust, the issuance of the trust corporate bond certificate pertaining to the trustor the monetary loan is allocated to satisfy the obligations pertaining to the trust beneficiary certificates, etc. pertaining to the trust or monetary loan pertaining to the trust (including trust beneficiary certificates, etc. issued for the purpose of refinancing the trust beneficiary certificates, etc. or the relevant loan, and also including the loans taken out for the purpose of such refinancing);
- (e) beyond the requirements set forth in (a) through (d) above, requirements of a similar nature as designated by the Commissioner of the Financial Services Agency;
- (f) the relevant securities or claim pertaining to a monetary loan (hereinafter referred to as "the relevant securities, etc." in (f) and (g)) whose underlying asset is securities issued by one entity (meaning securities under Article 2, paragraph (1) of the Act or rights to be deemed as securities pursuant the

- same Article, paragraph (2)) or claim against the one entity (but only if the credit status of the underlying asset is considered to be equivalent to that of the relevant securities, etc. substantially);
- (g) the relevant securities, etc. pertaining to which special purpose corporation under (a), 1. or (c), 1., for the purpose of performing obligations, may conclude a loan contract (but only if the credit status of the underlying asset is considered to be equivalent to that of the relevant securities, etc. substantially), according to the specified commitment line contract concluded pursuant to Article 2, paragraph (1) of Act on Specified Commitment Line Contract (Act No. 4 of 1999) between the special purpose corporation and one entity (including contracts concluded under other similar foreign laws and regulations thereto);
- (h) requirements designated by the Commissioner of the Financial Services Agency.
- (ii) underlying assets: meaning underlying assets as referred to in (a), 1., (b), 1. and 2., (c), 1. and (d), 1. of the preceding item;
- (iii) rating analyst: meaning a person that, prior to determining a credit rating, performs an analysis of the credit status of financial instruments or corporations (including a corporation listed in Article 24, paragraph (1) of Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; the same applies in Article 299, item (xxxix), Article 300, paragraph (1), item (ix), Article 306, paragraph (1), item (xv), Article 307, paragraph (1), item (i), Article 309, item (iii), Article 313, paragraph (2), item (ii) and Article 318, item (ii), (b), 3.) as well as an assessment based on such analysis, utilizing their expert knowledge and skills;
- (iv) principal rating analyst: meaning a single principal rating analyst involved in the process of determining a credit rating;
- (v) person in charge of rating: meaning a rating analyst involved in the process of determining a credit rating for the matters in which a rating entity, etc. has interests (meaning the matters specified in Article 309; hereinafter the same applies in this Chapter), and a member of the council which makes the final decision as a credit rating agency for the determination of the credit rating;
- (vi) compliance with laws and regulations, etc.: meaning compliance with laws and regulations, etc. (which collectively means laws and regulations (including laws and regulations of foreign states), the disposition of administrative agencies issued under the laws and regulations (including dispositions of a similar nature issued under the laws and regulations of foreign states) or any other regulations including articles of incorporation; the same applies in Article 299, item (x) and Article 306, paragraph (1), item

- (v), (c)), in terms of the operation of credit rating business;
- (vii) chief compliance manager: meaning a person in charge of taking measures so as to ensure compliance with laws and regulations, etc.;
- (viii) credit rating activity: meaning an activity for determining or providing a credit rating, or offering it for inspection (limited to those pertaining to credit rating business);
- (ix) conflict of interests: meaning an act to prejudice the interests of investors, in an attempt to benefit itself or a rating entity, etc. and any other persons; and
- (x) associated corporation: meaning the subsidiary corporation of a corporation, another corporation which has the corporation as its subsidiary corporation, or a subsidiary corporation of another corporation which has the corporation as its subsidiary corporation (excluding that corporation), which performs credit rating activities in the course of the trade.

(Application for Registration)

Article 296 A person that intends to obtain a registration under Article 66-27 of the Act must submit to the Commissioner of the Financial Services Agency a written application for registration under Article 66-28, paragraph (1) of the Act prepared in accordance with Appended Form No. 27, attaching a copy thereof as well as documents or electronic or magnetic records to be attached thereto pursuant to the provisions of paragraph (2) or (3) of that Article.

(Person Equivalent to Representative Person in Japan of Foreign Corporation)

Article 297 A person as specified by Cabinet Office Order, as referred to in Article 66-28, paragraph (1) of the Act, is a person that, as a representative of a foreign corporation (limited to a foreign corporation which, pursuant to the provisions of the proviso to Article 66-30, paragraph (2) of the Act, is not required to have its business office or any other office in Japan), acts as a liaison and coordinator with the Commissioner of the Financial Services Agency (limited to a person that is capable of providing an account of the status of its compliance with laws and regulations, etc.).

(Matters to Be Included in Written Applications for Registration)

Article 298 The matters as specified by Cabinet Office Order, referred to in Article 66-28, paragraph (1), item (v) of the Act, are as follows:

- (i) the name of the representative person in Japan as set forth in Article 66-28, paragraph (1) of the Act or the person as set forth in the preceding Article of the applicant for registration (limited to a foreign corporation);
- (ii) the following matters concerning another applicant for registration or credit rating agency, which falls under the applicant for registration's

- associated corporation and which, jointly with the applicant for registration, performs credit rating activities:
- (a) the trade name or name;
  - (b) the location of its head office, or of its principal business office or principal office;
- (iii) the following matters concerning the associated corporation of the applicant for registration (excluding the another applicant for registration or credit rating agency, which falls under the applicant for registration's associated corporation and which, jointly with the applicant for registration, performs credit rating activities):
- (a) the trade name or name;
  - (b) the location of its head office, or of its principal business office or principal office;
- (iv) the following matters concerning the applicant for registration (limited to a foreign corporation):
- (a) the name of the state if the head office, the principal business office or principal office locates;
  - (b) if the applicant for registration is subject to the supervision of any administrative organ or any other agency equivalent thereto, which takes charge of the supervision of parties carrying out businesses equivalent to the credit rating business in the state referred to in (a) (hereinafter referred to as an "foreign administrative organ, etc." in this Chapter), to that effect and the name and location of the administrative organ, etc.; and
- (v) the names of the chief compliance manager, a person in charge of supervising rating analysts in the process of determining a credit rating, and monitoring committee (including independent members as set forth in Article 306, paragraph (1), item (xvii), (a); the same applies in Article 299, item (xxxv), Article 300, paragraph (1), item (iv), Article 304, item (vi)).

(Contents and Methods of Business)

Article 299 The matters specified by Cabinet Office Order, as referred to in Article 66-28, paragraph (2), item (ii) of the Act are as follows:

- (i) the fundamental principles governing the business operations;
- (ii) the method of execution of business;
- (iii) the method of allocation of business;
- (iv) the details of credit rating activities performed in the course of trade, and the categories of the objects of the credit ratings pertaining to the activities;
- (v) the details of the measures to be implemented so that a person in charge of rating, as a party independent of a rating entity, etc., fairly and faithfully carries out the business, if such person in charge of rating is consecutively involved in the processes of determining credit ratings for the matter in

- which the same rating entity, etc. has an interest;
- (vi) the policies for the recruitment of employees (excluding rating analysts);
  - (vii) the details of the measures to be implemented for establishing systems to secure the appropriateness of the operation of the credit rating business (meaning the measures as set forth in Article 306, paragraph (1), item (iv));
  - (viii) the policies and procedures for compliance with laws and regulations, etc.;
  - (ix) policies which clearly define the roles and responsibilities for compliance with laws and regulations, etc., such as the appointment of a chief compliance manager;
  - (x) the details of the measures for handling cases in which an employee is found to have acted in violation of laws and regulations, etc.;
  - (xi) policies on the recruitment and training of rating analysts;
  - (xii) the assignment of duties among rating analysts;
  - (xiii) the method of the appointment of members of the council which makes the final decision for determining a credit rating, and the methods for the decision-making of such council;
  - (xiv) the method of the appointment of a person responsible for supervising rating analysts in the process of determining credit ratings;
  - (xv) the details of the measures to be implemented so that the information used for determining a credit rating is of sufficient quality;
  - (xvi) the details of measures to be implemented so as to refrain from determining a credit rating, if it is unable to retain sufficient staff with the expert knowledge and skills required for determining a credit rating, or if it is unable to secure a sufficient quality of the information it uses for determining a credit rating;
  - (xvii) the details of the measures to put in place the functions to properly verify the appropriateness and effectiveness of a rating determination policy, etc. (meaning a rating determination policy, etc. as set forth in Article 313, paragraph (1), item (i); the same applies in the following item, item (xxxvi), Article 306, paragraph (1), item (vi), Article 311 and Article 312, item (i));
  - (xviii) the details of the measures to be implemented in cases of any material amendment to a rating determination policy, etc., if any, so as to announce, without delay, the scope of credit ratings already determined in accordance with the former rating determination policy, etc. but which require further consideration as to the necessity of being updated in accordance with the amended rating determination policy, etc. and the period of time required for such updating, as well as to update credit ratings within such period of time;
  - (xix) the details of the measures to be implemented to verify the ability in determining a credit rating whose object is assessment of the credit status of asset securitization product (but only if the design of the asset securitization

- product deviates substantially from the design of the asset securitization products to which it determined credit ratings in the past) in an appropriate manner;
- (xx) the details of the measures to be implemented so as to enable implementation of the verification and updating of a credit rating already determined, in an appropriate manner and on an ongoing basis;
  - (xxi) the types of specified activities (meaning specified activities as set forth in Article 306, paragraph (1), item (vii), (a); the same applies in item (xxvii)) and the outline of the conflict avoidance measures (meaning conflict avoidance measures as set forth in item (vii), (a) of that paragraph; the same applies in item (xxvii));
  - (xxii) the details of the measures to be implemented in order to prevent the person in charge of rating from conducting the purchase and sale or other transaction of securities which may entail any conflict of interests;
  - (xxiii) the details of the measures to be implemented so as to refrain from providing or offering for inspection a credit rating of the matter in which the rating entity, etc. has interests, if the applicant for registration or one of its officers or employees has a close relationship with a rating entity, etc. as set forth in Article 308, paragraph (1);
  - (xxiv) the details of the measures to be implemented to ensure that the interests of investors would not be adversely affected in the process of determining a credit rating of any matter in which rating entity, etc. has interests, if there may arise any conflict of interests as between the applicant for registration and the rating entity, etc.;
  - (xxv) the details of the measures to be implemented to prevent person in charge of ratings from making any approach in an attempt to assume the position of an officer or any other position equivalent thereto of the rating entity, etc.;
  - (xxvi) the details of the measures to be implemented so as to verify the appropriateness of a credit rating of any matter in which a rating entity, etc. has interests, if any rating analyst that no longer assumes the position of officer or employee of the applicant for registration to assume the position of an officer or any other position equivalent thereto of the rating entity, etc.;
  - (xxvii) the details of the measures to be implemented for the announcement of types of specified activities and an outline of conflict avoidance measures in an appropriate manner;
  - (xxviii) the details of the measures to be implemented so that activities pertaining to ancillary business (meaning business excluding credit rating service but are ancillary to credit rating activities; hereinafter the same applies in this Chapter) and any other lines of business (meaning business excluding credit rating business and also excluding the ancillary business;

- hereinafter the same applies in this Chapter) would not unreasonably affect the credit rating activities;
- (xxix) the details of the measures to be implemented to enable a third party, as an independent party, to verify the appropriateness of the credit rating, if the object of the credit rating is the assessment of the credit status of any asset securitization products;
  - (xxx) policies for the determination of the remuneration, etc. (meaning any remuneration, bonus or any other property benefit payable by the applicant for registration as a consideration for the performance of duties; the same applies in the following item) of officers and employees of the applicant for registration;
  - (xxxi) the details of the measures to be implemented to ensure that the policy for the determination of the remuneration, etc. of officers and employees of the credit rating agency would not compromise the performance of its credit rating business in a fair and accurate manner;
  - (xxxii) the details of the measures to be implemented so as to prevent the person in charge of ratings from being involved in the negotiation process concerning the determination of the rating fee (meaning the value of the money or any other property which has been or will be paid to the applicant for registration as a consideration for determining a credit rating) for the credit rating;
  - (xxxiii) the details of the measures to be implemented so as to properly manage information which may come to the attention in the course of the performance of the credit rating business, as well as to properly maintain the confidentiality thereof;
  - (xxxiv) the details of the measures to be implemented so as to appropriately and swiftly address any complaints raised against the credit rating agency;
  - (xxxv) the operational policies of the monitoring committee and the method of the appointment of the members thereof; and
  - (xxxvi) the following matters concerning the rating determination policy, etc.:
    - (a) the categories of the objects of the credit rating and the matters which serve as the assumptions for the assessment of a credit status in accordance with the items so categorized, and the criteria to be used for setting grades indicating the results of the assessment of the credit status;
    - (b) the policy and method which enable a rating entity, etc., in advance of providing or offering for inspection the determined credit rating, to verify whether there was any factual misperception as to the principal information used by the credit rating agency in determining the credit rating; and
    - (c) the policy and method of determining credit ratings, in cases of determining a credit rating without a solicitation from any rating entity,

- etc.;
- (xxxvii) the rating provision policy, etc. (meaning the rating provision policy, etc. as set forth in Article 313, paragraph (1), item (ii));
  - (xxxviii) the details of the measures to be implemented so as to secure compliance with the rating policy, etc. by officers and employees;
  - (xxxix) the details of the measures to be implemented to prevent any false representation of the general features of the assessment results of the credit status of any financial instruments or corporations, or to prevent any representation which may lead to any misperception as to any material information;
  - (xl) the details of the measures to be implemented to prevent any act pertaining to ancillary businesses from being misperceived as any act pertaining to the credit rating business, if any act pertaining to ancillary business is to be conducted; and
  - (xli) the code of conduct required to be complied with by the applicant for registration as well as its officers and employees.

(Documents to Be Attached to Written Applications for Registration)

Article 300 (1) The documents specified by Cabinet Office Order, referred to in Article 66-28, paragraph (2), item (iv) of the Act, are as follows:

- (i) the documents describing the system for conducting business, such as its structure of personnel and the organizational system pertaining to the business;
- (ii) the following documents concerning officers (including those that are found to have the same or a higher authority over a corporation as directors, executive officers or any persons holding positions equivalent thereto, irrespective of their job title such as advisor, consultant or others; hereinafter the same applies in this item, Article 303 and Article 304, item (ii)):
  - (a) the resumes of the officers (if an officer is a corporation, the document describing the background of the officer);
  - (b) the extracts from the certificates of residence of the officers (if the officer is a corporation, its certificate of registered matters), or any other document in lieu thereof;
  - (c) if the former surname and given name of an officer are stated together with the current name of the officer in a written application for registration under Article 66-28, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the officer, a document certifying the former surname and given name;
  - (d) the certificate issued by a public agency evidencing that none of the



- officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
- (e) the document in which each of the officers pledges that the officers do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (c) through (i) or Article 66-30, paragraph (1), item (iii), sub-item (a) of the Act;
  - (iii) the following documents concerning the representative person in Japan of the applicant for registration (limited to a foreign corporation), as referred to in Article 66-28, paragraph (1) of the Act, or concerning a person as referred to in Article 297:
    - (a) resume;
    - (b) extract from the certificate of residence, or any other document in lieu thereof;
    - (c) if the former surname and given name are stated together with the current name in a written application for registration under Article 66-28, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  - (iv) the following documents concerning the chief compliance manager, a person in charge of supervising rating analysts in the process of determining a credit rating and members of the monitoring committee:
    - (a) resumes;
    - (b) extracts from the certificates of residence, or any other document in lieu thereof;
    - (c) if the former surname and given name are stated together with the current name in a written application for registration under Article 66-28, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  - (v) a document describing the reasons based on which the independent members (meaning independent members as set forth in Article 306, paragraph (1), item (xvii), (a)) of the monitoring committee are deemed to be independent;
  - (vi) a document describing the outline of the capital relationship, personnel relationship, and business relationship in the most recent year, as between the applicant for registration, and another applicant for registration or credit rating agency which falls under the category of an associated corporation of the applicant for registration and which performs credit rating activities jointly with the applicant for registration;
  - (vii) a document describing the following conditions of an associated corporation of the applicant for registration (excluding another applicant for registration or credit rating agency which is associated corporation of the

applicant for registration and performs credit rating activities jointly with the applicant for registration):

- (a) an outline of the capital relationship, personnel relationship, and business relationship in the most recent one year, as between the applicant for registration and its associated corporation;
  - (b) the name of the state if the head office, principal business office or principal office of the associated corporation (limited to a foreign corporation) of the applicant for registration is located; and, if it is subject to supervision by any foreign administrative organ, etc. in that state, to that effect, and the name and location of the foreign administrative organ, etc.;
  - (viii) the most recent balance sheet (including notes related thereto; the same applies in the following paragraph) and the most recent profit and loss statement (including notes related thereto; the same applies in that paragraph); and
  - (ix) if the applicant for registration possesses any statistical information or any other information on the transition of a credit status (but only if the object of the credit rating is the assessment of such credit status) of financial instruments or corporations, a document describing such information.
- (2) If the documents specified in item (viii) of the preceding paragraph are to be attached, and if the balance sheet or profit and loss statement has been prepared by means of an electronic or magnetic record, the electronic or magnetic record (limited to an electronic or magnetic record as set forth in the following Article) may be attached in lieu of those documents.
- (3) If the applicant for registration has obtained registration under Article 66-27 of the Act, and it intends to seek approval as set forth in Article 306, paragraph (2) or (3), it may attach to the written application for registration the document as set forth in paragraph (4) of that Article.
- (4) If the applicant for registration has obtained registration under Article 66-27 of the Act, and it intends to seek approval as set forth in Article 306, paragraph (6), it may attach to the written application for registration the document as set forth in paragraph (7) of that Article.

(Electronic or Magnetic Records)

Article 301 (1) An electronic or magnetic record as specified by Cabinet Office Order, and as referred to in Article 66-28, paragraph (3) of the Act must have a structure specified in the following:

- (i) a 90mm flexible magnetic disc cartridge conforming to JIS X6223;
  - (ii) a 120mm optical disc conforming to JIS X0606 and X6282.
- (2) Entry onto an electronic or magnetic record as set forth in item (i) of the preceding paragraph must be completed in accordance with the following

means:

(i) with regard to the track format, the means designated by the JIS X6225;  
and

(ii) with regard to volume and file configuration, the means designated by the JIS X0605.

(3) With regard to the electronic or magnetic record set forth in paragraph (1), the following matters must be stated:

(i) the trade name or name of the applicant for registration; and

(ii) the date of application.

(Public Inspection of the Registry of Credit Rating Agencies)

Article 302 The Commissioner of the Financial Services Agency is to keep and make available for public inspection a registry of credit rating agencies containing information on the credit rating agencies to which the Commissioner has granted registration, at the office of the Financial Services Agency.

(A Person Unable to Properly Perform Business Pertaining to Credit Rating Services Due to a Mental or Physical Disorder)

Article 302-2 A person specified by Cabinet Office Order as referred to in Article 66-30, paragraph (1), item (iii), sub-item (a) of the Act is a person who is unable to adequately carry out the cognition, decision making, and communication necessary for properly performing business pertaining to Credit Rating Services due to a mental impairment.

(Criteria for Examination of Organizational Systems)

Article 303 When conducting an examination under Article 66-30, paragraph (1), item (v) of the Act as to whether the applicant for registration is a corporation not found to have established a system necessary for the fair and appropriate performance of the credit rating business, it is to be examined, beyond the documents describing the matters set forth in Article 299 and the documents listed in Article 300, paragraph (1), whether it is likely that the applicant for registration may have a detrimental effect on the confidence in credit rating business, on the grounds of any officer or employee having qualities which render them unfit for the operation of the business in light of their careers, relationships with the organized crime group set forth in Article 2, item (ii) of the Act on Prevention of Illegal Acts by Organized Crime Group Members or relationships with the organized crime group members set forth item (vi) of that Article or any other circumstances.

(Notification of Changes to Matters Contained in Written Applications for

Registration)

Article 304 A credit rating agency which intends to file the notification under Article 66-31, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency a written notification stating the particulars and date of and reason for the change, attaching a document stating the particulars after such change prepared in accordance with Appended Form No. 27, a copy thereof and the documents specified in the following items in accordance with the categories of the cases respectively set forth therein; provided, however, that the documents specified in each of the following items may be filed without delay after submission of the notification, if any unavoidable ground exists:

- (i) if there has been any change to the matters specified in Article 66-28, paragraph (1), item (i) of the Act: the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (ii) if there has been any change to the matters specified in Article 66-28, paragraph (1), item (ii) of the Act: the following documents:
  - (a) a document stating the system for conducting business, such as the structure of personnel and the organization related to the business;
  - (b) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
  - (c) the following documents concerning a person that has newly assumed the position of officer:
    - 1. resume of the officer (if the officer is a corporation, the document containing the background of the officer);
    - 2. extracts from the certificate of residence (if the officer is a corporation, its certificate of registered matters), or any other document in lieu thereof;
    - 3. if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 27, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
    - 4. the certificate issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
    - 5. the documents in which each of the officers pledges that the officers do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (c) through (i) or Article 66-30, paragraph (1), item (iii), sub-item (a) of the Act;
    - 6. the documents to pledge that it does not fall under Article 66-30, paragraph (1), item (iii) (limited to the part pertaining to sub-item (a));

- (iii) if there has been any change to the matter specified in Article 298, item (i):
  - the following documents concerning a person that has newly assumed the position of representative person in Japan as set forth in Article 66-28, paragraph (1) of the Act, or has newly assumed the position of a person set forth in Article 297:
    - (a) the resume; and
    - (b) extracts from the certificate of residence, or any other document in lieu thereof;
    - (c) if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 27, and the document specified in (b) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
- (iv) if there has been any change to the matter specified in Article 298, item (ii): a document describing the outline of the capital relationship, personnel relationship, and business relationship in the most recent one year, as between the credit rating agency and its new associated corporation;
- (v) if there has been any change to the matter specified in Article 298, item (iii): a document describing the following matters:
  - (a) an outline of the capital relationship, personnel relationship, and business relationship in the most recent one year, as between the credit rating agency and its new associated corporation;
  - (b) the name of the state if the head office, principal business office or principal office of the new associated corporation (limited to a foreign corporation) of the credit rating agency is located; and, if it is subject to supervision by any foreign administrative organ, etc. in that state, to that effect, and the name and location of the foreign administrative organ, etc.;
- (vi) if there has been any change to the matter specified in Article 298, item (v): the following documents concerning a person that has newly assumed the position of chief compliance manager, a person in charge of supervising rating analysts in the process of determining a credit rating, and members of monitoring committee:
  - (a) the resumes;
  - (b) extracts from the certificate of residence, or any other document in lieu thereof; and
  - (c) if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 27, and the document specified in (b) is not a document certifying the former surname and given name, a document certifying the former surname and given name.

(Notification on Change to Contents or Method of Business)

Article 305 A credit rating agency which intends to file the notification under Article 66-31, paragraph (3) of the Act must submit to the Commissioner of the Financial Services Agency a written notification stating the particulars and date of and reason for the change, attaching a document stating the matters listed in the items of Article 299 (limited to those matters whose details have change).

## **Section 2 Business**

(Establishment of Business Management Systems)

Article 306 (1) The business management system required to be established by a credit rating agency pursuant to the provisions of Article 66-33, paragraph (1) of the Act must satisfy the following requirements:

- (i) that measures have been implemented so that the credit rating agency always maintains a fair and unbiased stance in order to perform its credit rating activities at its sole judgment and responsibility;
- (ii) that any of the following measures has been implemented, so that a person in charge of rating, as a party independent from the rating entity, etc., fairly and faithfully carries out the business, even if such person in charge of rating is involved consecutively in the processes of determining credit ratings of the matters in which the same rating entity, etc. has an interest:
  - (a) measures to be implemented so that, if any principal rating analyst involved in the process of determining a credit rating has, for five consecutive years, been involved in the process of determining a credit rating of the matter in which the rating entity, etc. has an interest, such principal rating analyst would refrain from being involved in the process of determining a credit rating of the matter in which the same rating entity, etc. has an interest for two subsequent years thereafter;
  - (b) measures to ensure that the final decision as a credit rating agency in determining a credit rating is made by a council; and measures so that one third or more of the total of the council members would not be involved consecutively in the processes of determining credit ratings for the matter in which the same rating entity, etc. has an interest (if the object of the credit rating is the assessment of the credit status of any subject other than asset securitization products, and two or more credit ratings with the same object were determined in the same business year, those two or more credit ratings are deemed to be a single credit rating);
- (iii) that the measures have been implemented, so as not to recruit any person that serious questions might be raised about as to competency in performing credit rating activities in a fair manner;

- (iv) that the measures for establishing the following systems for securing the proper business operation of the credit rating agency have been implemented:
  - (a) a system to ensure that the officers will execute their respective duties efficiently;
  - (b) a system for the preservation and management of information on the execution of duties by officers;
  - (c) a system to prevent the credit rating agency from providing or being available for public inspection a credit rating different from the granted credit rating, or other system to prevent clerical errors related to credit rating activity; and
  - (d) regulations and any other system for management of risk of loss;
- (v) that the following measures to secure compliance with laws and regulations, etc. have been implemented:
  - (a) the formulation of policies and procedures for compliance with laws and regulations, etc.;
  - (b) the formulation of policies to clearly define responsibilities with regard to compliance with laws and regulations, etc., such as the appointment of a chief compliance manager;
  - (c) the following measures in relation to handling cases in which the act of an employee was found to be in violation of the laws and regulations, etc.:
    1. the measures to notify officers and the chief compliance manager with an account of the act of any employee of a credit rating agency committed in violation of laws and regulations, if that act has been discovered;
    2. the appropriate measures to be implemented by the officers and chief compliance manager as notified above, so as to prevent the credit rating agency from committing any act which may violate laws and regulations, etc.; and
    3. the measures to ensure that the person that has made the notification is not treated unfavorably on account of having made such notification;
- (vi) that the following measures for the formulation and enforcement of policies on managing the quality of the credit rating determination process have been implemented:
  - (a) the measures to retain sufficient staffs with the expert knowledge and skills which enable them to implement appropriately and smoothly the operation of the credit rating business (if its final decision as a credit rating agency in determining a credit rating is to be made by a council, the method of the appointment of the council members, the decision-making process of such council, and any other measures so as to ensure that employees can exercise their expert knowledge and skills in an appropriate

- manner are also included);
- (b) the measures to ensure that the information used in determining a credit rating is of sufficient quality;
  - (c) the measures to refrain from determining a credit rating, if the credit rating agency is unable to secure sufficient staff with expert knowledge and skills for determining a credit rating, or if it is unable to secure a sufficient quality of the information it uses for determining a credit rating;
  - (d) the measures to put in place the functions to properly verify the appropriateness and effectiveness of the rating determination policy, etc. (including measures to secure the proper verification of the appropriateness and effectiveness of a rating determination policy, etc. for asset securitization products, in cases of the occurrence of any change to the characteristics of the credit status of the underlying assets of the asset securitization products);
  - (e) the measures to be implemented in cases of any material amendment to the rating determination policy, etc., if any, so as to announce, without delay, the scope of credit ratings already determined in accordance with the former rating determination policy, etc. but which require further consideration as to the necessity of being updated in accordance with the amended rating determination policy, etc. and the period of time required for such updating, as well as to update the credit ratings within such period of time;
  - (f) the measures to verify the ability of the credit rating agency in determining a credit rating whose object is assessment of the credit status of asset securitization product (but only if the design of the asset securitization product deviates substantially from the design of the asset securitization products to which it determined credit ratings in the past) in an appropriate manner;
  - (g) the measures so that the credit rating agency will be able to implement the verification and updating of a credit rating already determined, in an appropriate manner and on an ongoing basis (if it has decided not to implement such verification or updating, measures to announce, without delay, such fact and any other necessary information);
  - (vii) that the following measures to avoid any conflict of interests which may arise in connection with the credit rating business have been implemented:
    - (a) the measures to identify credit rating activities which entail any actual or potential conflict of interests (hereinafter referred to as "specified activities" in this Chapter) by an appropriate means, and to secure that those activities would not adversely affect the interests of investors (including the following measures; hereinafter referred to as the "conflict avoidance measures" in this Chapter):



1. the measures to prevent person in charge of rating from conducting any purchase and sale or other transaction of securities which may entail any conflict of interests;
  2. the measures to prevent any officer or employee that has any potential conflict of interests with a rating entity, etc., if any, from being involved in the process of determining the credit rating of any matter in which the rating entity, etc. has an interest;
  3. the measures to ensure that the credit rating agency would not harm the interests of investors in the process of determining a credit rating of any matter in which a rating entity, etc. has interests, if there is any potential conflict of interests between the credit rating agency and the rating entity, etc., and if any of the following applies:
    - i. if the credit rating agency has been furnished with loans (including the guarantee of obligations and the offering of collaterals) by a rating entity, etc.;
    - ii. if the holder of five percent or more of the voting rights held by all the shareholders, etc. of the credit rating agency (excluding voting rights set forth in Article 15-2) falls under the category of a rating entity, etc.;
    - iii. if the rating entity, etc. acts as the underwriter of securities issued by the credit rating agency; or
    - iv. if the credit rating agency has been furnished by the rating entity, etc. with a large amount of money or any other property benefit, as a consideration of services other than the services pertaining to credit rating activities;
  4. the measures to prevent person in charge of rating from making any approach in an attempt to assume the position of an officer or any other position equivalent thereto of the rating entity, etc.;
  5. the measures to be implemented so as to verify the appropriateness of a credit rating of any matter in which a rating entity, etc. has an interest, if any rating analyst that no longer assumes the position of officer or employee of the credit rating agency has assumed the position of an officer or any other position equivalent thereto of the rating entity, etc. (but only if such former rating analyst was involved in the process of determining such credit rating within two years prior to the day when the former rating analyst ceased to assume the office of officer or employee of the credit rating agency);
- (b) the measures to announce the types of specified activities and the outline of conflict avoidance measures, in an appropriate manner;
- (viii) that the measures have been implemented so that activities pertaining to ancillary business or other lines of business would not unreasonably affect

- the credit rating activities;
- (ix) that the following measures have been implemented so as to enable a third party, as an independent party, to verify the appropriateness of the credit rating, if the object of the credit rating is the assessment of the credit status of any asset securitization products:
    - (a) measures to itemize information that may be deemed valuable in an assessment by a third party of the appropriateness of the credit rating and to announce such information;
    - (b) measures to solicit a rating entity, etc. to take measures to enable a third party to verify the appropriateness of the credit rating, such as the announcement of information on the asset securitization products (including the items announced pursuant to (a) above);
    - (c) measures to announce the details of the solicitation made by the credit rating agency pursuant to (b) above, as well as the results thereof (meaning the results of the interviews with a rating entity, etc. in relation to the status of the disclosure of information on the asset securitization products);
  - (x) that the measures have been implemented so as to formulate the policy for the determination of the remuneration, etc. (remuneration, bonus and other benefits in property to be obtained from credit rating agency in exchange for business; hereinafter the same applies in this chapter) of the officers or employees of the credit rating agency (limited to a policy which contains the following details), and so as to ensure that such policy would not compromise the performance of the credit rating business in a fair and accurate manner (including measures pertaining to the establishment of a system for periodically performing a review of such policy):
    - (a) that the amount of the remuneration, etc. payable to the chief compliance manager would not be affected by the performance outcome of the operation of the credit rating business; and
    - (b) that the amount of the remuneration, etc. payable to person in charge of ratings would not be affected by the amount of the rating fee for the credit rating (the amount of pecuniary and price of other properties to be paid to credit rating agency in exchange for determining credit ratings; hereinafter the same applies in this chapter);
  - (xi) that the measures have been implemented, so as to prevent the person in charge of ratings from participating in the negotiation process for determining the rating fee for the credit rating;
  - (xii) that the following measures have been implemented, so as to properly manage information which may come to the attention in the course of the performance of the credit rating business, as well as to properly maintain the confidentiality thereof;

- (a) the measures to ensure that any information or secrecy which may come to the attention in the course of performance of the credit rating business would not be used for any other purpose than the purpose deemed necessary for implementing the credit rating business in a fair and accurate manner;
- (b) the measures to prevent the leakage of secrecy, by means of identifying the scope of such secret and the scope of persons that may obtain such secrecy in the course of their business, and specifying the method of the management of such secrecy;
- (xiii) that the measures have been implemented, so as to appropriately and swiftly address the complaints raised against the credit rating agency (including measures concerning the establishment of a system for reporting such complaints to officers of the credit rating agency);
- (xiv) that the measures for the performance of the credit rating business in accordance with the rating policy, etc. (including measures pertaining to training of rating analysts) have been implemented;
- (xv) that the measures have been implemented, so as to prevent the false representation of the general features of the assessment results of the credit status of any financial instruments or corporations, or to prevent any representation which may lead to any misperception as to any material information;
- (xvi) that the measures have been implemented, so as to prevent any act pertaining to ancillary business from being misperceived as an act pertaining to the credit rating business, if any act pertaining to ancillary business is to be conducted;
- (xvii) that the measures for organizing a committee which satisfies all of the following requirements (hereinafter referred to as the "monitoring committee" in this Chapter) have been implemented, so as to ensure implementation of the measures as listed in each of the preceding items in an appropriate manner:
  - (a) that one-third or more of the committee members (two or more committee members, if the number of committee members is three or less) are persons not falling under the category of officer (excluding an auditor, executive secretary or any other position equivalent thereto) or employee (hereinafter referred to as the "relevant officers and employees, etc." in (a)) of the credit rating agency, its subsidiary corporation, any other corporation which holds such credit rating agency as its subsidiary corporation or any subsidiary corporation of any other corporation which holds such credit rating agency as its subsidiary corporation (excluding such credit rating agency), and are persons not having assumed the positions of the relevant officers and employees, etc. within the past five

- years (such committee member is hereinafter referred to as the "independent member" in this Chapter);
- (b) that the majority of the committee members have expert knowledge related to finance;
  - (c) that the amount of the remuneration, etc. of the independent members is not affected by the performance outcome of the credit rating business of the credit rating agency;
  - (d) that, during the respective tenures, the independent member will not be dismissed in opposition to the independent member's intension, except if the independent, member has committed any wrongful act, if the independent member is found to have committed any breach of the obligations in the course of duties, or so required under the laws and regulations;
  - (e) that the opinions of the independent members are periodically submitted to the monitoring committee.
- (2) The provisions of item (ii) of the preceding paragraph do not apply if, taking into account the number of officers and employees of the credit rating agency, the nature, size, and complexity of the credit rating business and any other circumstances, the credit rating agency is found to have difficulty in complying with those provisions, and if it is found that that implementation of any alternative measures would enable its officers and employees to carry out its business independently from the rating entity, etc. and in a fair and faithful manner, provided that approval from the Commissioner of the Financial Services Agency is obtained.
- (3) The provisions of paragraph (1), item (xvii) do not apply if, taking into account the number of officers and employees of the credit rating agency, the nature, size, and complexity of the credit rating business and other circumstances, the credit rating agency is found to have difficulty in complying with those provisions, and if it is found that that implementation of any alternative measures would ensure enabling the credit rating agency to implement properly the measures listed in the items of that paragraph (excluding item (xvii)), provided that approval from the Commissioner of the Financial Services Agency is obtained.
- (4) If the credit rating agency intends to obtain an approval pursuant to the provisions of preceding two paragraphs, it must submit to the Commissioner of the Financial Services Agency a written application for approval, attaching thereto the following documents:
- (i) a written statement on the reasons;
  - (ii) a document describing the number of officers and employees;
  - (iii) a document describing the nature, size, complexity and any other circumstances of the credit rating business;

- (iv) a document describing the details of alternative measures; and
  - (v) a document containing any other matters which would serve as reference information.
- (5) If two or more credit rating agencies (limited to a case in which two or more credit rating agencies are associated corporations, and if they share representative persons in Japan or persons prescribed in Article 297) are to jointly carry out credit rating activities in the course of trade, those two or more credit rating agencies may jointly establish their business management systems.
- (6) The provisions of paragraph (1) (limited to items (ii), (iv) and (vii), (a), 3. through 5.; excluding the provisions pertaining to domestic business offices of a credit rating agency (limited to a foreign corporation; hereinafter the same applies in this paragraph and the following paragraph)) do not apply, if the credit rating agency is considered to be able to carry out the business fairly and appropriately by implementing an alternative measure, and it is considered to be under appropriate supervision of foreign administrative organ that the credit rating agency is able to carry out the business fairly and appropriately by implementing the alternative measure, and if the Commissioner of the Financial Services Agency approves it.
- (7) If credit rating agency intends to obtain an approval under the preceding paragraph, it must submit application for approval with the following documents to the Commissioner of the Financial Services Agency:
- (i) a written statement on the reasons;
  - (ii) a written description of other alternative measures;
  - (iii) a certificate that the credit rating agency is under appropriate supervision of a foreign administrative organ;
  - (iv) a written description of other matters to be referred;
  - (v) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters pertaining to the laws and regulations referred to on the documents specified in the preceding item, as well as the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (8) The Commissioner of the Financial Services Agency may make the approval under paragraphs (2), (3) and (6) conditional, set its expiry date, change or rescind it.

(Rating Entity, etc.)

Article 307 (1) The persons specified by Cabinet Office Order, as referred to in Article 66-33, paragraph (2) of the Act, are the parties set forth in the following items, in accordance with the categories of parties as set forth respectively therein (including persons considered to be equivalent to these parties

substantially):

- (i) if the object of a credit rating is the assessment of the credit status of any corporation: that corporation (excluding the corporation set forth in Article 24, paragraph (1), item (iv) of Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act), and the consignee of the business affairs related to the structures of the corporation; and
  - (ii) if the object of a credit rating is the assessment of the credit status of a financial instrument: that financial instrument (but only if the financial instrument is securities) or debtor (but only if the financial instrument is claim), and consignees of the business affairs related to the structure of the financial instrument.
- (2) Notwithstanding the provisions of the preceding paragraph, the person specified by Cabinet Office Order, as referred to Article 66-33, paragraph (2) of the Act, if the object of a credit rating is the assessment of the credit status of the asset securitization products, is as follows:
- (i) a principal holder of the underlying assets as specified in Article 295, paragraph (3), item (i), (a), 1., (b), 1. or 2., when the asset securitization products satisfy the requirements set forth in Article 295, paragraph (3), item (i), (a) or (b);
  - (ii) a third party (limited to a principal third party) as set forth in Article 295, paragraph (3), item (i), (c), 1. or (d), 1., when the asset securitization products satisfy the requirements set forth in Article 295, paragraph (3), item (i), (c) or (d);
  - (iii) a special purpose corporation as set forth in Article 295, paragraph (3), item (i), (a) or (c), if the asset securitization products satisfy the requirements set forth in Article 295, paragraph (3), item (i), (a) or (c); and
  - (iv) a consignee of business affairs related to the structures of the asset securitization products.
- (3) If the object of credit rating is securities or claim pertaining to a monetary loan satisfying any of the requirements set forth in Article 295, paragraph (3), item (i), (a) through (e) and the assessment of credit status of financial instruments prescribed in the same item, (f), the assessment of credit status of the underlying assets under the same item, (f) is deemed to be the object of credit rating and the provisions of paragraph (1), item (ii) apply; and if the object of credit rating is securities or claim pertaining to a monetary loan satisfying any of the requirements set forth in Article 295, paragraph (3), item (i), (a) through (e) and the assessment of credit status of financial instruments prescribed in the same item, (g), the assessment of credit status of securities issued by the identical person that concludes the contract of the monetary loan or the claim pertaining to the monetary loan to that person is deemed to be the object of credit rating and the provisions of paragraph (1), item (ii) apply.

(Close Relationships with Rating Entity, etc.)

Article 308 (1) The close relationship specified by Cabinet Office Order, as referred to in Article 66-35, item (i) of the Act, is the relationship between the credit rating agency or its officers or employees, and the rating entity, etc., if any of the following situations applies:

- (i) if the person in charge of ratings at the credit rating agency is the officer of the rating entity, etc. or has assumed any other position equivalent thereto;
  - (ii) if the person in charge of ratings of the credit rating agency is the relative (limited to a spouse, and a relative by blood and a relative by affinity of the first degree of kinship) of the officer or any other person equivalent thereto of the rating entity, etc. (excluding the cases specified in the preceding item);
  - (iii) if the credit rating agency or its person in charge of rating is a holder of securities (excluding securities listed in Article 2, paragraph (1), items (i) and (ii) and those prescribed in item (xvii) of the same paragraph (limited to securities which fulfill the requirements listed in items (i) and (ii) of the same paragraph in nature) issued by the rating entity, etc.; or
  - (iv) if the credit rating agency or its person in charge of ratings is a person entitled to any rights related to derivatives transactions (limited to derivative transactions related to the rating entity, etc. or securities issued by the rating entity, etc.).
- (2) The holder as set forth in item (iii) of the preceding paragraph and the person entitled to the right set forth in item (iv) of that paragraph are to include the persons listed in the following items, in addition to a person that, under its name or any other person's name (including a fictitious name), owns the securities (including a person that has a right to request the delivery of securities based on a purchase and sale or any other contract) or is entitled to such right:
- (i) a person that has been vested with the authority to exercise the voting rights or any other rights as a shareholder of the issuing company of securities or the authority to give instructions on the exercise of the voting rights or any other rights, in accordance with the provisions of a monetary trust agreement or any other contracts or of the laws; and
  - (ii) a person that has been vested with the authority necessary to make an investment in securities, in accordance with the provisions of a discretionary investment contract or any other contracts or of the laws.

(Matters in Which Rating Entity, etc. Has Interests)

Article 309 The matters specified by Cabinet Office Order, as referred to in Article 66-35, item (i) of the Act are as follows:

- (i) the assessment of the credit status of the rating entity, etc.;

- (ii) if the rating entity, etc. is the issuer of financial instruments (but only if the financial instruments are securities) or debtor (but only if the financial instruments are claims) thereof, the assessment of the credit status of the financial instruments; and
- (iii) if the rating entity, etc. is the consignee of business affairs related to certain structures, the assessment of the credit status of financial instruments or corporations pertaining to the structures.

(Matters Which May Materially Influence Credit Ratings)

Article 310 The matters specified by Cabinet Office Order, as referred to in Article 66-35, item (ii) of the Act, are as follows:

- (i) if the object of the credit rating is the assessment of the credit status of a corporation, securities issued by the corporation or a claim against the corporation, the organizational scheme of the corporation and the composition of the principal assets and liabilities thereof; and
- (ii) if the object of the credit rating is the assessment of financial instruments or a corporation, material matters on the structure of the financial instruments or the corporation.

(Type of Advice Excluded from Application of Prohibition)

Article 311 The case specified by Cabinet Office Order as provided in Article 66-35, item (ii) of the Act, is one in which the credit rating agency, in response to a demand from a rating entity, etc., has provided an explanation as to how the information or facts provided by the rating entity, etc. may affect the determination of credit rating, in accordance with the rating determination policy, etc. and any matter incidental thereto.

(Prohibited Acts)

Article 312 The acts specified by Cabinet Office Order, as referred to in Article 66-35, item (iii) of the Act, are as follows:

- (i) an act to promise a rating entity, etc., prior to implementing the credit assessment (meaning a credit assessment as defined in Article 2, paragraph (34) of the Act; hereinafter the same applies in this Chapter), to provide or offer for inspection the certain credit rating as a result of the credit assessment (excluding an act to provide in advance a rating entity, etc. with a credit rating estimated based on the rating determination policy, etc. and any other information incidental thereto);
- (ii) the act of any person in charge of rating of a credit rating agency, in the process of determining a credit rating, of accepting any money or goods delivered by a rating entity, etc., to demand the delivery thereof, or to accept an offer for the delivery thereof (other than if the total value of such money



- or goods received in the same day is three thousand yen or less, and the cases as may be necessary in the course of trade); and
- (iii) if the object of a credit rating is the assessment of the credit status of asset securitization products, the act of refusing to determine a credit rating for the assessment of credit status of such asset securitization products, merely on the reason that any other credit rating agency had already determined a credit rating for the assessment of the credit status of such asset securitization products or the relevant underlying assets.

(Matters to Be Contained in Rating Policies)

Article 313 (1) A rating policy, etc. as referred to in Article 66-36, paragraph (1) of the Act must provide for the following matters:

- (i) the policy and method concerning the determination of credit ratings (hereinafter referred to as the "rating determination policy, etc." in this Chapter); and
- (ii) the policy and method concerning acts to provide or offer for inspection the credit ratings (hereinafter referred to as the "rating provision policy, etc." in this Article).
- (2) The rating determination policy, etc. must satisfy the following requirements:
- (i) that it is rigorous and systematic;
- (ii) that it provides that, for the purpose of making a judgment, any and all collected information pertaining to the credit status of financial instruments and corporations (but only if the object of the credit rating is the assessment of such credit status) is comprehensively taken into account;
- (iii) that it provides for the following matters, in accordance with the categories of objects of credit rating and detailed items thereof:
- (a) the criteria used for identifying the matters which serve as the assumptions for the assessment of the credit status, and the criteria used for the setting of grades indicating the results of the assessments of the credit status; and
- (b) an outline of the method for the determination of credit ratings.
- (iv) that it provides for the guidelines and methods which enable a rating entity, etc., in advance of providing or offering for inspection the determined credit rating, to verify whether there was any factual misperception as to the principal information used by the credit rating agency in assigning the credit rating (including guidelines and methods for securing a reasonable length of time which allows rating entity, etc. to express its opinions); and
- (v) that it provides for the guidelines and methods for determining a credit rating, in cases of determining a credit rating without a solicitation from any rating entity, etc.;
- (3) The rating provision policy, etc. must satisfy the following requirements:

- (i) that it provides that acts to provide or to offer for inspection the determined credit ratings are to be implemented without delay after the determination of such credit rating;
- (ii) that it provides that the acts to provide or to offer for inspection the determined credit ratings should be implemented for the general public;
- (iii) that it provides that, if the determined credit ratings are to be provided or offered for inspection, the following matters are to be announced by use of the internet or by any other such means; provided, however, that if the object of the credit rating is the assessment of the credit status of asset securitization products, the credit rating agency may, in lieu of the matters specified in (e) (limited to the names of the persons set forth in Article 307, paragraph (2), item (i) or (ii)), announce the business type, business size and region if the parties listed in item (i) or (ii) of that paragraph are located as well as reasonable grounds for not announcing the aforementioned matters:
  - (a) the trade name or name and the registration number of the credit rating agency, and the details of the supervisory measures taken against the credit rating agency in the most recent one year;
  - (b) the year, month and date of determining the credit rating;
  - (c) the name of the principal rating analyst involved in the process of determining the credit rating, and the name of the person that, as a representative of the credit rating agency, is responsible for determining credit ratings;
  - (d) an outline of the matters set forth in item (iii) of the preceding paragraph (regarding the matters listed in (b) of the same item, limited to those important) and the objects of the credit rating, as adopted for the purpose of determining the credit rating;
  - (e) the name of the rating entity, etc.;
  - (f) if the object of the credit rating is the assessment of the credit status of the asset securitization products, and those products substantially deviate from the design of asset securitization products that the credit rating agency determined the credit rating in the past;
  - (g) if the credit rating was determined without any solicitation from the rating entity, etc., such fact, and information as to whether any undisclosed information by the rating entity, etc. (but only if that information affects credit assessment substantially) had been obtained in the process of determining the credit rating;
  - (h) if the credit rating agency does not intend to update the determined credit rating, such fact and the reasons therefor;
  - (i) an explanation on the assumptions, significance and limitations of the determined credit rating, in accordance with the category of the object of such credit rating (including an explanation on the characteristics of the

fluctuation of credit ratings; and also including an explanation on the limits of the credit rating, if the object of the credit rating is the assessment of the credit status of the financial instruments with limited information on the transition of the credit status);

- (j) the following matters concerning the principal information used in the course of determining the credit rating:
  - 1. an outline of the information;
  - 2. an outline of the measures implemented for the purpose of the quality assurance of the information; and
  - 3. the provider of the information;
- (k) the following matters, if the object of the determined credit rating was in relation to the assessment of the credit status of the asset securitization products:
  - 1. information on the analysis of loss, cash flow and responsiveness; and
  - 2. the marks, numbers or any other symbol for clearly indicating that the object of the determined credit rating was the assessment of the credit status of asset securitization products (including an explanation which allows investors to understand the significance and limits of the credit rating based on such symbol);
- (iv) that it provides that information on the revocation of the determined credit rating is to be provided without delay; and
- (v) that it directs not to make any representation as to the appropriateness of the results of the credit assessment, which may lead to a misperception that such appropriateness has been guaranteed by the Commissioner of the Financial Services Agency or any other administrative organ.

(Means of Announcement of Rating Policies)

Article 314 (1) A credit rating agency must announce its rating policy, etc. in a manner which always allows easy access by investors and credit rating users, by means of the use of the internet or any other means.

(2) If two or more credit rating agencies (limited to a case in which those two or more credit rating agencies fall under the category of associated corporations, and if they share the same representative person in Japan or the person prescribed in Article 297) jointly perform credit rating activities in the course of trade, those two or more credit rating agencies may jointly formulate and announce the rating policy, etc.

(3) If a credit rating agency intends to effect any material change to its rating policy, etc., it is to, in advance, announce the fact that the change will be effected and an outline of such change; provided, however, that if any unavoidable ground exists, such unavoidable ground, the fact of the change and an outline thereof may be announced without delay after the change.

### Section 3 Accounting

(Books and Documents on Business Operations)

Article 315 (1) The books and documents to be prepared by a credit rating Agency pursuant to the provisions of Article 66-37 of the Act are as follows:

- (i) the records pertaining to the following information on the credit ratings determined:
  - (a) the determined credit rating, the year, month and date of determining the credit rating, and the object of the credit rating;
  - (b) the matters set forth in Article 313, paragraph (3), item (iii);
  - (c) the name of the rating analyst involved in the process of determining the credit rating; the name of the person, as a representative of the credit rating agency, responsible for determining the credit rating;
  - (d) if the final decision as a credit rating agency in determining the credit rating is to be adopted by a council, the names of the council members, the materials submitted to the council, the basis of the decision-making and any other records (if the final decision is adopted by means other than a council, to that effect and the reasons therefor);
  - (e) if any associated corporation was involved in the process of determining the credit rating, the name and address of such associated corporation;
  - (f) if the credit assessment was implemented based primarily on quantitative analysis, and if there exists a significant difference between the results of the credit assessment based on such quantitative analysis and the credit rating actually determined, the major grounds for such difference;
  - (g) the materials which served as the basis for the determination of the credit rating (including records on the progress of negotiations with the rating entity, etc.);
  - (h) information as to whether the credit rating was determined in response to solicitation from any rating entity, etc.;
  - (i) an outline of the measures implemented to verify the existence of any conflict of interests between the credit rating agency including its person in charge of ratings and a rating entity, etc., and any other measures implemented for preventing any conflict of interests;
- (ii) the records on the following matters concerning a rating entity, etc. which had paid any rating fee to the credit rating agency:
  - (a) the name and address;
  - (b) the amount of the rating fee; and
  - (c) the details of the services for which the rating fee was paid;
- (iii) the documents describing the outline of the services or products provided by the credit rating agency;

- (iv) the documents concerning the credit assessment on which rating determination policy etc. is based;
  - (v) the documents describing the results of an investigation on the status of compliance with laws and regulations, etc.;
  - (vi) the documents describing specified activities and conflict avoidance measures;
  - (vii) the minutes of meetings of the monitoring committee;
  - (viii) the records on the progress of important negotiations between officers or employees of the credit rating agency and the rating entity, etc. (limited to records concerning credit rating activities);
  - (ix) the documents or electronic or magnetic records received from investors and any other users of credit ratings (limited to documents or electronic or magnetic records which contain any description of complaints regarding credit rating activities); and
  - (x) the ledgers.
- (2) The books and documents as set forth in the preceding paragraph must be preserved for five years after the preparation thereof.
- (3) If two or more credit rating agencies (but only if those two or more credit rating agencies are associated corporations and they share the same representative person in Japan or the person prescribed in Article 297) perform credit rating activities in cooperation in the course of trade, those two or more credit rating agencies may also prepare books and documents in cooperation with each other.

(Business Report)

- Article 316 (1) A business report to be submitted by a credit rating agency pursuant to the provisions of Article 66-38 of the Act must be prepared in accordance with Appended Form No. 28.
- (2) When a credit rating agency prepares a business report as set forth in the preceding paragraph, it is to be subject to corporate accounting standards generally accepted as fair and appropriate.

(Procedures for Obtaining Approval on Time Limit for Submission of Business Report)

- Article 317 (1) If any credit rating agency which is a foreign corporation intends to obtain approval under the proviso to Article 18-4-2 of the Order, it must submit to the Commissioner of the Financial Services Agency a written application for approval stating the following particulars:
- (i) the trade name or name;
  - (ii) the registration date and the registration number;
  - (iii) the period for which the approval is sought in relation to the submission of

- the business report;
- (iv) the last day of the business year pertaining to the business report; and
  - (v) the reasons for seeking the approval with regard to the submission of the business report.
- (2) The following documents must be attached to the written application set forth in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative (including the representative person in Japan as set forth in Article 66-28, paragraph (1) of the Act and also including a person as set forth in Article 297) of the credit rating agency which is a foreign corporation, as stated in the written application for approval, is a person that has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as set forth in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval set forth in paragraph (1) was filed, and if it is found to be impossible for a credit rating agency which is a foreign corporation to submit the business report within three months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency is to grant approval with regard to the business report covering the business year containing the day of the filing of such application (if such day falls within three months from the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in paragraph (1), item (v) for which the application was filed would be eliminated or changed.
- (4) The approval set forth in the preceding paragraph is to be granted on the condition that the credit rating agency which is a foreign corporation, etc. as set forth in that paragraph submits to the Commissioner of the Financial Services Agency documents stating the following particulars within three months from the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:

- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
- (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(Matters to Be Contained in Explanatory Documents)

Article 318 The matters specified by Cabinet Office Order, as referred to in Article 66-39 of the Act, are as follows:

- (i) the following matters concerning the profile and organizational structure of the credit rating agency:
  - (a) the trade name or name;
  - (b) the registration date and registration number;
  - (c) an outline of the organizational structure;
  - (d) the name of the first to tenth-ranked shareholders based on the descending order of the number of shares held, the number of shares held by such shareholders, and the ratio of the number of the voting rights pertaining to such shares to the voting rights held by all the shareholders, etc.; and
  - (e) the matters set forth in Article 66-28, paragraph (1), items (ii) through (v) of the Act;
- (ii) the following matters concerning the status of the business of the credit rating agency;
  - (a) an outline of the business conducted in the most recent business year;
  - (b) the following matters, as the indicators of the status of the business of the credit rating agency for the most recent business year:
    1. the sales volume (including the proportion of the consideration for services of credit rating activities and the consideration for services other than credit rating activities);
    2. if the credit rating agency receives a rating fee exceeding ten percent of the sales volume of the credit rating business from a single rating entity, etc. (including the parties set forth in Article 15-16, paragraph (1), respective items and Article 15-16, paragraph (2), respective items of the Order) of the person concerned with rating), the name of the rating entity, etc.;
    3. statistical information or any other information on the transition of the credit status of the financial instruments or corporations (but only if the object of the credit rating is the assessment of such credit status);
    4. information on the historical data of the determined credit rating (limited to information at the time when one year or more pass from the day when the credit rating was determined);

- 5. the status of ancillary business and other lines of business; and
  - 6. the total number of rating analysts.
- (c) the schedule of fees generally applicable between the credit rating agency and the rating entity, etc.;
- (iii) the status of organizing the business management system of the credit rating agency (including an outline of the following matters):
- (a) the measures to be implemented so that a person in charge of rating, as a party independent of a rating entity, etc., fairly and faithfully carries out the business, even if such person in charge of rating is involved consecutively in the processes of determining credit ratings of the matter in which the same rating entity, etc. has an interest;
  - (b) the measures to be implemented for establishing systems for securing the proper operation of the rating agency services (meaning the measures as set forth in Article 306, paragraph (1), item (iv));
  - (c) the measures for securing compliance with laws and regulations, etc.;
  - (d) the following measures concerning drafting of policies on the quality management of the credit rating determination process and the implementation thereof:
    - 1. the policy for the recruitment and training of rating analysts;
    - 2. the allocation of the rating analysts;
    - 3. the measures to be implemented so that the information used for determining a credit rating is of sufficient quality;
    - 4. measures to put in place the functions to properly verify the appropriateness and effectiveness of the rating determination policy, etc.;
    - 5. the measures to be implemented in cases of any material amendment to the rating determination policy, etc., if any, so as to announce, without delay, the scope of the credit ratings already determined in accordance with the former rating determination policy, etc. but which require further consideration as to the necessity for being updated in accordance with the amended Rating determination policy, etc. and the period of time required for such updating, as well as to update the credit ratings within such period of time;
    - 6. the measures to be implemented to verify the ability in determining a credit rating whose object is assessment of the credit status of asset securitization product (but only if the design of the asset securitization product deviates substantially from the design of the asset securitization products to which it determined credit ratings in the past) in an appropriate manner;
    - 7. the measures so that the credit rating agency will be able to implement the verification and updating of a credit rating already determined, in



- an appropriate manner and on an ongoing basis;
- (e) the types of specified activities and conflict avoidance measures;
  - (f) the measures to be implemented so as to verify the appropriateness of a credit rating of any matter in which a rating entity, etc. has an interest, if any rating analyst that no longer assumes the position of officer or employee of the credit rating agency is to assume the position of an officer or any other position equivalent thereto of the rating entity, etc.;
  - (g) the measures to be implemented so that activities pertaining to ancillary business and other lines of business would not unreasonably affect the credit rating activities;
  - (h) the measures to enable a third party, as an independent party, to verify the appropriateness of the credit rating, if the object of the credit rating is the assessment of the credit status of any asset securitization products;
  - (i) the measures to be implemented to ensure that the policy for the determination of the remuneration, etc. of the officers or employees of the credit rating agency would not compromise the performance of credit rating business in a fair and accurate manner;
  - (j) the measures to be implemented so as to prevent the responsible rating analysts from participating in the negotiation process for the determination of the rating fee for the credit rating;
  - (k) the measures to be implemented so as to properly manage information which may come to the attention of the credit rating agency in the course of its credit rating business, as well as to properly maintain the confidentiality thereof;
  - (l) the measures to be implemented so as to appropriately and swiftly address complaints raised against the credit rating agency;
  - (m) the operational policies of the monitoring committee, and names of the members and the means of the appointment of the members (including a basic stance on the independence of the independent members); and
  - (n) the code of conduct to be complied with by the credit rating agency as well as its officers and employees;
- (iv) an outline of the rating policy, etc.;
- (v) the following matters concerning the status of the associated corporations and subsidiary corporations of the credit rating agency:
- (a) the composition of the group of the credit rating agency and its associated corporations and subsidiary corporations; and
  - (b) the trade name or name, and locations of the principal business office or principal office of associated corporations and subsidiary corporations, as well as the details of their respective principal businesses.

(Means of Public Inspection of Explanatory Documents)

Article 319 (1) A credit rating agency must keep copies of explanatory documents at all of its business offices or offices and always make them available for public inspection, and, in addition to this, must announce them by means such as via the internet so as to allow easy inspection by investors and credit ratings users.

(2) If two or more credit rating agencies (but only if those two or more credit rating agencies fall under the category of associated corporations, and if they share the same representative persons in Japan or the person set forth in Article 297) jointly perform credit rating activities in the course of trade, those two or more credit rating agencies may jointly prepare and announce the explanatory documents.

(Procedures for Obtaining Approval on Periods of Public Inspection of Explanatory Documents)

Article 320 (1) If any credit rating agency which is a foreign corporation intends obtain approval under the proviso to Article 18-4-3 of the Order, it must submit to the Commissioner of the Financial Services Agency a written application for approval stating the following particulars:

(i) the trade name or name;

(ii) the registration date and the registration number;

(iii) the period for which the approval is sought in relation to the public inspection of the explanatory documents;

(iv) the last day of the business year pertaining to the explanatory documents; and

(v) the reasons for seeking the approval with regard to the public inspection of the explanatory documents.

(2) The following documents must be attached to the written application set forth in the preceding paragraph:

(i) the articles of incorporation, or any other document in lieu thereof;

(ii) a document evidencing that the representative (including the representative person in Japan as set forth in Article 66-28, paragraph (1) of the Act and also including a person as set forth in Article 297) of the credit rating agency which is a foreign corporation, as stated in the written application for approval, is a person that has been duly authorized to submit such written application for approval; and

(iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as set forth in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.

(3) If the application for approval set forth in paragraph (1) has been filed, and,

due to the laws and regulations or practices of its own state, it is found to be impossible for a credit rating agency which is a foreign corporation to keep and make available for public inspection the explanatory documents and to announce them by such means as use of the internet from the day on which four months have elapsed after the end of each business year, the Commissioner of the Financial Services Agency is to grant approval with regard to the explanatory documents covering the business year containing the day of the filing of such application (if such day falls within four months from the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in paragraph (1), item (v) for which the application was filed would be eliminated or changed.

- (4) The approval set forth in the preceding paragraph is to be granted on the condition that the credit rating agency which is a foreign corporation, etc. as set forth in that paragraph submits to the Commissioner of the Financial Services Agency documents stating the following particulars within four months from the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

#### **Section 4 Supervision**

(Notification of Discontinuation of Business)

Article 321 (1) A person that intends to file a notification pursuant to the provisions of Article 66-40, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency a written notification stating the matters listed in the following items, in accordance with the categories of the cases set forth respectively therein:

- (i) the case falling under Article 66-40, paragraph (1), item (i) of the Act (other than if the following item and item (iii) apply): the date of and reason for the discontinuation;

- (ii) the case falling under Article 66-40, paragraph (1), item (i) of the Act (but only if the credit rating agency has had all of its business pertaining to credit rating business succeeded to through a split): the following matters:
    - (a) the trade name or name of the successor; and
    - (b) the date of and reasons for the split;
  - (iii) the case falling under Article 66-40, paragraph (1), item (i) of the Act (but only if the entire credit rating business was transferred): the following matters:
    - (a) the trade name or name of the transferee; and
    - (b) the date of the transfer and the reasons therefor;
  - (iv) the case falling under Article 66-40, paragraph (1), item (ii) of the Act: the following matters:
    - (a) the trade name or name of the counterparty to the merger;
    - (b) the date of and reasons for the merger; and
    - (c) the method of implementing the merger;
  - (v) the case falling under Article 66-40, paragraph (1), item (iii) of the Act: the following matters:
    - (a) the day when the petition for the commencement of bankruptcy proceedings was filed; and
    - (b) the day when the order for the commencement of bankruptcy proceedings was issued.
  - (vi) the case falling under Article 66-40, paragraph (1), item (iv) of the Act: the date of and reasons for the dissolution.
- (2) The documents listed in the following items must be attached to the written notification set forth in the preceding paragraph, in accordance with the categories of the cases set forth respectively therein:
- (i) the case falling under Article 66-40, paragraph (1), item (ii) of Act: the document stating the contents of the merger agreement and the procedures for the merger; and
  - (ii) the cases falling under item Article 66-40, paragraph (1), item (iii) of Act: a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings.

(Public Notice on Discontinuation of Business)

- Article 322 (1) The public notice under Article 66-40, paragraph (3) of the Act is to be given by means of publication in the Official Gazette or in a daily newspaper that publishes matters on current affairs.
- (2) The following matters are to be stated in a written notification as set forth in Article 66-40, paragraph (4) of the Act:
- (i) the trade name or name;

- (ii) the registration date and the registration number;
- (iii) the grounds on which the notification was filed; and
- (iv) the day when the grounds for filing the notification are scheduled to occur.

(Public Notice for Persons Whose Whereabouts Are Unidentifiable)

Article 323 The public notice prescribed in Articles 66-42, paragraph (3) of the Act is to be given by means of publication in the Official Gazette.

(Public Notice of Supervisory Disposition)

Article 324 The public notice prescribed in Articles 66-43 of the Act is to be given by means of publication in the Official Gazette.

(Matters to Be Taken into Account for Purpose of Application)

Article 325 If the Commissioner of the Financial Services Agency exercises the authority under Article 66-41, Article 66-42, paragraphs (1) or (2) or Article 66-45, paragraph (1) of the Act, the Commissioner is to pay attention not to be involved in the individual credit ratings or the specific details of the means of credit assessment.

## **Chapter V High-Speed Traders**

### **Section 1 General Provisions**

(Application for Registration)

Article 326 (1) A person that intends to obtain a registration under Article 66-50 of the Act must submit a written application for registration under Article 66-51, paragraph (1) of the Act prepared using Appended Form 29, attaching a copy of the written application for registration and the documents or electronic or magnetic records to be attached to the written application for registration pursuant to paragraphs (2) or (3) of that Article, to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, etc. of such person (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the operator has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau).

(2) The document under the preceding paragraph may be prepared in English in accordance with Appended Form 29.

(3) The documents to be attached to the written application for registration under paragraph (1) may be prepared in English.

(Matters to Be Stated in a Written Application for Registration)

Article 327 The cases to be specified by Cabinet Office Order as referred to in

Article 66-51, paragraph (1), item (vii) of the Act are as follows:

- (i) if the applicant is a foreign corporation that has not appointed a representative person in Japan, or an individual domiciled in a foreign state, the trade name or name of its agent in Japan; and
- (ii) if the applicant is a foreign corporation or an individual domiciled in a foreign state, the name and location of the main business office or other office in Japan;

(Business Contents and Business Methods)

Article 328 The documents to be specified by Cabinet Office Order as referred to in Article 66-51, paragraph (2), item (ii) of the Act are as follows:

- (i) the basic principles of business operations;
- (ii) the method of execution of business;
- (iii) the allocation of business operations;
- (iv) the outline of each of the transaction strategies (including the matters specified in the following):
  - (a) the categories of transaction strategies;
  - (b) the name or trade name of the financial instruments exchange, etc. pertaining to the high-speed trading;
  - (c) the types of securities or market derivatives transactions subject to the high-speed trading;
- (v) in relation to business relating to high-speed trading, the name and job title of the person supervising the business of guidance for the compliance with laws and regulations, etc.;
- (vi) the name and job title of the person responsible for the management of business pertaining to the high-speed trading;
- (vii) the outline, location and method of maintaining the electronic data processing system and other facilities for the high-speed trading; and
- (viii) the details of the measures to ensure sufficient management of the electronic data processing systems and other facilities for the high-speed trading.

(Documents to Be Attached to Written Application for Registration)

Article 329 (1) The documents to be specified by Cabinet Office Order as referred to in Article 66-51, paragraph (2), item (iv) of the Act are as follows:

- (i) the documents stating the system for conducting business, such as its structure of personnel and the organizational structure pertaining to the business;
- (ii) if the applicant for registration is a corporation, the following documents:
  - (a) the resume of the officer (if the officer is a corporation, a document containing the background of the officer);

- (b) an extract of the certificate of residence of the officer (if the applicant for registration is a foreign corporation which has not appointed its representative person in Japan, including the agent in Japan; hereinafter the same applies in (b) and (c)) (if the officer is a corporation, a certificate of registered information of the officer) or a document in lieu thereof;
  - (c) if the former surname and given name of an officer are stated together with the current name of the officer in a written application for registration under Article 66-51, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the officer, a document certifying the former surname and given name;
  - (d) the certificates issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  - (e) the documents in which the officer pledges that the officer does not fall under Article 29-4, paragraph (1), item (ii), sub-items (c) through (i) or Article 66-53, item (v), sub-item (a), 1. of the Act;
  - (f) the latest balance sheet (including notes in reference thereto) and profit and loss statement (including notes in reference thereto);
- (iii) if the applicant for registration is an individual, the following documents:
- (a) the resume of the applicant for registration;
  - (b) an extract of the certificate of residence of the applicant for registration (if the applicant for registration is an individual domiciled in a foreign state, including the agent in Japan; hereinafter the same applies in (c)) (if the agent in Japan is a corporation, a certificate of registered information of the agent in Japan) or a document in lieu thereof;
  - (c) if the former surname and given name of the applicant for registration are stated together with the current name of the applicant for registration in a written application for registration under Article 66-51, paragraph (1) of the Act, and the document specified in (b) is not a document certifying the former surname and given name of the applicant for registration, a document certifying the former surname and given name;
  - (d) the certificates issued by a public agency evidencing that the applicant for registration does not fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  - (e) a document prepared using Appended Form 1-2;
- (iv) the resumes of persons provided in items (v) and (vi) of the preceding Article;
- (v) a document stating the calculated net assets.
- (2) When attaching the documents specified in paragraph (1), item (ii), (f), if the balance sheet (including the notes in reference thereto) is prepared by means of

an electronic or magnetic records, or if an electronic or magnetic record is prepared for a profit and loss statement (including the notes in reference thereto) instead of a written document, the electronic or magnetic records (limited to those provided in the following Article) may be attached instead of the written document.

(Electronic or Magnetic Record)

Article 330 (1) The electronic or magnetic records to be specified by Cabinet Office Order as referred to in Article 66-5, paragraph (3) of the Act must have a structure specified in the following:

- (i) a 90mm flexible magnetic disc cartridge conforming to JIS X6223;
- (ii) a 120mm optical disc conforming to JIS X0606 and X6282.

(2) Entry of information into the electronic or magnetic records under item (i) of the preceding paragraph must be completed in accordance with the following specifications:

- (i) track format: formalities prescribed in JIS X6225
- (ii) volume and file composition: formalities prescribed in JIS X0605.

(3) The following matters must be recorded in the electronic or magnetic record under paragraph (1):

- (i) the trade name or name of the applicant for registration; and
- (ii) the date of the application.

(Public Inspection of High-Speed Traders Register)

Article 331 The competent Director-General of a Local Finance Bureau, etc. is to keep the register of high-speed traders pertaining to the high-speed traders registered by such competent Director-General of a Local Finance Bureau, etc. at the local finance bureau with jurisdiction over the location of the head office, etc. of the high-speed traders (if such location falls within the jurisdictional district of the Fukuoka Local Finance branch bureau, to the Director-General thereof; or if the high-speed trader has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau) and make them available for public inspection.

(Criteria for Examination of the Structure of Personnel)

Article 332 When conducting an examination under Article 66-53, paragraph item (iii) of the Act as to whether the applicant for registration lacks a structure of personnel sufficient to conduct a high-speed trading in the appropriate manner, it is to be examined whether the applicant for registration falls under any of the following criteria:

- (i) that the applicant for registration is found not to be able to conduct the business in a proper manner, considering status of securing officers or



employees having sufficient knowledge and experience for conducting the business as well as its organizational structure; and

- (ii) that the applicant for registration is found to be likely to cause a loss of confidence in a high-speed trading, on the grounds of having any officer or employee with qualities unfit for the operation of the business in light of such officer's or employee's career, relationship with the organized crime group specified in Article 2, item (ii) of the Act on Prevention of Illegal Acts by Organized Crime Group Members or relationship with the organized crime group members set forth item (vi) of that Article or any other circumstances.

(A Person Unable to Properly Perform Business Pertaining to High-Speed Trading Due to a Mental or Physical Disorder)

Article 332-2 A person specified by Cabinet Office Order as referred to in Article 66-53, item (v), sub-item (a), 1. of the Act is a person who is unable to adequately carry out the cognition, decision making, and communication necessary for properly performing business pertaining to High-Speed Trading due to a mental impairment.

(Calculation of Amount of Net Assets)

Article 333 The amount of net assets to be calculated pursuant to Article 66-53, item (vii) of the Act must be calculated in accordance with the provisions of Article 14.

(Notification of Changes in Matters Stated in Written Applications for Registration)

Article 334 (1) A high-speed trader which submits a notification pursuant to Article 66-54, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the details of the change, change date and the reason for the change, attaching a document stating the content after the change prepared using Appended Form 29 and a copy thereof, as well as the documents specified in the following items according to the categories as respectively specified in these items; provided, however, that the documents specified in the items may be submitted without delay after submission of the written notification:

- (i) if there is a change to the matters specified in Article 66-51, paragraph (1), item (i) of the Act: the following documents:
  - (a) a certificate of registered information (in cases of an individual, an extract of residence certificate) stating the matters relating to the change or a document in lieu thereof;
  - (b) if the former surname and given name are stated together with the

- current name in a document setting forth the matters after the change prepared using Appended Form 29, and the document specified in (a) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
- (ii) if there has been any change to the matters specified in Article 66-51, paragraph (1), item (ii) or (iv) of the Act: the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (iii) if there is a change to the matters specified in Article 66-51, paragraph (1), item (iii) of the Act: the following documents:
- (a) the documents stating the system for conducting business, such as its structure of personnel and the organizational structure pertaining to business;
  - (b) the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
  - (c) the following documents relevant to the person that has newly assumed positions as officer:
    1. the resume (if the officer is a corporation, a document containing the background of the officer);
    2. the extracts of the certificates of residence (if any of the officers is a corporation, the certificate of registered information of the officer), or any other document in lieu thereof;
    3. if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 29, and the document specified in 2. is not a document certifying the former surname and given name, a document certifying the former surname and given name;
    4. the certificates issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
    5. the documents in which the officer pledges that the officer does not fall under Article 29-4, paragraph (1), item (ii), sub-items (c) through (i) or Article 66-53, item (v), sub-item (a), 1. of the Act;
    6. the documents to pledge that the person does not fall under Article 66-53, item (v), sub-item (a) of the Act (limited to the part pertaining to 1.);
- (iv) in the case of any change in the matters specified in Article 327, item (i): the following documents relating to the person that newly assumed the position of the agent in Japan:
- (a) an extract copy of the certificate of residence (or, if the agent in Japan is a corporation, a certificate of registered information of the agent in Japan), or a document in lieu thereof;

- (b) if the former surname and given name are stated together with the current name in a document setting forth the matters after the change prepared using Appended Form 29, and the document specified in (a) is not a document certifying the former surname and given name, a document certifying the former surname and given name.
- (2) The written notification under the preceding paragraph and the documents specified in the items of that paragraph may be prepared in English.
- (3) The document under paragraph (1) may be prepared in English in accordance with Appended Form 29.
- (4) If the Commissioner of the Financial Services Agency or other competent official has received from any high-speed trader a notification on the relocation of the head office, etc. filed beyond the jurisdictional district of the competent finance bureau commissioner, etc., the commissioner or official is to send or instruct to send the written notification, the portion of the registry of high-speed traders pertaining to the high-speed trader and any other documents to the Director-General of a Local Finance Bureau with jurisdiction over the relocated address of the head office, etc. notified thereunder (if such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or if the financial instruments business operator has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau).
- (5) The Director-General of a Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau who has received the documents sent pursuant to the provisions of the preceding paragraph is to register the matters related to the high-speed trader in the registry of financial instruments business operators.

(Notification of Change of Contents and Methods of Business)

- Article 335 (1) A high-speed trader which intends to file the notification under Article 66-54, paragraph (3) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the particulars and date of and the reason for the change, attaching a document stating the matters specified in the items of Article 328 (limited to those matters whose details have been changed) and a document specified in Article 329, paragraph (1), item (iv) (limited to those matters whose details have been changed).
- (2) The written notification and documents under the preceding paragraph may be prepared in English.

**Section 2 Business**

(Establishment of Operational Control Systems)

Article 336 The operational control system to be established by a high-speed trader pursuant to Article 66-55 of the Act must fulfill the following requirements:

- (i) that internal rules, etc. (meaning internal rules and other rules equivalent thereto) for securing the appropriate execution of the business pertaining to the high-speed trading are established, and training for employees and other measure are conducted to ensure compliance with the internal rules, etc.;
- and
- (ii) that the measures to ensure sufficient management of the electronic data processing systems and other facilities for the high-speed trading have been taken.

(Circumstances Where the State of the Operation of Business Is Likely to Go Against Public Interest or Compromise the Protection of Investors)

Article 337 The circumstances specified by Cabinet Office Order as referred to in Article 66-57, item (ii) of the Act are as follows:

- (i) if it is found that the high-speed trader, in connection with the management of the corporate information it handles, has not implemented the measures necessary and appropriate for the prevention of unfair transactions based on corporate information;
- (ii) if it is found that the high-speed trader has not established the trading management sufficient for prevention of making the sale, purchase or derivative transactions pertaining to the listed financial instruments, etc. traded on a financial instruments exchange market or making application or accepting the entrustment, etc. thereof., which may result in the formation of a manipulative quotation not reflecting actual market status through causing fluctuation, pegging, fixing or stabilizing the quotation thereof or a figure calculated based on a quotation or the transaction volumes thereof, or by increasing the transaction volumes thereof; and
- (iii) where it is found that the High-Speed Trader has not established the trading management sufficient for preventing derivative transactions for cryptoassets, etc. or acts to make an application or Entrustment, etc., which may result in the formation of manipulative quotations not reflecting actual market status through causing fluctuations in the quotations of cryptoassets or figures calculated based on quotations or the transaction volumes thereof, or by increasing the transaction volumes thereof.

**Section 3 Accounting**

(Business-Related Books and Documents)

Article 338 (1) The books and documents to be prepared by a high-speed trader pursuant to Article 66-58 of the Act are as follows:

- (i) if the high-speed trader is a person engaged in the business of high-speed trading pertaining to the following, order forms and a transaction diary:
    - (a) the act specified in Article 2, paragraph (41), item (i) of the Act;
    - (b) the act specified in Article 2, paragraph (41), item (ii) of the Act;
    - (c) the act specified in Article 1-22, item (ii) of the Order (excluding the act pertaining to the investment of money or other properties for which the act specified in Article 2, paragraph (41), item (i) is to be conducted);
  - (ii) if the high-speed trader is a person engaged in the business of high-speed trading pertaining to the following, an investment statement and order forms:
    - (a) the act specified in Article 1-22, item (i) of the Order;
    - (b) the act specified in Article 1-22, item (ii) of the Order (limited to the act pertaining to the investment of money or other properties for which the act specified in Article 2, paragraph (41), item (i) is to be conducted).
- (2) The books and documents under the items of the preceding paragraph may be prepared in English.
- (3) Notwithstanding the provisions of the items of paragraph (1), a high-speed trader which is a foreign corporation or an individual domiciled in a foreign state may substitute the books and documents specified in the items of paragraph (1) with the documents prepared pursuant to the laws and regulations of the foreign state similar to the books and documents specified in the items of that paragraph (hereinafter referred to as "foreign books and documents" in this Article, and if the foreign books and documents are prepared in a foreign language, the following documents (referred to as "foreign books and documents, etc." in the following paragraph)):
- (i) the foreign books and documents; and
  - (ii) a Japanese translation of the forms of the foreign books and documents.
- (4) In relation to the books and documents and foreign books and documents, etc. specified in the items of paragraph (1), the order forms under item (i) of that paragraph and the order forms under item (ii) of that paragraph as well as the foreign books and documents, etc. similar thereto must be preserved for seven years from the date of preparation thereof, and the transaction diary under item (i) of that paragraph and the investment statement under item (ii) of that paragraph as well as the foreign books and documents, etc. similar thereto must be preserved for ten years from the date of preparation thereof.
- (5) The provisions of Article 158, paragraph (1) (excluding item (ii)), paragraph (2) (excluding items (iii) and (iv)) and paragraph (3) (excluding items (iv) and (vi)) as well as Article 159, paragraph (1) (excluding item (ii)) and paragraph (2) (excluding items (vii) and (ix)) apply mutatis mutandis if a high-speed

trader prepares the order forms and transaction diary under paragraph (1), item (i) in relation to the acts specified in that item, and the provisions of Article 170, paragraphs (1) and (2) and Article 171, paragraph (1), paragraph (2) (excluding items (ii), (iv) and (v)) and paragraph (3) (excluding item (v)) apply mutatis mutandis if a high-speed trader prepares the investment statement and order forms under paragraph (1), item (ii) in relation to the act specified in that item.

(6) Beyond the provisions of the preceding paragraph, in the order forms under paragraph (1), item (i) and the order forms under paragraph (1), item (ii) as well as the foreign books and documents similar thereto, the following matters notified by a financial instruments exchange, etc. in relation to the orders must be stated:

(i) a time stamp (meaning the time when the financial instruments exchange, etc. accepted the relevant order); and

(ii) an order acceptance number (meaning a number, code or other mark for the financial instruments exchange, etc. to identify the order).

(7) Beyond the provisions of paragraph (5), the books and documents and foreign books and documents specified in the items of paragraph (1) must be prepared according to the following:

(i) the order forms under paragraph (1), item (i) and the order forms under item (ii) of that paragraph as well as the foreign books and documents similar thereto must be prepared so as to enable the confirmation of the details of the program used for the creation of orders;

(ii) the documents must be prepared by the means determined by the financial instruments exchange, etc. in relation to orders and other means whereby the matters to be stated in the books and documents and foreign books and documents specified in the items of paragraph (1) are laid out in a systematically organized way so as to enable easy retrieval.

#### (Business Reports)

Article 339 (1) A business report to be submitted by a high-speed trader pursuant to Article 66-59 of the Act must be prepared using Appended Form 30.

(2) The business report under the preceding paragraph may be prepared in English in accordance with Appended Form 30.

(3) When a high-speed trader (limited to a company) prepares a business report under the preceding paragraph, it is to be subject to corporate accounting standards generally accepted as fair and appropriate.

(4) When a high-speed trader (excluding a company) prepares a business report under paragraph (1), it is to be subject to accounting standards generally accepted as fair and appropriate.

(Procedures for Obtaining Approval on Time Limit for Submission of Business Report)

- Article 340 (1) When a high-speed trader which is a foreign corporation or an individual domiciled in a foreign state (hereinafter referred to as "high-speed trader which is a foreign corporation, etc." in this Article) intends to obtain an approval under the proviso to Article 18-4-11 of the Order, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency or other competent official:
- (i) the trade name or name;
  - (ii) the date and number of registration;
  - (iii) the period for which the approval is sought in relation to the submission of the business report;
  - (iv) the last day of the business year pertaining to the business report; and
  - (v) the reasons for seeking the approval with regard to the submission of the business report.
- (2) The following documents must be attached to the written application specified in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the high-speed trader which is a foreign corporation, etc. as stated in the written application for approval is a person that has been duly authorized to submit such written application for approval; and
  - (iii) a letter of legal opinion prepared by a law expert regarding the trueness and correctness of the matters related to laws and regulations or practices as specified in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in such letter of legal opinion.
- (3) If the application for approval specified in paragraph (1) was filed, and if it is found that impossible for the high-speed trader which is a foreign corporation, etc. to submit the business report within three months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency or other competent official is to grant an approval with regard to the business report covering the business year containing the day of the filing of such application (if such day falls within three months from the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding such business year) through the business year immediately preceding the business year containing the day when the reason specified in item (v) of that paragraph for which the application was filed would be extinguished or changed.

- (4) The approval specified in the preceding paragraph is to be granted on the condition that the high-speed trader which is a foreign corporation, etc. as specified in that paragraph submits to the Commissioner of the Financial Services Agency or other competent official documents stating the following particulars within three months after the end of each business year; provided, however, that if the substance of a particular as set forth in item (ii) is identical to something that has been stated in a document submitted within five years prior to the submission of the document in question, the statement of that particular may be omitted:
- (i) an indication that the reasons for the application for approval have not ceased to exist or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.
- (5) The written application for approval under paragraph (1), the documents specified in the items of paragraph (2) and the documents under the preceding paragraph may be prepared in English.

#### **Section 4 Supervision**

(Cases When Notification for Commencement Is Required)

Article 341 The cases to be specified by Cabinet Office Order as referred to in Article 66-60, item (iv) of the Act are as follows:

- (i) if the high-speed trader falls under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act (limited to the part pertaining to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services) or sub-item (c) of that item, or Article 66-53, item (v), sub-item (b) or (c), item (vi), sub-item (a) (excluding the part pertaining to item (v), sub-item (a), 1. of that Article) or sub-item (b) of that item, item (vii), or sub-item (a) of the following item;
- (ii) if the high-speed trader has become aware that any of its officers, etc. has come to fall under any of the following:
  - (a) a person who has come to have a mental impairment and has come to find it extremely difficult to continue performing the business pertaining to High-Speed Trading; or
  - (b) a person falling under any of Article 29-4, paragraph (1), item (ii), sub-items (b) to (i);
- (iii) if the high-speed trader has learned the fact that a petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings was filed (in the case of a foreign corporation or an individual domiciled in a foreign state,



- this includes cases in which that corporation or individual has learned the fact that the same type of petition was filed in the state where its head office or principal office is located, pursuant to the laws and regulations of that state;
- (iv) if the high-speed trader has changed its articles of incorporation (including documents equivalent thereto; the same applies in Article 343, paragraph (1), item (vi));
  - (v) if the high-speed trader has learned an act of violation of laws and regulations, etc. by its officers or employees (with regard to any act relevant to a business other than business pertaining to the high-speed trading and business incidental thereto, limited to that which may have a material impact on the high-speed trader's business operation or the status of its property; referred to as "problematic conduct, etc." in the following item and paragraph (1), items (viii) and (ix) of the following Article);
  - (vi) if the details of the problematic conduct, etc. under the preceding item have been revealed;
  - (vii) if the high-speed trader has become a party to any action or conciliation (with regard to any action or conciliation relevant to a business other than the high-speed trading or any business incidental thereto, limited to that which may have a material impact on the high-speed trader's business operations or the status of its property), or if such action or conciliation has been concluded; or
  - (viii) for a foreign corporation or an individual domiciled in a foreign state, if that corporation or individual has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of the foreign state equivalent to the Act (other than if such corporation or individual falls under Article 29-4, paragraph (1), item (i), (a) of the Act).

(Matters to Be Stated in a Written Notification)

Article 342 (1) A high-speed trader that intends to file a notification pursuant to the provisions of Article 66-60 of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the matters listed in the following items, in accordance with the categories of the cases set forth respectively therein:

- (i) the case falling under Article 66-60, item (i) of the Act: the following matters
  - (a) the name of the business office or other office if the business was commenced, suspended or restarted;
  - (b) the date of commencement, the period and reason for suspension and the date of and reason for restart;
- (ii) in the case of falling under Article 66-60, item (ii): the documents specified in the following (a) through (c) in accordance with the categories of cases

listed in those (a) through (c):

- (a) in the case of a merger with another corporation, the following matters:
  - 1. the trade name or name of the other party to the merger;
  - 2. the date of and reasons for the merger;
  - 3. the method of implementing the merger;
- (b) in the case of the succession of all or part of the business of any other corporation through a split, the following matters:
  - 1. the trade name or name of the other party to the split;
  - 2. the date of and reasons for the split; and
  - 3. the contents of the business succeeded to;
- (c) in cases of acquiring all or part of the business from any other corporation, the following matters:
  - 1. the trade name or name of the transferor;
  - 2. the date of and reasons for the acquisition; and
  - 3. the contents of the acquired business;
- (iii) in cases falling under Article 66-60, item (iii) of the Act: the date of and reason for filing the petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
- (iv) in the case of falling under item (vii) of the preceding Article: the matters specified in the following (a) through (g) in accordance with the categories of cases specified in those (a) through (g):
  - (a) if a high-speed trader has come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following matters:
    - 1. contents of the same type of the registration, etc. obtained by the high-speed trader in the foreign state pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services or the same type of the notification under Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1), or Article 63-11, paragraph (1) of the Act made by the high-speed trader pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services;
    - 2. the date of the registration, etc. or notification;
    - 3. the date of and reason for the rescission of the registration, etc. or order for suspension of the business pertaining to the notification;
    - 4. the details of the business for which the registration, etc. was rescinded or suspension of the business pertaining to the notification was ordered;
  - (b) if a high-speed trader has come to fall under Article 29-4, paragraph (1),

- item (i), (c) of the Act, the following documents:
1. the provisions of the laws and regulations which were violated; and
  2. the date when the punishment became final and binding, and the amount of the fine imposed;
- (c) if a high-speed trader falls under Article 66-53, item (v), (b) of the Act, the day when the amount of stated capital or the total amount of investment fell below the amount specified in Article 18-4-9, paragraph (1) of the Order and the reason therefor;
- (d) if a high-speed trader falls under Article 66-53, item (v), (c) of the Act, the day when it fell under the person that has not appointed a representative or agent in Japan;
- (e) if a high-speed trader has come to fall under item (ii), sub-item (a) of the preceding Article or Article 66-53, item (vi), sub-item (a) of the Act (excluding the part pertaining to item (v), sub-item (a), 1. of that Article), the following documents:
1. the name of the person that has come to fall under that provision;
  2. if the person has come to fall under item (ii), sub-item (a) of the preceding Article, the date when the person came to fall under such provision and the reasons therefor;
  3. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when such person became subject to the order for the commencement of bankruptcy proceedings;
  4. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
  5. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  6. if the person falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act, and the date of and reason for the notification under Article 50-2, paragraph (1) of the Act, Article 60-7 of the Act (including as applied mutandis pursuant to Article 60-14, paragraph (2) of the Act; the same applies in (f) of the following item), Article 63-2, paragraph (2) of the Act, Article 63-2, paragraph (3) of the Act (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act; the same applies in (f) of the following item), Article 63-2, paragraph (4) of the Act, Article 63-10, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act; the same applies in sub-item (f) of the following item), or Article 63-10, paragraph (4), Article 66-19,

- paragraph (1) of the Act, Article 66-40, paragraph (1) of the Act or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
7. if the person has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;
- (f) if a high-speed trader falls under Article 66-53, item (vi), (b) of the Act, the day when it fell under the person that has not appointed a representative or agent in Japan;
- (g) if a high-speed trader falls under Article 66-53, item (vii) of the Act, the day when the net assets become less than the amount specified in Article 18-4-10 of the Order and the reason therefor;
- (v) the cases falling under item (ii) of the preceding Article: the following matters:
- (a) the name of the officer that has come to fall under item (ii), sub-item (a) or (b) of the preceding Article;
- (b) if the officer has come to fall under item (ii), sub-item (a) of the preceding Article, the date when such person came to fall under such provision and the reasons therefor;
- (c) if the officer has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, the day when such person became subject to the order for the commencement of bankruptcy proceedings;
- (d) if the officer has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, the day when the punishment became final and binding, and the type of punishment;
- (e) if the officer has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
- (f) if the officer falls under Article 29-4, paragraph (1), item (ii), (f) or (g) of the Act, the date of and reason for the notice under Article 15 of the Administrative Procedure Act and the date of and reason for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1) or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provisions of Financial Services; and
- (g) if the has come to fall under Article 29-4, paragraph (1), item (ii), (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;
- (vi) the cases falling under item (iii) of the preceding Article: the following matters:
- (a) the date of and reason for the filing of petitions for the commencement of

- bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings; and
- (b) the trade name or name of the person that has filed petitions for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings; and
- (vii) the cases falling under item (iv) of the preceding Article: the following matters:
  - (a) the particulars and reasons for the change; and
  - (b) the date of change;
- (viii) in cases of falling under item (v) of the preceding Article: the following matters:
  - (a) the name of the business office or other office if an act against the laws and regulations, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) outline of the problematic conduct, etc.;
- (ix) the cases falling under item (vi) of the preceding Article: the following matters:
  - (a) the name of the business office or other office if an act against the laws and regulations, etc. occurred;
  - (b) affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.;
  - (c) details of the problematic conduct, etc.; and
  - (d) if any internal action has been taken, the details thereof;
- (x) in the case of falling under item (vii) of the preceding Article: the matters specified in the following (a) and (b) in accordance with the categories of cases specified in those (a) and (b):
  - (a) if it has become the party to a suit or conciliation: the following matters:
    1. the name and address of the party of the suit or conciliation;
    2. the day when the action or conciliation was filed;
    3. the name of the court with jurisdiction; and
    4. the details of the case;
  - (b) if the action or conciliation has been concluded, the following matters:
    1. the name and address of the party of the suit or conciliation;
    2. the day when the action or conciliation was concluded; and
    3. the details of the judgment or settlement;
- (xi) the cases falling under item (viii) of the preceding Article: the following matters:
  - (a) the details of the adverse disposition; and
  - (b) the date when the financial instruments business operator, etc. came to

be subject to the adverse disposition and the reasons therefor.

(2) The written notification under the preceding paragraph may be prepared in English.

(Documents to Be Attached to Written Notification)

Article 343 (1) In cases of falling under any of the categories of the cases listed in the following items, a high-speed trader which makes a notification under Article 66-60 of the Act must attach the document specified in the relevant item to the written notification stating the matters prescribed in paragraph (1) of the preceding Article:

(i) in the case of falling under Article 66-60, item (ii): the documents specified in the following (a) through (c) in accordance with the categories of cases listed in those (a) through (c):

(a) in the case of a merger with another corporation, the following documents:

1. the document stating the contents of the merger agreement and the procedures for the merger;
2. the latest balance sheets of the parties (including notes in reference thereto; the same applies in item (b), 2. and (c), 2.); and
3. the net assets after the completion of the merger.

(b) in the case of the succession of all or part of the business of any other corporation through a split, the following documents:

1. the document stating the contents of the absorption-type split agreement and the procedures for the split;
2. the latest balance sheets of the parties; and
3. the document stating the net assets after the completion of the split.

(c) in cases of acquiring all or part of the business from any other corporation, the following documents:

1. the document stating the contents of the business acquisition contract and the procedures for the acquisition of the business;
2. the latest balance sheets of the parties; and
3. the document specifying the net assets after the acquisition of the business;

(ii) the case falling under Article 66-60, item (iii) of the Act: the following documents

(a) the copies of the documents related to the filing of petitions for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings; and

(b) the latest daily accounts sheet.

(iii) in the case of falling under Article 341, item (i): the matters specified in

the following (a) through (e) in accordance with the categories of cases listed in those (a) through (e):

- (a) if a high-speed trader has come to fall under Article 29-4, paragraph (1), item (i), (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following documents:
  - 1. a copy of the written order for rescission or discontinuation, or any other document in lieu thereof; and
  - 2. a copy of the laws and regulations of the foreign state and the Japanese translation thereof;
- (b) if a high-speed trader has come to fall under Article 29-4, paragraph (1), item (i), (c) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
- (c) if the high-speed trader has come to fall under Article 66-53, item (v), (b) of the Act, a certificate of registered information or any other document in lieu thereof;
- (d) if a high-speed trader has come to fall under Article 66-53, item (vi), sub-item (a) of the Act (excluding the part pertaining to item (v), sub-item (a), 1. of that Article), the following documents:
  - 1. if the high-speed trader has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  - 2. if the high-speed trader has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
  - 3. if the high-speed trader has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the written order for rescission or discontinuation of business or a document in lieu thereof, as well as a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation of business and the Japanese translation thereof;
- (e) if a high-speed trader falls under Article 66-53, item (vii) of the Act, a daily accounting sheet as of the day when the net assets become less than the amount specified in Article 18-4-10 of the Order, and the document specifying the calculated net assets as of that day;
- (iv) the cases falling under Article 341, item (ii) (limited to the part pertaining

to sub-item (b)): the following documents:

- (a) if the officer has come to fall under Article 29-4, paragraph (1), item (ii), (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  - (b) if the officer has come to fall under Article 29-4, paragraph (1), item (ii), (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
  - (c) if the officer has come to fall under Article 29-4, paragraph (1), item (ii), (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the written order for rescission or discontinuation of business or a document in lieu thereof, as well as a copy of the laws and regulations of the foreign state which served as the basis of such rescission or discontinuation of business and the Japanese translation thereof;
  - (v) the cases falling under Article 341, item (iii): the latest daily account sheet;
  - (vi) the cases falling under Article 341, item (iv): the articles of incorporation after the change;
  - (vii) the cases falling under Article 341, item (viii): a copy of the laws and regulations of a foreign state which provides for the adverse disposition, and the Japanese translation thereof.
- (2) The written notification under the items of the preceding paragraph may be prepared in English.

(Notification of the Discontinuation of Business)

- Article 344 (1) A person that intends to file a notification pursuant to the provisions of Article 66-61, paragraph (1) of the Act must submit to the Commissioner of the Financial Services Agency or other competent official a written notification stating the matters listed in the following items, in accordance with the categories of the cases set forth respectively therein:
- (i) the case falling under Article 66-61, paragraph (1), item (i) of the Act: to that effect and the date of death;
  - (ii) the case falling under Article 66-61, paragraph (1), item (ii) of the Act: the date of and reason for the discontinuation;
  - (iii) the case falling under Article 66-61, paragraph (1), item (iii) of the Act: the following matters:
    - (a) the trade name or name of the other party to the merger;
    - (b) the date of and reasons for the merger;
    - (c) the method of implementing a merger;
  - (iv) the case falling under Article 66-61, item (iv) of the Act: the following matters:



- (a) the day when the petition for the commencement of bankruptcy proceedings was filed; and
- (b) the day when the order for the commencement of bankruptcy proceedings was issued.
- (v) the case falling under Article 66-61, paragraph (1), item (v) of the Act: the date of and reason for the dissolution;
- (vi) the case falling under Article 66-61, paragraph (1), item (vi) of the Act: the following matters:
  - (a) the trade name or name of the successor; and
  - (b) the date of and reasons for the split.
- (vii) the case falling under Article 66-61, paragraph (1), item (vii) of the Act: the following matters:
  - (a) the trade name or name of the transferee; and
  - (b) the date of and reasons for the transfer.
- (2) The documents listed in the following items must be attached to the written notification specified in the preceding paragraph, in accordance with the categories of the cases set forth respectively therein:
  - (i) the case falling under Article 66-61, paragraph (1), item (i) or (ii) of the Act: the latest daily accounts sheet
  - (ii) in case falling under Article 66-61, paragraph (1), item (iii) of the Act: the document stating the contents of the merger agreement and the procedures for the merger
  - (iii) in case falling under Article 66-61, paragraph (1), item (iv) of the Act: a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or a document stating the details of the order for the commencement of bankruptcy proceedings
  - (iv) in case falling under Article 66-61, paragraph (1), item (vi) of the Act: the document stating the contents of the incorporation-type split plan or the absorption-type split agreement, and the procedures for the split; and
  - (v) in case falling under Article 66-61, paragraph (1), item (vii) of the Act: the document stating the details of the business transfer contract.
- (3) The written notification under paragraph (1) and the documents specified in the items of the preceding paragraph may be prepared in English.

(Public Notice for Persons Whose Whereabouts Are Unidentifiable)

Article 345 The public notice prescribed in Article 66-63, paragraph (3) of the Act is to be given by means of publication in the Official Gazette.

(Public Notice of Supervisory Disposition)

Article 346 The public notice prescribed in Article 66-65 of the Act is to be given by means of publication in the Official Gazette.

## Chapter VI Miscellaneous Provisions

(Travel Expenses and Other Expenses Payable for Witnesses)

Article 347 (1) Pursuant to the provisions of Article 191 of the Act, travel expenses equivalent to those payable to officials at the second grade specified in the Administrative Service (I) Salary Schedule of Article 6, paragraph (1), item (i), (a) of the Act on Remuneration of Officials in Regular Service (Act No. 95 of 1950) are paid to witnesses or expert witnesses, as specified by the Act on Travel Expenses of National Public Officers (Act No. 114 of 1950).

(2) Beyond the travel expenses set forth in the preceding paragraph, reasonable costs may be paid to expert witnesses, if the Commissioner of the Financial Services Agency and other officials deem it necessary.

(Part Designated to Receive Written Applications)

Article 348 (1) If the association has been delegated to handle the registration work set forth in Article 64-7, paragraph (1) of the Act pursuant to the provisions of Article 64-7, paragraph (1) of the Act (including as applied mutatis mutandis pursuant to Article 66-25) or paragraph (2) of that Article, the written application for registration, etc. is submitted to the association (if the written application is to be submitted by a financial instruments intermediary service provider, the association to which any of its entrusting financial instruments business operators, etc. belongs).

(2) If any person that intends to obtain a registration under Article 29, Article 33-2 or Article 66-50 of the Act, and intends to submit a written application for registration under Article 5, Article 43, Article 257 or Article 326, paragraph (1) to the Director-General of a Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau, and if the location of the head office, etc. of the person seeking registration falls within the jurisdictional district of the finance branch office, the Otaru Branch or the Kitami Branch, the person seeking the registration must submit a written application for registration and a copy thereof, as well as one copy of the attachments set forth respectively in Article 5, Article 43, Article 257 or that paragraph via the head of the finance branch office, the head of the Otaru Branch or the head of the Kitami Branch.

(3) If any financial instruments business operator, etc., authorized transaction-at-exchange operator, notifier of specially-permitted business, notifier of specially permitted services for foreign investors, etc., financial instruments intermediary service provider or high-speed trader intends to submit to the competent Director-General of a Local Finance Bureau, etc., the competent Director-General of a Local Finance Bureau, etc. for the notification of

financial instruments business operator, etc., the address of the representative person in Japan of the authorized transaction-at-exchange operator, the location of the head office, etc. of the notifier of specially-permitted business, the location of the head office, etc. of the notifier of specially permitted services for foreign investors, etc., the location of the head office, etc. of the financial instruments intermediary service provider or the location of the head office, etc. of the high-speed trader falls within the jurisdictional district of the finance branch office, the Otaru Branch or the Kitami Branch, such financial instruments business operator, etc., authorized transaction-at-exchange operator, notifier of specially-permitted business, notifier of specially permitted services for foreign investors, etc., financial instruments intermediary service provider or high-speed trader must submit the relevant document and a copy thereof via the head of the finance branch office, the head of the Otaru Branch or the head of the Kitami Branch.

- (4) With regard to the party designated to receive the written notification to be submitted by a director or executive officer (in the case of a foreign corporation, its representative person in Japan, director or executive officer or any other person holding a position equivalent thereto (limited to a person engaged in the business relevant to the financial instruments business)) of a financial instruments business operator (limited to an operator engaged in type I financial instruments business or investment management business) pursuant to the provisions of Article 31 and the party designated to receive the written notifications set forth respectively in Article 204, Article 241, Article 243, Article 246-22, Article 246-26, Article 286 and Article 344, such parties designated to receive documents are dealt with in the same manner as those set forth in the preceding paragraph.

(Documents Which May Be Submitted by Means of Using Information and Communications Technology)

Article 349 The relevant person may submit the documents submitted to the Commissioner of the Financial Services Agency, etc. pursuant to this Cabinet Office Order which are specified by the Commissioner of the Financial Services Agency through a means of using information and communications technology

that is specified by the Commissioner of the Financial Services Agency.

(Standard Processing Period)

Article 350 (1) If any application for registration, authorization, approval, permission or confirmation listed in any of the following items has been filed, the Commissioner of the Financial Services Agency or other official is to endeavor to render the disposition related to such application within the period set forth respectively in the relevant items, counting from the date of the arrival of such application at the relevant office:

- (i) a registration under Article 29, Article 33-2, Article 66, Article 66-27 and Article 66-50 of the Act, an authorization under Article 30, paragraph (1) of the Act and a permission under Article 60, paragraph (1) and Article 60-14, paragraph (1) of the Act of the Act: two months;
- (ii) a registration of change under Article 31, paragraph (4) of the Act; an authorization under paragraph (6) of that Article; a permission under Article 59, paragraph (1) of the Act; an approval under Article 35, paragraph (4), the proviso to Article 44-3, paragraph (1), the proviso to Article 44-3, paragraph (2) and Article 49-4, paragraph (2) of the Act and under Article 15-13, item (iii) of the Order; and a confirmation under the proviso to Article 39, paragraph (3) of the Act (including as applied mutatis mutandis pursuant to Article 66-15 of the Act): one month.

(2) The period referred to in the preceding paragraph is not to include the following periods:

- (i) a period required for any correction to the application;
- (ii) a period necessary for the applicant to amend the particulars of the application; and
- (iii) a period necessary for the applicant to add any material which is deemed necessary for the examination of such application.

### **Supplementary Provisions [Extract]**

(Repeal of the Cabinet Office Order on Securities Corporation's Conduct Control and Other Cabinet Office Orders)

Article 6 The following Cabinet Office Orders are repealed:

- (i) the Cabinet Office Order on Securities Corporation's Conduct Control (Order of Ministry of Finance No. 60 of 1965);
- (ii) the Cabinet Office Order on Registering Business of Sales Person of Japan Securities Dealers Association (Order of the Prime Minister's Office and the Ministry of Finance No. 5 of 1998);
- (iii) the Cabinet Office Order Specifying Securities Provided in Article 17-2, Paragraph (1), Item (ii) and Paragraph (2) of That Article of the Order for

- Enforcement of the Securities and Exchange Act (Order of the Prime Minister's Office and the Ministry of Finance No. 12 of 1998);
- (iv) the Cabinet Office Order on Securities Corporation (Order of the Prime Minister's Office and the Ministry of Finance No. 32 of 1998);
- (v) the Cabinet Office Order on Securities Business Conducted by Financial Institution (Order of the Prime Minister's Office and the Ministry of Finance No. 35 of 1998);
- (vi) the Cabinet Office Order on Securities Corporation's Segregated Custody (Order of the Prime Minister's Office and the Ministry of Finance No. 36 of 1998);
- (vii) the Cabinet Office Order on Securities Corporation's Capital Requirements (Cabinet Office Order No. 23 of 2001); and
- (viii) the Cabinet Office Order on Securities Broker (Cabinet Office Order No. 1 of 2004).

(Transitional Measures Incidental to Repeal of the Cabinet Office Order on Securities Corporation)

Article 7 The approval granted under the proviso to Article 51, paragraph (2) of the former Securities and Exchange Act is deemed to be the approval granted under Article 175, paragraph (2).

(Transitional Measures Incidental to Repeal of the Cabinet Office Order on Securities Business Conducted by Financial Institution)

Article 8 The approval granted under the proviso to Article 51, paragraph (2) of the former Securities and Exchange Act as applied mutatis mutandis pursuant to Article 65-2, paragraph (7) of that Act is deemed to be the approval granted under Article 189, paragraph (2).

(Transitional Measures Incidental to Repeal of the Cabinet Office Order on Securities Corporation's Segregated Custody)

Article 9 The trust manager set forth in Article 8, paragraph (1) of the Trust Act (Act No. 62 of 1922) prior to the revision by Article 1 of the Act on Arrangement of Relevant Acts Incidental to Enforcement of the Trust Act (Act No. 109 of 2006) related the trust to which the provisions then in force remain applicable pursuant to Article 2 of that Act are deemed to be an agent for the beneficiaries, and the provisions of Article 141, paragraph (1), items (ii), (iii) and (xi) and Article 141, paragraph (6) apply.

(Transitional Measures on Requirements for Individuals Who May Request Treatment as Professional Investors)

Article 10 For the purpose of the application of Article 62, item (iii), a contract

for conducting any of the acts listed in the items of Article 2, paragraph (8) of the Act concluded before the enforcement date is deemed to be a financial instruments transaction contract set forth in item (iii) of that Article.

(Transitional Measures on Delivery of Explanatory Documents on Listed Securities)

Article 13 (1) A securities corporation set forth in Article 2, paragraph (9) of the former Securities and Exchange Act may deliver the document to the customer (limited to the customer with which the securities company has concluded a contract under Article 2, paragraph (1) of the Supplementary Provisions before it delivers such document pursuant to this paragraph) prior to the enforcement date, as governed by the same rules as Article 80, paragraph (1), item (i). In this case, the deemed registered type-I business operator prescribed in Article 18, paragraph (2) of the Supplementary Provisions of the revised Act is deemed to have delivered the explanatory document on listed securities, etc. to the customer pursuant to that item.

(2) For the purpose of the application of Article 80, paragraph (1), item (i) and, paragraph (3), the day when the document was delivered under the first sentence of the preceding paragraph is deemed to be the day when the explanatory document on listed securities, etc. under that item and paragraph (3) of that Article was delivered.

(Transitional Measures on the Delivery of Document for Delivery Prior to Conclusion of Contract)

Article 14 (1) If any financial instruments business operator, etc. intends to conclude any financial instruments transaction contract on or after the enforcement date, and it has delivered to its customer prior to the enforcement date a document with regard to the contract for conducting the same type of act as that provided for in such financial instruments transaction contract as governed by the same rules as Article 37-3, paragraph (1) of the Act, such financial instruments business operator, etc. is deemed to have delivered to the customer the document for delivery prior to conclusion of contract pursuant to that paragraph, and the provisions of Article 80, paragraph (1), item (ii) apply.

(2) If any financial instruments business operator, etc. intends to conclude any financial instruments transaction contract on or after the enforcement date, and it has delivered to its customer prior to the enforcement date a document with regard to the contract for conducting the same type of act as that provided for in such financial instruments transaction contract pursuant to the provisions of Article 70, paragraph (1) of the former Financial Futures Trading Act or Article 16 of the former Act on Control for Business Pertaining to Commodity Investment, such financial instruments business operator, etc. is

deemed to have delivered to the customer the document for delivery prior to conclusion of contract pursuant to Article 37-3, paragraph (1) of the Act, and the provisions of Article 80, paragraph (1), item (ii) apply.

- (3) For the purpose of the application of Article 80, paragraph (1), item (ii), the date when the document was delivered under the preceding two paragraphs is deemed to be the day when the document for delivery prior to conclusion of contract under that item was delivered.

(Transitional Measures on the Prohibition of the Provision of Undisclosed Information)

Article 17 The provisions of Article 153, paragraph (1), item (vii) do not apply for the time being to any person that is deemed to be a financial instruments business operator pursuant to the provisions of Article 15, paragraph (2), Article 16, paragraph (2), Article 17, paragraph (2) and Article 18, paragraph (2) of the Supplementary Provisions of the Cabinet Order on Arrangement of Relevant Cabinet Orders Incidental to Enforcement of the Act on Partial Revision of the Securities and Exchange Act and Enforcement of the Act on Arrangement of Relevant Acts Incidental to Enforcement of the Act on Partial Revision of the Securities and Exchange Act (Cabinet Order No. 233 of 2007; hereinafter referred to as the "Cabinet Order on Arrangement").

(Transitional Measures on Books and Documents)

Article 18 If, within the period before the day on which one year has elapsed from the day of the enforcement of this Cabinet Office Order, any financial instruments business operator has, in relation to the financial instruments business it conducts, prepared books and documents equivalent to those listed in the items of Article 157, paragraph (1) (excluding items (i) and (ii); hereinafter the same applies in this Article) or in the items of Article 181, paragraph (1) (excluding item (i); hereinafter the same applies in this Article), such books and documents are deemed to be the books and documents listed in the items of Article 157, paragraph (1) or the items of Article 181, paragraph (1).

Article 19 If, within the period before the day on which one year has elapsed from the day of the enforcement of this Cabinet Office Order, any registered financial institution has, in relation to the registered financial institution business it conducts, prepared books and documents equivalent to those listed in the items of Article 184, paragraph (1) (excluding item (i); hereinafter the same applies in this Article), such books and documents are deemed to be the books and documents listed in the items of Article 184, paragraph (1).

(Effect of Dispositions)

Article 29 The dispositions imposed, procedures taken or other acts committed pursuant to the provisions of the Cabinet Office Orders listed in the items of Article 6 of the Supplementary Provisions prior to the revision by that Article before the enforcement of the revised Act, for which the corresponding provisions exist in the provisions of this Cabinet Office Order, are deemed to have been imposed, taken or committed pursuant to the corresponding provisions of this Cabinet Office Order, except as otherwise provided in the Supplementary Provisions of the Revised Act, the Supplementary Provisions of the Cabinet Order on Arrangement or these Supplementary Provisions.

(Transitional Measures on the Application of Penal Provisions)

Article 30 With regard to the application of penal provisions to acts committed prior to the enforcement of this Cabinet Office Order, the provisions then in force remain applicable.

(Notification of Specially Permitted Services for the Transitional Period)

Article 31 (1) A foreign investment management business operator (meaning the foreign investment management business operator prescribed in Article 3-3, paragraph (1) of the Supplementary Provisions of the Act; the same applies hereinafter) or a subsidiary company (meaning the subsidiary company prescribed in Article 29-4, paragraph (4) of the Act) of a foreign investment management business operator that intends to file a notification under Article 3-3, paragraph (1) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) must submit a written notification on the specially permitted services for the transitional period (meaning the specially permitted services for the transitional period prescribed in Article 3-3, paragraph (5) of the Supplementary Provisions of the Act, and if applied mutatis mutandis pursuant to paragraph (7) of that Article, the services pertaining to the acts prescribed in that paragraph; the same applies hereinafter) that is prepared using Appended Form 31 to the competent Director-General of a Local Finance Bureau or other competent official for specially permitted services for the transitional period (meaning the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, etc. of the notifier (if the relevant location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof); the same applies hereinafter)), attaching a copy thereof.

(2) The written notification under the preceding paragraph may be prepared in English in accordance with Appended Form No. 31.



(Employees of Foreign Investment Management Business Operator, etc.)

Article 32 (1) The person to be specified by Cabinet Office Order as referred to in paragraph (3), item (i) of the Supplementary Provisions of the Order is a person that holds a position whereby the person may exercise authority on behalf of a person that supervises the business operation as prescribed in that item, such as a general manager, vice-chief, section manager or any other person irrespective of the job title.

(2) The persons to be specified by Cabinet Office Order as referred to in paragraph (3), item (ii) of the Supplementary Provisions of the Order are persons that make investment decisions based on analysis of the values, etc. of financial instruments.

(Matters to Be Notified in Relation to Specially Permitted Services for the Transitional Period)

Article 33 The matters to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (1), item (ix) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) are the following matters:

- (i) the telephone number and the website URL of the principal business office or other office (in the case of a foreign corporation, including the principal business office or other office in Japan) and the business office or other office for specially permitted services for the transitional period;
- (ii) the day on which the foreign investment management business operator (in the case of a person falling under the case specified by Cabinet Order as referred to in Article 3-3, paragraph (3), item (i), sub-item (b) of the Supplementary Provisions of the Act, the foreign investment management business operator and the persons set forth in the items of paragraph (5) of the Supplementary Provisions of the Order; the same applies in the following item) commenced services pertaining to the investment management business in a foreign state (meaning the foreign state prescribed in Article 3-3, paragraph (3), item (i), sub-item (a) of the Supplementary Provisions of the Act; the same applies in Article 44, paragraph (1), item (i), and Article 49, paragraph (1), item (xi), and item (xii), sub-item (f), paragraph (2), item (i), and item (xi), sub-item (a)) in compliance with the laws and regulations of that foreign state;
- (iii) if the foreign investment management business operator (if applied mutatis mutandis pursuant to Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, the foreign investment management business operator and the subsidiary company) has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of a foreign state equivalent to the Act within three years

prior to the date of notification, the date when becoming subject to the adverse disposition, the reasons therefor, and the details of the adverse disposition;

(iv) if the notifier is a corporation, the following matters:

(a) the names of persons that are found to have the same or a higher authority over the corporation as directors, executive officers or any persons holding positions equivalent thereto, irrespective of their job title, such as advisor, consultant or others; and

(b) the following matters related to major shareholders (meaning the major shareholders prescribed in Article 3-3, paragraph (3), item (ii), sub-item (e) of the Supplementary Provisions of the Act, and if applied mutatis mutandis pursuant to paragraph (7) of that Article, excluding the foreign investment management business operator; the same applies in item (vi), sub-item (f), and Article 44, paragraph (1), item (xi), sub-item (h), Article 47, paragraph (2), item (iv), sub-items (b) and (c), Article 49, paragraph (1), item (xiii), and item (xv), sub-item (h), and paragraph (2), item (xi), sub-item (n), Article 50, item (i), sub-item (d), and item (ix), sub-item (d), Article 51, paragraph (1), item (vi), and Article 52, paragraph (1), item (iv) of the Supplementary Provisions):

1. the trade name or name;

2. the location of the head office or principal office (in the case of an individual, the domicile or residence); and

3. in the case of a corporation, the name of its representative;

(v) if the notifier is a foreign corporation, the location or address and telephone number of the representative person in Japan;

(vi) if applied mutatis mutandis pursuant to Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, the following matters related to the foreign investment management business operator:

(a) the trade name or name;

(b) the amount of stated capital or the total amount of investment;

(c) the names of officers (including those that are found to have the same or a higher authority over the corporation as directors, executive officers or any persons holding positions equivalent thereto, irrespective of their job title, such as advisor, consultant or others; the same applies in Article 36, Article 44, paragraph (1), items (ix) and (xi), Article 47, paragraph (2), item (iii), sub-item (b), Article 49, paragraph (1), item (v), and item (xv), sub-item (c), and paragraph (2), items (ix) and (xi), Article 50, item (i), sub-item (b), and item (ix), sub-item (b), Article 51, paragraph (1), item (iv), sub-item (a), and Article 52, paragraph (1), item (ii) of the Supplementary Provisions);

(d) if the notifier has major employees (meaning the employees prescribed in

paragraph (3) of the Supplementary Provisions of the Order; the same applies in Article 44, paragraph (1), items (ix) through (xi), Article 47, paragraph (2), item (iii), sub-item (b), Article 49, paragraph (1), item (vi), and item (xv), sub-item (d), and paragraph (2), items (ix) through (xi), Article 50, item (i), sub-item (b), item (ii), sub-item (b), and item (ix), sub-item (b), Article 51, paragraph (1), item (iv), sub-item (a), and Article 52, paragraph (1), item (ii) of the Supplementary Provisions), their names; (e) the name and location of the main business office or other office; and (f) the following matters related to major shareholders:

1. the trade name or name;
2. the location of the head office or principal office (in the case of an individual, the domicile or residence); and
3. in the case of a corporation, the name of its representative.

(States or Territories Having a System for Persons Engaging in Investment Management Business Found to Have Equivalent Standards to That in Japan for Protecting Investors)

Article 34 The states or territories to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (3), item (i), sub-item (a) of the Supplementary Provisions of the Act are states or territories designated by the Commissioner of the Financial Services Agency in consideration of the status of the regulations on the investment management business under their laws and regulations and the activities of persons engaging in the investment management business, or any other circumstances.

(Company Split or Business Transfer)

Article 35 (1) The cases to be specified by Cabinet Office Order as referred to in Article 5, item (ii) of the Supplementary Provisions of the Order are the cases where it is found that the investment management business can be conducted in the business to be succeeded to through company split in itself.  
(2) The cases to be specified by Cabinet Office Order as referred to in Article 5, item (iii) of the Supplementary Provisions of the Order are the cases where it is found that the investment management business can be conducted in the business to be transferred in itself.

(A Person Who Lacks the Personnel Structure Sufficient to Conduct Specially Permitted Services for the Transitional Period in an Appropriate Manner)

Article 36 The person to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (3), item (i), sub-item (d) of the Supplementary Provisions of the Act (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article) is a person that falls under any of the following

items:

- (i) a person who is not able to perform the services in a proper manner, in light of the status of securing officers or employees having sufficient knowledge and experience for performing the services as well as its organizational structure; or
- (ii) a person who is likely to cause a loss of confidence in specially permitted services for the transitional period, on the grounds of having any officer or employee with qualities unfit for the operation of the services in light of the officer's or employee's career, relationship with the organized crime group set forth in Article 2, item (ii) of the Act on Prevention of Illegal Acts by Organized Crime Group Members or relationship with the organized crime group members set forth in item (vi) of that Article or any other circumstances.

(A Person Who is Not Found to Have Established a System Necessary for Performing Specially Permitted Services for the Transitional Period in an Appropriate Manner)

Article 37 The person to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (3), item (i), sub-item (e) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) is a person who has not created internal rules for performing specially permitted services for the transitional period in an appropriate manner (limited to internal rules that include provisions on measures to prevent persons other than foreign investors, etc. (meaning the foreign investors, etc. prescribed in paragraph (6) of that Article and limited to those who fall under none of paragraph (5), item (i), sub-item (a), 1. to 3. of that Article; the same applies in Articles 60, 62, and 63 of the Supplementary Provisions) to become a right holder (including the persons set forth in Article 15-10-4, item (ii) of the Order)), or a person who has not established a system to comply with the internal rules.

(Securities Excluded from Share Certificates)

Article 38 The securities to be specified by Cabinet Office Order as referred to in paragraph (6) of the Supplementary Provisions of the Order are the following securities:

- (i) shares for which voting rights cannot be exercised as prescribed in paragraph (6) of the Supplementary Provisions of the Order and for which the articles of incorporation have no provisions to the effect that shares with voting rights are issued in exchange for the acquisition of the relevant shares;
- (ii) share option certificates or corporate bond certificates with share options

with the right to acquire only the shares set forth in the preceding item; and (iii) the securities set forth in paragraph (6), item (ii) of the Supplementary Provisions of the Order of which the entrusted securities are the securities set forth in the preceding two items.

(Replacement of Terms Concerning the Cases Where a Foreign Investment Management Business Operator, etc. Performs Specially Permitted Services for the Transitional Period)

Article 39 When applying the provisions of this Cabinet Office Order pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article), the phrase "Article 246-10, paragraph (3), item (iii)" in Article 1, paragraph (4), item (xii) is deemed to be replaced with "Article 246-10, paragraph (3), item (iii), and Article 64, paragraph (1), item (iii) of the Supplementary Provisions"; the phrase "Article 246-22, paragraph (2), item (iii), sub-item (b)" in item (xiii) of that paragraph is deemed to be replaced with "Article 246-22, paragraph (2), item (iii), sub-item (b), and Article 44, paragraph (1), item (ix), sub-item (a), and item (xi), sub-item (c), Article 47, paragraph (2), item (iii), sub-item (b) (limited to the part pertaining to 1.), and Article 49, paragraph (2), item (ix), sub-item (b), and item (xi), sub-item (i) of the Supplementary Provisions"; the phrase "Section 6-2" in Article 9, item (ii), sub-item (a) is deemed to be replaced with "Section 6-2, and Article 33, item (vi), sub-item (d), Article 44, paragraph (1), items (ix) through (xi), Article 47, paragraph (2), item (iii), sub-item (b), Article 49, paragraph (1), item (vi), and item (xv), sub-item (d), and paragraph (2), items (ix) through (xi), Article 50, item (i), sub-item (b), item (ii), sub-item (b), and item (ix), sub-item (b), Article 51, paragraph (1), item (iv), and Article 52, paragraph (1), item (ii)".

(Exemption from Requirement to Deliver Documents for Delivery Prior to the Conclusion of Contract)

Article 40 The cases to be specified by Cabinet Office Order as referred to in the proviso to Article 37-3, paragraph (1) of the Act that is applied pursuant to the provisions of Article 63-9, paragraph (8) of the Act as applied pursuant to Article 3-3, paragraph (4) of the Supplementary Provisions of the Act are the cases set forth in the items of Article 80, paragraph (1) and the cases where a document similar to a document for delivery prior to conclusion of contract pertaining to the financial instruments transaction contract (limited to a discretionary investment contract) (the relevant document is limited to one prepared based on the laws and regulations of a foreign state pursuant to the provisions of the relevant foreign laws and regulations) has been delivered to the customer or an electronic or magnetic record on which matters to be stated

in the document are recorded has been provided to the customer (including the cases where the customer is a person for whom delivery of that document or provision of that electronic or magnetic record is not required under the provisions of foreign laws and regulations).

(Exemption from Requirement to Deliver Documents for Delivery upon Conclusion of Contract)

Article 41 The cases to be specified by Cabinet Office Order as referred to in the proviso to Article 37-4, paragraph (1) of the Act that is applied pursuant to the provisions of Article 63-9, paragraph (8) of the Act as applied pursuant to Article 3-3, paragraph (4) of the Supplementary Provisions of the Act pertaining to a document for delivery upon conclusion of contract are the cases set forth in the items of Article 110, paragraph (1) and the cases where a document similar to a document for delivery upon conclusion of contract pertaining to the financial instruments transaction contract (limited to a discretionary investment contract) (the relevant document is limited to one prepared based on the laws and regulations of a foreign state pursuant to the provisions of the relevant foreign laws and regulations) has been delivered to the customer or an electronic or magnetic record on which matters to be stated in the document are recorded has been provided to the customer (including the cases where the customer is a person for whom delivery of that document or provision of that electronic or magnetic record is not required under the provisions of foreign laws and regulations).

(Circumstances Where the State of the Operation of Services is Likely to Go Against Public Interest or Compromise the Protection of Investors)

Article 42 The circumstances to be specified by Cabinet Office Order as referred to in Article 40, item (ii) of the Act that is applied pursuant to the provisions of Article 63-9, paragraph (8) of the Act as applied pursuant to Article 3-3, paragraph (4) of the Supplementary Provisions of the Act are the circumstances set forth in the items of Article 123, paragraph (1) and the circumstances where it is found that the foreign investment management business operator has not implemented the measures necessary and appropriate to prevent falling under Article 3-3, paragraph (3), item (i), sub-item (f) of the Supplementary Provisions of the Act.

(Replacement of Terms in the Provisions on the Delivery of Investment Reports)

Article 43 With regard to the application of the provisions of Article 134, paragraph (5) when applying the provisions of the proviso to Article 42-7, paragraph (1) of the Act under the provisions of Article 63-9, paragraph (8) of

the Act as applied pursuant to Article 3-3, paragraph (4) of the Supplementary Provisions of the Act, the phrase "Article 63-8, paragraph (1), item (i)" in Article 134, paragraph (5), item (v) is deemed to be replaced with "Article 3-3, paragraph (5), item (i) of the Supplementary Provisions".

(Documents to Be Attached to Written Notification on Specially Permitted Services for the Transitional Period)

Article 44 (1) The documents to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (2), item (iii) of the Act as applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) are the following documents:

- (i) a document evidencing that the foreign investment management business operator has obtained registration of the same type as that of the registration set forth in Article 29 of the Act (including permission or any other administrative dispositions similar to the registration) for engaging in the investment management business in a foreign state pursuant to the provisions of the laws and regulations of that foreign state;
- (ii) a document stating an outline of the investment management business that the foreign investment management business operator conducts in the foreign state referred to in the preceding item in accordance with the laws and regulations of that foreign state (if there are any restrictions on the following matters or other matters under the laws and regulations or other rules of that foreign state, including the content of the restrictions and grounds therefor):
  - (a) the type of assets subject to the investment and the amount held and the holding ratio thereof;
  - (b) the aggregate amount of money or other properties invested; and
  - (c) the categories of the customers;
- (iii) a document evidencing that three years have elapsed since the foreign investment management business operator commenced the investment management business in the foreign state referred to in item (i) in accordance with the laws and regulations of that foreign state or that the foreign investment management business operator falls under the case specified in paragraph (5) of the Supplementary Provisions of the Order;
- (iv) a copy of a document similar to the latest business report that the foreign investment management business operator (in the case of attaching a document evidencing that the foreign investment management business operator falls under the case specified in paragraph (5) of the Supplementary Provisions of the Order as referred to in the preceding item, including the persons set forth in the items of that paragraph; the same applies in the

- following item and item (viii)) has submitted to the authority of the foreign state set forth in item (i) by which the foreign investment management business operator is supervised;
- (v) if the foreign investment management business operator (if applied *mutatis mutandis* pursuant to Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, the foreign investment management business operator and the subsidiary company) has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of a foreign state equivalent to the Act within three years prior to the date of notification, the following documents:
    - (a) a document certifying the details of the adverse disposition, the date when becoming subject to the adverse disposition, and the reasons therefor; and
    - (b) a copy of the laws and regulations of the foreign state, and the Japanese translation thereof;
  - (vi) documents stating the system for performing services, such as its structure of personnel and the organizational structure pertaining to the services;
  - (vii) internal rules concerning the specially permitted services for the transitional period;
  - (viii) a document stating changes in the percentages of the value of the securities prescribed in paragraph (6) of the Supplementary Provisions of the Order among the aggregate amount of money or other properties invested by the foreign investment management business operator in the most recent business year;
  - (ix) if the notifier is a corporation, the following documents:
    - (a) the resumes of the officers and major employees (if any of the officers is a corporation, a document stating the background of the officer);
    - (b) extracts of the certificates of residence of the officers and major employees (if any of the officers is a corporation, a certificate of registered information of the officer), or any other document in lieu thereof;
    - (c) if the former surname and given name of an officer or major employee are stated together with the current name of the officer or major employee in a written notification under Article 3-3, paragraph (1) of the Supplementary Provisions of the Act (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article), and the document specified in sub-item (b) is not a document certifying the former surname and given name of the officer or major employee, a document certifying the former surname and given name;
    - (d) a certificate issued by a public agency evidencing that none of the officers and major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;



- (e) documents in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
- (f) a document stating the number of subject voting rights (meaning the subject voting rights prescribed in Article 29-4, paragraph (2) of the Act, and including those deemed to be held pursuant to the provisions of paragraph (5) of that Article; the same applies in item (xi), sub-item (h), and Article 47, paragraph (2), item (iv), sub-item (a), and Article 49, paragraph (2), item (ix), sub-item (g), and item (xi), sub-item (n) of the Supplementary Provisions) held by major shareholders (meaning the major shareholders prescribed in Article 3-3, paragraph (3), item (ii), sub-item (e) of the Supplementary Provisions of the Act; the same applies in Article 47, paragraph (2), item (iv), sub-item (a), and Article 49, paragraph (2), item (ix), sub-item (g) of the Supplementary Provisions);
- (x) if the notifier is an individual, the following documents:
  - (a) the resumes of the notifier and major employees;
  - (b) extracts of the certificates of residence of the notifier and major employees, or any other document in lieu thereof;
  - (c) if the former surname and given name of the notifier or major employee are stated together with the current name of the notifier or major employee in a written notification under Article 3-3, paragraph (1) of the Supplementary Provisions of the Act, and the document specified in sub-item (b) is not a document certifying the former surname and given name of the notifier or major employee, a document certifying the former surname and given name;
  - (d) a certificate issued by a public agency evidencing that none of the notifier and major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  - (e) documents in which each of the major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
- (xi) if applied mutatis mutandis pursuant to Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, the following matters related to the foreign investment management business operator:
  - (a) a document in which the foreign investment management business operator pledges that it does not fall under Article 3-3, paragraph (3), items (i) and (ii) (excluding sub-items (b) through (d)) of the Supplementary Provisions of the Act, the articles of incorporation (including a document equivalent thereto), and a certificate of registered information of the corporation (including a document equivalent thereto);
  - (b) documents stating the system for performing services, such as its

structure of personnel and the organizational structure pertaining to the services;

- (c) the resumes of the officers and major employees (if any of the officers is a corporation, a document stating the background of the officer);
  - (d) extracts of the certificates of residence of the officers and major employees (if any of the officers is a corporation, a certificate of registered information of the officer), or any other document in lieu thereof;
  - (e) if the former surname and given name of an officer or major employee are stated together with the current name of the officer or major employee in a written notification under Article 3-3, paragraph (1) of the Supplementary Provisions of the Act as applied mutatis mutandis pursuant to paragraph (7) of that Article, and the document specified in sub-item (d) is not a document certifying the former surname and given name of the officer or major employee, a document certifying the former surname and given name;
  - (f) a certificate issued by a public agency evidencing that none of the officers and major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  - (g) documents in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act; and
  - (h) a document stating the number of subject voting rights held by major shareholders.
- (2) The documents set forth in the items of the preceding paragraph may be prepared in English.

(Public Inspection of Notified Matters Relating to Specially Permitted Services for the Transitional Period by the Commissioner of the Financial Services Agency or Other Official)

Article 45 (1) The Commissioner of the Financial Services Agency or the competent Director-General of a Local Finance Bureau or other competent official for specially permitted services for the transitional period is to keep the records of the matters stated in Appended Form No. 32 of the notifier of specially permitted services for the transitional period (meaning a person who comes to fall under a notifier of specially permitted services for foreign investors, etc. under the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article; the same applies in the following paragraph); the same applies hereinafter) at the Financial Services Agency or the local finance bureau with jurisdiction over the location of the head office, etc. of the notifier of specially permitted services for the transitional period (if

the relevant location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, at the Fukuoka Local Finance Branch Bureau), and make them available for public inspection or publicize them by the use of the internet or other means.

- (2) The matters to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (4) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act are the matters stated in Appended Form No. 32.

(Public Inspection of Notified Matters Relating to Specially Permitted Services for the Transitional Period by Notifier of Specially Permitted Services for the Transitional Period)

Article 46 (1) Pursuant to the provisions of Article 63-9, paragraph (5) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article; the same applies in the following paragraph), a notifier of specially permitted services for the transitional period is to keep a copy of the document prepared using Appended Form No. 32 at its principal business office or other office, or all business offices or other offices for specially permitted services for the transitional period (in the case of a foreign corporation, at its principal business office or other office in Japan and all business offices or other offices in Japan for specially permitted services for the transitional period), and make the information available for public inspection, or publicize them by the use of the internet or other means in a way which allows easy access by investors any time.

- (2) The matters to be specified by Cabinet Office Order as referred to in Article 63-9, paragraph (5) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act are the matters stated in Appended Form No. 32.

- (3) The document under paragraph (1) may be prepared in English in accordance with Appended Form No. 32.

(Notification of Change of Matters Notified in Relation to Specially Permitted Services for the Transitional Period)

Article 47 (1) A notifier of specially permitted services for the transitional period that intends to file a notification under Article 63-9, paragraph (7) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article; hereinafter the same applies in this paragraph) must submit a written notification stating the particulars and the date of and the reasons for the change to the Commissioner of the Financial

Services Agency or other competent official for the notification of specially permitted services for the transitional period (meaning the Commissioner of the Financial Services Agency in the case of a notifier of specially permitted services for the transitional period designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Order that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act, and meaning the competent Director-General of a Local Finance Bureau or other competent official for specially permitted services for the transitional period in the case of other notifier of specially permitted services for the transitional period; the same applies hereinafter), attaching a document stating the particulars after said change prepared using Appended Form No. 31 and a copy thereof.

- (2) The documents specified in the following items are to be attached to the written notification under the preceding paragraph in accordance with the category of the cases set forth in those items; provided, however, that the documents may be submitted without delay after submission of the written notification, if any unavoidable ground exists:
- (i) if there is a change to the matters specified in Article 3-3, paragraph (1), item (i) of the Supplementary Provisions of the Act or Article 33, item (vi), sub-item (a) of the Supplementary Provisions: the following documents:
    - (a) a certificate of registered information (in the case of an individual, an extract of residence certificate) stating the matters relating to the change, or any other document in lieu thereof; and
    - (b) if the former surname and given name are stated in the document stating the particulars after the change that is prepared using Appended Form No. 31 together with the current name, and the document set forth in sub-item (a) is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  - (ii) if there is a change to the matters specified in Article 3-3, paragraph (1), item (ii) or (vi) of the Supplementary Provisions of the Act or Article 33, item (vi), sub-item (b) or (e) of the Supplementary Provisions: a certificate of registered information stating the matters relating to the change, or any other document in lieu thereof;
  - (iii) if there is a change to the matters specified in Article 3-3, paragraph (1), item (iii) or (iv) of the Supplementary Provisions of the Act or Article 33, item (iv), sub-item (a), or item (vi), sub-item (c) or (d) of the Supplementary Provisions: the following documents:
    - (a) in the case of any change of officers, a certificate of the registered information stating the matters relating to the change, or any other document in lieu thereof;
    - (b) the following documents in relation to the persons that have newly

- assumed the position as officer or major employee:
1. the resumes (if any of the officers is a corporation, a document stating the background of the officer);
  2. extracts of the certificates of residence (if any of the officers is a corporation, a certificate of the registered information of the officer), or any other document in lieu thereof;
  3. if the former surname and given name are stated in the document stating the particulars after the change that is prepared using Appended Form No. 31 together with the current name, and the document set forth in 2. Is not a document certifying the former surname and given name, a document certifying the former surname and given name;
  4. a certificate issued by a public agency evidencing that none of the officers falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  5. documents in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act;
  6. if the notifier of specially permitted services for the transitional period is a corporation, a document in which the notifier of specially permitted services for the transitional period pledges that it does not fall under Article 3-3, paragraph (3), item (ii), sub-items (a) of the Supplementary Provisions of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act) (if there has been a change to the matters specified in Article 33, item (vi), sub-item (c) or (d) of the Supplementary Provisions, a document in which the foreign investment management business operator pledges that it does not fall under Article 3-3, paragraph (3), item (ii), sub-items (a) of the Supplementary Provisions of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act));
  7. if the notifier of specially permitted services for the transitional period is an individual, a document to pledge that it does not fall under Article 3-3, paragraph (3), item (ii), sub-items (a) of the Supplementary Provisions of the Act (limited to the part pertaining to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act);
- (iv) if there has been a change to the matters specified in Article 33, item (iv), sub-item (b), or item (vi), sub-item (f) of the Supplementary Provisions, the following documents:
- (a) a document stating the number of subject voting rights held by major shareholders (if there has been a change to the matters specified in Article 33, item (vi), sub-item (f) of the Supplementary Provisions, by major

- shareholders of the foreign investment management business operator);
- (b) if there is a person who newly becomes a major shareholder (if there has been a change to the matters specified in Article 33, item (vi), sub-item (f) of the Supplementary Provisions, a major shareholder of the foreign investment management business operator; the same applies in sub-item (c)) and the major shareholder is an individual, a document to pledge that the person does not fall under Article 3-3, paragraph (3), item (ii), sub-item (e) of the Supplementary Provisions of the Act (if there has been a change to the matters specified in Article 33, item (vi), sub-item (f) of the Supplementary Provisions, a document in which the foreign investment management business operator pledges that it does not fall under item (ii), sub-item (e) of that paragraph); and
  - (c) if there is a person who newly becomes a major shareholder and the major shareholder is a corporation, a document to pledge that it does not fall under Article 3-3, paragraph (3), item (ii), sub-item (f) of the Supplementary Provisions of the Act (if there has been a change to the matters specified in Article 33, item (vi), sub-item (f) of the Supplementary Provisions, a document in which the foreign investment management business operator pledges that it does not fall under item (ii), sub-item (f) of that paragraph).
- (3) The written notification under paragraph (1) and the documents specified in the items of the preceding paragraph may be prepared in English.
- (4) The document under paragraph (1) may be prepared in English in accordance with Appended Form No. 31.

(Notification in the Cases of Exclusion from Definition as Specially Permitted Services for the Transitional Period)

Article 48 (1) A notifier of specially permitted services for the transitional period that intends to file a notification under Article 63-9, paragraph (10) of the Act that is applied pursuant to the provisionos of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) must submit a written notification stating that fact, the date when the business came to be excluded from the definition of the specially permitted services for the transitional period and the reasons therefor, to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for the transitional period.

- (2) The written notification under the preceding paragraph may be prepared in English.

(Notification of Succession of Status of a Notifier of Specially Permitted

Services for the Transitional Period)

- Article 49 (1) A person that intends to file a notification under Article 63-10, paragraph (2) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) must submit a written notification stating the following matters (if applied mutatis mutandis pursuant to Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, excluding the matters set forth in item (xi)), to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for the transitional period pertaining to the notifier of specially permitted services for the transitional period (limited to a person who comes to fall under a notifier of specially permitted services for foreign investors, etc. under the provisions of Article 63-10, paragraph (1) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act):
- (i) the trade name or name of the successor;
  - (ii) the date of and the reasons for the succession;
  - (iii) the means of succession;
  - (iv) if the successor is a corporation, the amount of stated capital or the total amount of investment;
  - (v) if the successor is a corporation, the names of its officers;
  - (vi) if the successor has major employees, their names;
  - (vii) the name and address of the principal business office or other office (in the case of a foreign corporation, including the principal business office or other office in Japan; the same applied in item (x)) of the successor;
  - (viii) the name and address of the business office or other office where the successor performs specially permitted services for the transitional period;
  - (ix) if the successor conducts other business, the type of the relevant business;
  - (x) the telephone number and the website URL of the principal business office or other office of the successor and the business office or other office for specially permitted services for the transitional period;
  - (xi) the day on which the successor (in the case of a person falling under the case specified by Cabinet Order as referred to in Article 3-3, paragraph (3), item (i), sub-item (b) of the Supplementary Provisions of the Act, the successor and the persons set forth in the items of paragraph (5) of the Supplementary Provisions of the Order; the same applies in the following item and items (iv), (v), and (viii) of the following paragraph) commenced services pertaining to the investment management business in a foreign state in accordance with the laws and regulations of that foreign state;
  - (xii) if the successor has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of a foreign state

- equivalent to the Act within three years prior to the date of notification, the date when becoming subject to the adverse disposition, the reasons therefor, and the details of the adverse disposition;
- (xiii) if the successor is a corporation, the following matters related to major shareholders:
    - (a) the trade name or name;
    - (b) the location of the head office or principal office (in the case of an individual, the domicile or residence); and
    - (c) in the case of a corporation, the name of its representative;
  - (xiv) if the successor is a foreign corporation, the location or address and telephone number of the representative person in Japan;
  - (xv) if the successor performs services pertaining to the acts specified in Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, the following matters related to the foreign investment management business operator:
    - (a) the trade name or name;
    - (b) the amount of stated capital or the total amount of investment;
    - (c) the names of its officers;
    - (d) if the successor has major employees, their names;
    - (e) the name and location of the main business office or other office;
    - (f) the day on which the foreign investment management business operator (in the case of a person falling under the case specified by Cabinet Order as referred to in Article 3-3, paragraph (3), item (i), sub-item (b) of the Supplementary Provisions of the Act, the foreign investment management business operator and the persons set forth in the items of paragraph (5) of the Supplementary Provisions of the Order; the same applies in sub-item (g), and item (xi), sub-items (d), (e) and (g) of the following paragraph) commenced services pertaining to the investment management business in a foreign state in accordance with the laws and regulations of that foreign state;
    - (g) if the foreign investment management business operator has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of a foreign state equivalent to the Act within three years prior to the date of notification, the date when becoming subject to the adverse disposition, the reasons therefor, and the details of the adverse disposition;
    - (h) the following matters related to major shareholders:
      1. the trade name or name;
      2. the location of the head office or principal office (in the case of an individual, the domicile or residence); and
      3. in the case of a corporation, the name of its representative.
- (2) The following documents (if applied mutatis mutandis pursuant to Article 3-3,



paragraph (7) of the Supplementary Provisions of the Act, excluding the documents set forth in items (i) through (iv) and (viii)) must be attached to the written notification under the preceding paragraph; provided, however, that the documents may be submitted without delay after submission of the written notification, if any unavoidable ground exists:

- (i) a document evidencing that the successor has obtained registration of the same type as that of the registration set forth in Article 29 of the Act (including permission or any other administrative dispositions similar to the registration) for engaging in the investment management business in a foreign state pursuant to the provisions of the laws and regulations of that foreign state;
- (ii) a document stating an outline of the investment management business that the successor conducts in the foreign state set forth in the preceding item in accordance with the laws and regulations of that foreign state (if there are any restrictions on the following matters or other matters under the laws and regulations or other rules of that foreign state, including the content of the restrictions and grounds therefor):
  - (a) the type of assets subject to the investment and the amount held and the holding ratio thereof;
  - (b) the aggregate amount of money or other properties invested; and
  - (c) the categories of the customers;
- (iii) a document evidencing that three years have elapsed since the successor commenced the investment management business in the foreign state set forth in item (i) in accordance with the laws and regulations of that foreign state or that the successor falls under the case specified in paragraph (5) of the Supplementary Provisions of the Order;
- (iv) a copy of a document similar to the latest business report that the successor has submitted to the authority of the foreign state set forth in item (i) by which the successor is supervised;
- (v) if the successor has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of a foreign state equivalent to the Act within three years prior to the date of notification, the following documents:
  - (a) a document certifying the details of the adverse disposition, the date when becoming subject to the adverse disposition, and the reasons therefor; and
  - (b) a copy of the laws and regulations of the foreign state, and the Japanese translation thereof;
- (vi) documents stating the system for performing services, such as its structure of personnel and the organizational structure pertaining to the services;
- (vii) internal rules concerning the specially permitted services for the

- transitional period;
- (viii) a document stating changes in the percentages of the value of the securities prescribed in paragraph (6) of the Supplementary Provisions of the Order among the aggregate amount of money or other properties invested by the successor in the most recent business year;
  - (ix) if the successor is a corporation, the following documents:
    - (a) a document to pledge that the person does not fall under Article 3-3, paragraph (3), items (i) and (ii) (excluding sub-item (d)) of the Supplementary Provisions of the Act, the articles of incorporation (including a document equivalent thereto), and a certificate of registered information of the corporation (including a document equivalent thereto);
    - (b) the resumes of the officers and major employees (if any of the officers is a corporation, a document stating the background of the officer);
    - (c) extracts of the certificates of residence of the officers and major employees (if any of the officers is a corporation, a certificate of registered information of the officer), or any other document in lieu thereof;
    - (d) if the former surname and given name of an officer or major employee are stated together with the current name of the officer or major employee in a written notification under the preceding paragraph, and the document specified in sub-item (c) is not a document certifying the former surname and given name of the officer or major employee, a document certifying the former surname and given name;
    - (e) a certificate issued by a public agency evidencing that none of the officers and major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
    - (f) documents in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act; and
    - (g) a document stating the number of subject voting rights held by major shareholders;
  - (x) if the successor is an individual, the following documents:
    - (a) a document to pledge that the successor does not fall under Article 3-3, paragraph (3), items (i) and (iii) of the Supplementary Provisions of the Act;
    - (b) the resumes of the successor and major employees;
    - (c) extracts of the certificates of residence of the successor and major employees, or any other document in lieu thereof;
    - (d) if the former surname and given name of the successor or a major employee are stated together with the current name of the successor or major employee in a written notification under the preceding paragraph, and the document specified in sub-item (c) is not a document certifying the

- former surname and given name of the successor or major employee, a document certifying the former surname and given name;
- (e) a certificate issued by a public agency evidencing that the successor and none of the major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
  - (f) documents in which each of the major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act; and
- (xi) if the successor performs services pertaining to the acts specified in Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, the following documents concerning the foreign investment management business operator:
- (a) a document evidencing that the foreign investment management business operator has obtained registration of the same type as that of the registration set forth in Article 29 of the Act (including permission or any other administrative dispositions similar to the registration) for engaging in the investment management business in a foreign state pursuant to the provisions of the laws and regulations of that foreign state;
  - (b) a document stating an outline of the investment management business that the foreign investment management business operator conducts in the foreign state set forth in sub-item (a) in accordance with the laws and regulations of that foreign state (if there are any restrictions on the following matters or other matters under the laws and regulations or other rules of that foreign state, including the content of the restrictions and grounds therefor):
    1. the type of assets subject to the investment and the amount held and the holding ratio thereof;
    2. the aggregate amount of money or other properties invested; and
    3. the categories of the customers;
  - (c) a document evidencing that three years have elapsed since the foreign investment management business operator commenced the investment management business in the foreign state set forth in sub-item (a) in accordance with the laws and regulations of that foreign state or that the foreign investment management business operator falls under the case specified in paragraph (5) of the Supplementary Provisions of the Order;
  - (d) a copy of a document similar to the latest business report that the foreign investment management business operator has submitted to the authority of the foreign state set forth in sub-item (a) by which the foreign investment management business operator is supervised;
  - (e) if the foreign investment management business operator has been subject to any adverse disposition rendered by an administrative agency under the

- laws and regulations of a foreign state equivalent to the Act within three years prior to the date of notification, the following documents:
1. a document certifying the details of the adverse disposition, the date when becoming subject to the adverse disposition, and the reasons therefor; and
  2. a copy of the laws and regulations of the foreign state, and the Japanese translation thereof;
- (f) documents stating the system for performing services, such as its structure of personnel and the organizational structure pertaining to the services;
- (g) a document stating changes in the percentages of the value of the securities prescribed in paragraph (6) of the Supplementary Provisions of the Order among the aggregate amount of money or other properties invested by the foreign investment management business operator in the most recent business year;
- (h) a document to pledge that the foreign investment management business operator does not fall under Article 3-3, paragraph (3), items (i) and (ii) (excluding sub-items (b) through (d)) of the Supplementary Provisions of the Act, the articles of incorporation (including a document equivalent thereto), and a certificate of registered information of the corporation (including a document equivalent thereto);
- (i) the resumes of the officers and major employees (if any of the officers is a corporation, a document stating the background of the officer);
- (j) extracts of the certificates of residence of the officers and major employees (if any of the officers is a corporation, a certificate of registered information of the officer), or any other document in lieu thereof;
- (k) if the former surname and given name of an officer or major employee are stated together with the current name of the officer or major employee in a written notification under the preceding paragraph, and the document specified in sub-item (j) is not a document certifying the former surname and given name of the officer or major employee, a document certifying the former surname and given name;
- (l) a certificate issued by a public agency evidencing that none of the officers and major employees falls under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, or any other document in lieu thereof;
- (m) documents in which each of the officers and major employees pledges that they do not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) or (c) through (i) of the Act; and
- (n) a document stating the number of subject voting rights held by major shareholders.
- (3) The written notification under paragraph (1) and the documents specified in

the items of the preceding paragraph may be prepared in English.

(Cases of Notification of Discontinuation of Business, etc. by a Notifier of Specially Permitted Services for the Transitional Period)

Article 50 The cases to be specified by Cabinet Office Order as referred to in Article 63-10, paragraph (3), item (iii) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) are as follows (if applied mutatis mutandis pursuant to Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, excluding the case set forth in item (viii)):

(i) if the notifier is a corporation, the following cases:

- (a) the cases where the notifier has come to fall under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services) or sub-item (c) of that item;
- (b) the cases where the notifier has become aware that any of its officers or major employees has come to fall under Article 199, item (ii), sub-item (a) or (b);
- (c) the cases where its articles of incorporation (including a document equivalent thereto) have been changed; and
- (d) the cases where the notifier has become aware that any of its major shareholders has come to fall under any of Article 199, item (xi), sub-item (c), 1. Through 4.;

(ii) if the notifier is an individual, the following cases:

- (a) the cases where the notifier has come to fall under Article 199, item (ii), sub-item (a) or under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services) or sub-item (c) of that item, or item (ii), sub-items (b) through (h), or (i) of that paragraph (excluding the part pertaining to the provisions of the laws as specified in item (i), sub-item (c) of that paragraph); and
- (b) the cases where the notifier has become aware that any of its major employees has come to fall under Article 199, item (ii), sub-item (a) or (b);
- (iii) the cases where there is a change to the content of the documents specified in Article 44, paragraph (1), item (ii), (vi) or (vii) of the Supplementary Provisions;
- (iv) the cases where the notifier has become aware that any of its officers has committed any act in breach of the laws and regulations, etc. (meaning the

- laws and regulations, dispositions rendered by administrative agencies under the laws and regulations, articles of incorporation or any other regulations, and including the laws and regulations, etc. of a foreign state; the same applies in item (ix), sub-item (f) (in the case of acts pertaining to services other than specially permitted services for the transitional period, limited to acts which may give material impact on the operations of the services or status of properties of the notifier of specially permitted services for the transitional period; hereinafter referred to as the "problematic conduct, etc." in this item and the following item, and paragraph (1), items (vii) and (viii) of the following Article) (excluding the cases where the problematic conduct, etc. falls under the act specified in Article 118, item (i), sub-items (a) through (d), or item (ii), sub-item (a) or (b), or the act specified in sub-item (c) of that item (excluding the act in breach of the laws and regulations), and the relevant act was caused through negligence; the same applies in the following item);
- (v) the cases where the details of the problematic conduct, etc. under the preceding item have been revealed;
  - (vi) the cases where the notifier of specially permitted services for the transitional period has become a party to any action or conciliation (with regard to any action or conciliation relevant to services other than the specially permitted services for the transitional period, limited to those that may give material impact on the operations of the services or status of properties of the notifier of specially permitted services for the transitional period), or if the action or conciliation has been concluded;
  - (vii) the cases where the notifier has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of a foreign state equivalent to the Act (limited to those pertaining to specially permitted services for the transitional period and excluding the cases falling under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act);
  - (viii) the cases where the notifier has come to fall under Article 3-3, paragraph (3), item (i), sub-item (f) of the Supplementary Provisions of the Act;
  - (ix) if applied mutatis mutandis pursuant to Article 3-3, paragraph (7) of the Supplementary Provisions of the Act, the following cases related to the foreign investment management business operator:
    - (a) the cases where the foreign investment management business operator has come to fall under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services) or sub-item (c) of that item;
    - (b) the cases where the foreign investment management business operator has become aware that any of its officers or major employees has come to fall under Article 199, item (ii), sub-item (a) or (b);

- (c) the cases where its articles of incorporation (including a document equivalent thereto) have been changed;
- (d) the cases where the foreign investment management business operator has become aware that any of its major shareholders has come to fall under any of Article 199, item (xi), sub-item (c), 1. Through 4.;
- (e) the cases where there is a change to the content of the documents specified in Article 44, paragraph (1), item (xi), sub-item (b) of the Supplementary Provisions;
- (f) the cases where the foreign investment management business operator has become aware that any of its officers has committed any act in breach of the laws and regulations (limited to acts which may give material impact on the operations of the investment management business or status of properties of the foreign investment management business operator; hereinafter referred to as the "problematic conduct, etc. of the parent company" in sub-items (f) and (g), and paragraph (1), item (vii), sub-item (a), and item (viii), sub-item (a) of the following Article) (excluding the cases where the problematic conduct, etc. of the parent company falls under the act specified in Article 118, item (i), sub-items (a) through (d), or item (ii), sub-item (a) or (b), or the act specified in in sub-item (c) of that item (excluding the act in breach of the laws and regulations), and the relevant act was caused through negligence; the same applies in sub-item (g));
- (g) the cases where the details of the problematic conduct, etc. of the parent company under sub-item (f) have been revealed;
- (h) the cases where the foreign investment management business operator has become a party to any action or conciliation (limited to an action or conciliation that may give material impact on the operations of the investment management business or status of properties of the foreign investment management business operator), or if the action or conciliation has been concluded;
- (i) the cases where the foreign investment management business operator has been subject to any adverse disposition rendered by an administrative agency under the laws and regulations of a foreign state equivalent to the Act (limited to those pertaining to the investment management business conducted by the foreign investment management business operator in a foreign state and excluding the cases falling under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act); and
- (j) the cases where the foreign investment management business operator has come to fall under Article 3-3, paragraph (3), item (i), sub-item (f) of the Supplementary Provisions of the Act.

(Notification of Discontinuation of Business, etc. by a Notifier of Specially Permitted Services for the Transitional Period)

Article 51 (1) A notifier of specially permitted services for the transitional period that intends to file a notification under Article 63-10, paragraph (3) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article; hereinafter the same applies in this paragraph) must submit a written notification stating the matters listed in the following items in accordance with the categories of the cases set forth respectively therein, to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for the transitional period:

- (i) the cases falling under Article 63-10, paragraph (3), item (i) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act: period of suspension or date of resumption, and the reasons for the suspension or resumption;
- (ii) the cases falling under Article 63-10, paragraph (3), item (ii) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act: the date of and reasons for the discontinuation; and
- (iii) the cases falling under item (i), sub-item (a), item (ii), sub-item (a), or item (ix), sub-item (a) of the preceding Article: the matters specified in sub-items (a) through (c) below in accordance with the categories of the cases specified in those sub-items (a) through (c):
  - (a) in the cases falling under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following matters:
    1. contents of the same type of the registration, etc. obtained by the notifier of specially permitted services for the transitional period (if falling under item (ix), sub-item (a) of the preceding Article, the foreign investment management business operator; the same applies in 1.) in a foreign state pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services or the same type of the notification under Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1), or Article 63-11, paragraph (1) of the Act made by the notifier of specially permitted services for the transitional period pursuant to the laws and regulations of the foreign state equivalent to the Act or the Act on the Provision of Financial Services;
    2. the date of the registration, etc. or notification;



3. the date of and the reasons for the rescission of the registration, etc. or order for suspension of the business pertaining to the notification; and
  4. the details of the business for which the registration, etc. was rescinded or suspension of the business pertaining to the notification was ordered;
- (b) in the case of having come to fall under Article 29-4, paragraph (1), item (i), sub-item (c) of the Act, the following matters:
1. the provisions of the laws and regulations which were violated; and
  2. the date when the punishment became final and binding, and the amount of the fine imposed;
- (c) in cases where the notifier of specially permitted services for the transitional period who is an individual has come to fall under Article 199, item (ii), sub-item (a) or under Article 29-4, paragraph (1), item (ii), sub-items (b) through (h) or (i) of the Act (excluding the part pertaining to the provisions of the laws as specified in item (i), sub-item (c) of that paragraph; the same applies in 3.), the following matters:
1. in the case of having come to fall under Article 199, item (ii), sub-item (a), the date when the notifier came to fall under the relevant provisions and the reasons therefor;
  2. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the date when the notifier became subject to the order for the commencement of bankruptcy proceedings;
  3. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (i) of the Act, the date when the punishment became final and binding, and the type of punishment;
  4. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  5. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) or (g) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7 (including as applied mutatis mutandis pursuant to Article 60-14, paragraph (2) of the Act; hereinafter the same applies in this Article), Article 63-2, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act; hereinafter the same applies in this Article) or paragraph (4), Article 63-10, paragraph (2), paragraph (3) (including as applied mutatis mutandis pursuant to Article 63-11, paragraph (2) of the Act; hereinafter the same applies in this Article) or paragraph (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1), or

- Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
6. in the case of having come to fall under Article 29-4, paragraph (1), item (ii), sub-item (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;
- (iv) the cases falling under item (i), sub-item (b), item (ii), sub-item (b), or item (ix), sub-item (b) of the preceding Article: the following matters:
- (a) the name of the officer or major employee that has come to fall under Article 199, item (ii), sub-item (a) or (b);
- (b) if the officer or major employee has come to fall under Article 199, item (ii), sub-item (a), the date when the officer or major employee came to fall under the relevant provisions and the reasons therefor;
- (c) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the date when the officer or major employee became subject to the order for the commencement of bankruptcy proceedings;
- (d) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (i) of the Act, the date when the punishment became final and binding, and the type of punishment;
- (e) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
- (f) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) or (g) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1), or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
- (g) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (h) of the Act, the date when a dismissal or removal was ordered and the reasons therefor;
- (v) the cases falling under item (i), sub-item (c), item (iii), or item (ix), sub-item (c) or (e) of the preceding Article: the following matters:
- (a) the particulars and reasons for the change; and
- (b) the date of the change;
- (vi) the cases falling under item (i), sub-item (d), or item (ix), sub-item (d) of the preceding Article: the matters specified in sub-items (a) and (b) below in accordance with the categories of the cases set forth respectively in those

sub-items (a) and (b):

(a) in cases where the notifier has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 1. or 2., the following matters:

1. the name of the major shareholder that has come to fall under the relevant provisions;
2. if the major shareholder has come to fall under Article 199, item (xi), sub-item (c), 1., the date when the major shareholder came to fall under the relevant provisions and the reasons therefor;
3. if the major shareholder or an agent (meaning the agent prescribed in Article 199, item (xi), sub-item (c), 1.; the same applies in sub-item (a), and paragraph (1), item (iv), sub-item (a) of the following Article) has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the date when the major shareholder or the agent became subject to the order for the commencement of bankruptcy proceedings;
4. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (i) of the Act, the date when the punishment became final and binding, and the type of punishment;
5. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
6. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) or (g) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1), or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
7. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (h) of the Act, the date when dismissal or removal was ordered and the reasons therefor;

(b) in cases where the notifier has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 3. Or 4.: the following matters:

1. the trade name or name of the major shareholder that has come to fall under the relevant provisions;
2. if the major shareholder falls under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act, the details and date of the registration, etc. granted to the major shareholder, and the date of and the reasons for

- the rescission of the registration, etc., and the details of the business for which the registration, etc. was rescinded, or the details and date of the notification under Article 63, paragraph (2), Article 63-3, paragraph (1), Article 63-9, paragraph (1), or Article 63-11, paragraph (1) of the Act made by the major shareholder, and the date of and the reasons for the order of discontinuation of business for which the notification was made and the details of the business;
3. if the major shareholder falls under Article 29-4, paragraph (1), item (i), sub-item (b) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraph (2) or (3), Article 63-10, paragraph (2) or (3), Article 66-19, paragraph (1), Article 66-40, paragraph (1), or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services;
  4. if the major shareholder falls under Article 29-4, paragraph (1), item (i), sub-item (c) of the Act, the provisions of the laws and regulations violated, the date when the punishment became final and binding, and the amount of the fine imposed;
  5. if the major shareholder has come to fall under Article 199, item (xi), sub-item (c), 4., the name of the officer representing the corporation which has come to fall under either of sub-item (c), 4, i. or ii. of that item;
  6. if the officer representing the corporation which is the major shareholder has come to fall under Article 199, item (xi), sub-item (c), 4., i., the date when the officer came to fall under the relevant provisions and the reasons therefor;
  7. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the date when the officer became subject to an order for the commencement of bankruptcy proceedings;
  8. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (i) of the Act, the date when the punishment became final and binding, and the type of punishment;
  9. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, the date of rescission or order and the reasons therefor;
  10. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii),

- sub-item (f) or (g) of the Act, the date of and the reasons for the notice under Article 15 of the Administrative Procedure Act and the date of and the reasons for the notification under Article 50-2, paragraph (1), Article 60-7, Article 63-2, paragraphs (2) through (4), Article 63-10, paragraphs (2) through (4), Article 66-19, paragraph (1), Article 66-40, paragraph (1), or Article 66-61, paragraph (1) of the Act, or Article 16, paragraph (3) of the Act on the Provision of Financial Services; and
11. if the officer representing the corporation which is the major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (h) of the Act, the date when the dismissal or removal was ordered, and the reasons therefor;
- (vii) the cases falling under item (iv), or item (ix), sub-item (f) of the preceding Article: the following matters:
- (a) the name of the business office or other office where the problematic conduct, etc. (if falling under item (ix), sub-item (f) of the preceding Article, the problematic conduct, etc. of the parent company; hereinafter the same applies in this item) occurred;
  - (b) the affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) outline of the problematic conduct, etc.;
- (viii) the cases falling under item (v), or item (ix), sub-item (g) of the preceding Article: the following matters:
- (a) the name of the business office or other office where the problematic conduct, etc. (if falling under item (ix), sub-item (g) of the preceding Article, the problematic conduct, etc. of the parent company; hereinafter the same applies in this item) occurred;
  - (b) the affiliation, name, and title of the officer or employee that caused the problematic conduct, etc.; and
  - (c) details of the problematic conduct, etc.; and
  - (d) if any internal action has been taken, the details thereof;
- (ix) the cases falling under item (vi), or item (ix), sub-item (h) of the preceding Article: the matters specified in sub-items (a) and (b) below in accordance with the categories of the cases set forth respectively in those sub-items (a) and (b):
- (a) in the case of becoming a party to any action or conciliation, the following matters:
    1. the name and address of the party to the action or conciliation;
    2. the date when the action or conciliation was filed;
    3. the name of the court with jurisdiction; and
    4. the details of the case;
  - (b) if the action or conciliation has been concluded, the following matters:

1. the name and address of the party to the action or conciliation;
  2. the date when the action or conciliation was concluded; and
  3. the details of the judgment or settlement;
- (x) the cases falling under item (vii), or item (ix), sub-item (i) of the preceding Article: the following matters:
- (a) the details of the adverse disposition; and
  - (b) the date when becoming subject to the adverse disposition and the reasons therefor; and
- (xi) the cases falling under item (viii), or item (ix), sub-item (j) of the preceding Article: the date having come to fall under the relevant provisions and the reasons therefor.
- (2) The written notification under the preceding paragraph may be prepared in English.

(Documents to Be Attached to Written Notification for Discontinuation of Business by a Notifier of Specially Permitted Services for the Transitional Period)

- Article 52 (1) In the case of falling under any of the categories of the cases set forth in the following items, a notifier of specially permitted services for the transitional period that intends to file a notification under Article 63-10, paragraph (3) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article) must attach the document specified in the following items to the written notification stating the matters prescribed in paragraph (1) of the preceding Article:
- (i) the cases falling under Article 50, item (i), sub-item (a), item (ii), sub-item (a), or item (ix), sub-item (a) of the Supplementary Provisions: the matters specified in sub-items (a) through (c) below in accordance with the categories of the cases set forth respectively in those sub-items (a) through (c):
- (a) in the case of having come to fall under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act or the Act on the Provision of Financial Services), the following documents:
    1. a copy of the written order for rescission or discontinuation, or any other document in lieu thereof; and
    2. a copy of the laws and regulations of the foreign state and the Japanese translation thereof;
  - (b) in the case of having come to fall under Article 29-4, paragraph (1), item (i), sub-item (c) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;

- (c) in cases where the notifier of specially permitted services for the transitional period who is an individual has come to fall under Article 29-4, paragraph (1), item (ii), sub-items (b) through (e) or (i) of the Act (excluding the part pertaining to the provisions of the laws as specified in item (i), sub-item (c) of that paragraph; the same applies in 2.), the following documents:
1. if the notifier of specially permitted services for the transitional period has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  2. if the notifier of specially permitted services for the transitional period has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment; and
  3. if the notifier of specially permitted services for the transitional period has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the written order for rescission or discontinuation of business or any other document in lieu thereof, as well as a copy of the laws and regulations of the foreign state which served as the basis of the rescission or discontinuation of business and the Japanese translation thereof;
- (ii) the cases falling under Article 50, item (i), sub-item (b), item (ii), sub-item (b), or item (ix), sub-item (b) of the Supplementary Provisions (limited to the parts pertaining to Article 199, item (ii), sub-item (b), among those provisions): the following documents:
- (a) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  - (b) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment; and
  - (c) if the officer or major employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, and if a rescission or order was effected in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of the rescission or

- discontinuation of business and the Japanese translation thereof;
- (iii) the cases falling under Article 50, item (i), sub-item (c), or item (ix), sub-item (c) of the Supplementary Provisions: the articles of incorporation after the change (including a document equivalent thereto);
  - (iv) the cases falling under Article 50, item (i), sub-item (d), or item (ix), sub-item (d) of the Supplementary Provisions: documents specified in sub-items (a) and (b) below in accordance with the categories of the cases set forth respectively in those sub-items (a) and (b):
    - (a) in cases where the notifier has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 1. or 2., the following documents:
      - 1. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, a copy of the written judgment on an order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
      - 2. if the major shareholder or an agent has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (i) of the Act, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment;
      - 3. if the major shareholder or an agent has been punished in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of such punishment and the Japanese translation thereof; and
      - 4. if the major shareholder or an agent has had the registration, etc. rescinded or was ordered to discontinue its business in a foreign state, a copy of the laws and regulations of the foreign state which served as the basis of the rescission of registration, etc. or discontinuation of business and the Japanese translation thereof;
    - (b) in cases where the notifier has become aware that any of its major shareholders has come to fall under Article 199, item (xi), sub-item (c), 3. or 4., ii.: the following documents:
      - 1. if the major shareholder has come to fall under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act, a copy of the written order for rescission or discontinuation of business, or any other document in lieu thereof;
      - 2. if the major shareholder falls under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act or if the officer representing the corporation which is a major shareholder falls under item (ii), sub-item (d) or (e) of that paragraph and the registration, etc. was rescinded or the discontinuation of business was ordered in a foreign state, a copy of the



laws and regulations of the foreign state which served as the basis of the rescission or discontinuation of business and the Japanese translation thereof;

3. if the major shareholder has come to fall under Article 29-4, paragraph (1), item (i), sub-item (c) of the Act or if the officer representing the corporation which is a major shareholder has come to fall under item (ii), sub-item (c) or (i) of that paragraph, a copy of the judgment document on the final and binding judgment, or a document stating the details of the final and binding judgment; and
  4. if any officer representing the corporation which is a major shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, a copy of the written judgment on the order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
- (v) the cases falling under Article 50, item (iii), or item (ix), sub-item (e) of the Supplementary Provisions: documents specified in article 44, paragraph (1), item (ii), (vi) or (vii), or item (xi), sub-item (b) of the Supplementary Provisions after change;
- (vi) the cases falling under Article 50, item (vii), or item (ix), sub-item (i) of the Supplementary Provisions: a copy of the laws and regulations of a foreign state which provides for the adverse disposition and the Japanese translation thereof; and
- (vii) the cases falling under Article 50, item (viii), or item (ix), sub-item (j) of the Supplementary Provisions: a document stating an estimate of the changes in the percentages prescribed in Article 44, paragraph (1), item (viii) of the Supplementary Provisions.
- (2) The documents specified in the items of the preceding paragraph may be prepared in English.

(Notification of Dissolution of a Notifier of Specially Permitted Services for the Transitional Period)

Article 53 (1) A person that intends to file a notification under Article 63-10, paragraph (4) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article; hereinafter the same applies in this paragraph) must submit a written notification stating the date of and the reasons for the dissolution to the Commissioner of the Financial Services Agency, if the notifier of specially permitted services for the transitional period regarding the notification is the one designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Order that is applied pursuant to the

provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act, or to the Director-General of a Local Finance Bureau with jurisdiction over the location of the head office, etc. of the notifier of specially permitted services for the transitional period (if the relevant location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof) in the case of the notifier of specially permitted services for the transitional period other than the above.

(2) The written notification under the preceding paragraph may be prepared in English.

(Books and Documents Related to Business Affairs)

Article 54 (1) The books and documents to be prepared by a notifier of specially permitted services for the transitional period pursuant to Article 63-12, paragraph (1) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied mutatis mutandis pursuant to paragraph (7) of that Article) are as follows:

- (i) the books and documents specified in Article 157, paragraph (1), item (i), sub-item (a), 1. through 4. and sub-items (b) through (d), and item (ii), sub-item (a);
- (ii) the books and documents specified in Article 157, paragraph (1), item (xvii) (excluding sub-item (e)) (including a copy of the documents prescribed in Article 134, paragraph (5), item (v) in the cases falling under that item); and
- (iii) in the case of a person performing services pertaining to the acts specified in Article 3-3, paragraph (5), item (ii) of the Supplementary Provisions of the Act, the books and documents specified in Article 157, paragraph (1), items (vii) through (ix).

(2) The books and documents under the items of the preceding paragraph may be prepared in English.

(3) The books and documents specified in paragraph (1), item (i) must be kept for five years from the day of preparation thereof (in the case of the books and documents specified in Article 157, paragraph (1), item (ii), sub-item (a), from the day when the documents ceased to be in effect), in the case of the books and documents specified in paragraph (1), item (ii) (limited to the part pertaining to paragraph (1), item (xvii), sub-item (d) of that Article) must be kept for seven years from the day of preparation thereof, and in the case of the books and documents specified in paragraph (1), item (iii) (excluding the part pertaining to paragraph (1), item (xvii), sub-item (d) of that Article) must be kept for ten years from the day of preparation thereof (in the case of the books and documents specified in Article 157, paragraph (1), item (xvii), sub-item (a), from the day of termination of the services pertaining to the contract or any

other juridical act).

(Business Report)

Article 55 (1) A business report to be submitted by a notifier of specially permitted services for the transitional period pursuant to Article 63-12, paragraph (2) of the Act that is applied pursuant to Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article) must be prepared using Appended Form No. 33.

(2) The business report under the preceding paragraph may be prepared in English in accordance with Appended Form No. 33.

(3) When a notifier of specially permitted services for the transitional period (limited to a company) prepares a business report under paragraph (1), it is to be subject to the corporate accounting practices that are generally accepted as being fair and appropriate, the designated international accounting standards or Japan's modified international standards (if the notifier of specially permitted services for the transitional period is a foreign company, including fair and appropriate corporate accounting practices of the foreign state where its principal business office or other office is located).

(4) When a notifier of specially permitted services for the transitional period (excluding a company) prepares a business report under paragraph (1), it is to be subject to the accounting practices that are generally accepted as being fair and appropriate.

(Procedures for Obtaining Approval on Time Limits for the Submission of Business Reports)

Article 56 (1) When a notifier of specially permitted services for the transitional period which is a foreign corporation intends to obtain an approval under the proviso to Article 17-13-8 of the Order, it must submit a written application for approval stating the following matters to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for the transitional period:

(i) the trade name or name;

(ii) the date of notification under Article 3-3, paragraph (1) of the Supplementary Provisions of the Act;

(iii) the period for which the approval is sought in relation to the submission of the business report;

(iv) the last day of the business year pertaining to the business report; and

(v) the reasons for seeking the approval with regard to the submission of the business report.

(2) The following documents must be attached to the written application for

approval specified in the preceding paragraph:

- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the notifier of specially permitted services for the transitional period which is a foreign corporation, etc. as stated in the written application for approval is a person that has been duly authorized to submit the written application for approval; and
  - (iii) a written legal opinion prepared by a legal expert regarding the trueness and correctness of the matters related to the laws and regulations or practices stated in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.
- (3) If the application for approval specified in paragraph (1) is filed, and if it is found to be impossible for the notifier of specially permitted services for the transitional period which is a foreign corporation to submit the business report within three months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for the transitional period is to grant an approval with regard to the business report covering the business years from the business year containing the day of the filing of the application (if the relevant day falls within three months from the commencement of the business year (if the approval has been granted with regard to the submission of a business report covering the immediately preceding business year, within the period approved), the business year immediately preceding that business year) through to the business year immediately preceding the business year containing the day when the reason specified in item (v) of that paragraph for which the application was filed would be extinguished or changed.
- (4) The approval specified in the preceding paragraph is to be granted on the condition that the notifier of specially permitted services for the transitional period which is a foreign corporation as specified in that paragraph submits documents stating the following matters to the Commissioner of the Financial Services Agency or other competent official for specially permitted services for the transitional period within three months after the end of each business year; provided, however, that if the substance of the matter set forth in item (i) is identical to what is stated in a document submitted within five years prior to the submission of the document in question, the statement of that matter may be omitted:
- (i) the fact that the reasons for the application for approval have not been extinguished or changed in the relevant business year; and
  - (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as copies of the relevant provisions of the applicable

laws and regulations referred to in that written legal opinion.

- (5) The written application for approval under paragraph (1), the documents specified in the items of paragraph (2) and the documents under the preceding paragraph may be prepared in English.

(Public Inspection of Explanatory Documents)

- Article 57 (1) Pursuant to the provisions of Article 63-12, paragraph (3) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act (including as applied *mutatis mutandis* pursuant to paragraph (7) of that Article; hereinafter the same applies in this paragraph and paragraph (3)), a notifier of specially permitted business for the transitional period must make available for public inspection the explanatory documents under Article 63-12, paragraph (3) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act by means of keeping copies of the explanatory documents prepared using Appended Form 34 or the business report under Article 55, paragraph (1) of the Supplementary Provisions at its principal office or other office and all business offices or offices for specially permitted services for the transitional period (in the case of a foreign corporation, its principal business office or other office in Japan and all business offices or offices for specially permitted services for the transitional period in Japan) or other means, or publicize the relevant information by the use of the internet or other means so as to allow easy access by the investors.
- (2) The explanatory documents under the preceding paragraph may be prepared in English in accordance with Appended Form No. 34.
- (3) The matters to be specified by Cabinet Office Order as referred to in Article 63-12, paragraph (3) of the Act that is applied pursuant to the provisions of Article 3-3, paragraph (4) of the Supplementary Provisions of the Act are the matters stated in Appended Form No. 34 or a business report under Article 55, paragraph (1) of the Supplementary Provisions.

(Procedures for Obtaining Approval on Period of Public Inspection of Explanatory Documents)

- Article 58 (1) When a notifier of specially permitted services for the transitional period which is a foreign corporation intends to obtain an approval under the proviso to Article 17-13-9 of the Order, it must submit a written application for approval stating the following matters to the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for the transitional period:
- (i) the trade name or name;
  - (ii) the date of notification under Article 3-3, paragraph (1) of the

- Supplementary Provisions of the Act;
- (iii) the period for which the approval is sought in relation to the inspection of the explanatory documents;
  - (iv) the last day of the business year pertaining to the explanatory documents; and
  - (v) the reasons for seeking the approval with regard to the inspection of the explanatory documents.
- (2) The following documents must be attached to the written application for approval specified in the preceding paragraph:
- (i) the articles of incorporation, or any other document in lieu thereof;
  - (ii) a document evidencing that the representative of the notifier of specially permitted services for the transitional period which is a foreign corporation as stated in the written application for approval is a person that has been duly authorized to submit the written application for approval; and
  - (iii) a written legal opinion prepared by a legal expert regarding the trueness and correctness of the matters related to the laws and regulations or practices stated in the written application for approval, as well as copies of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.
- (3) If the application for approval under paragraph (1) is filed, and if it is found to be impossible for the notifier of specially permitted services for the transitional period which is a foreign corporation to make the explanatory documents available for public inspection within four months after the end of the business year due to the laws and regulations or practices of its own state, the Commissioner of the Financial Services Agency or other competent official for the notification of specially permitted services for the transitional period is to grant an approval with regard to the explanatory documents covering the business years from the business year containing the day of the filing of the application (if the relevant day falls within four months from the commencement of the business year (if the approval has been granted with regard to the inspection of explanatory documents covering the immediately preceding business year, within the period approved), the business year immediately preceding that business year) through to the business year immediately preceding the business year containing the day when the reason specified in item (v) of that paragraph for which the application was filed would be extinguished or changed.
- (4) The approval specified in the preceding paragraph is to be granted on the condition that the notifier of specially permitted services for the transitional period which is a foreign corporation as specified in that paragraph submits documents stating the following matters to the Commissioner of the Financial Services Agency or other competent official for the notification of specially

permitted services for the transitional period within four months after the end of each business year; provided, however, that if the substance of the matter as set forth in item (ii) is identical to what is stated in a document submitted within five years prior to the submission of the document in question, the statement of that matter may be omitted:

- (i) the fact that the reasons for the application for approval have not been extinguished or changed in the relevant business year; and
- (ii) a written legal opinion from a legal expert in the matter set forth in the preceding item, as well as copies of the relevant provisions of the applicable laws and regulations referred to in that written legal opinion.

(5) The written application for approval under paragraph (1), the documents specified in the items of paragraph (2) and the documents under the preceding paragraph may be prepared in English.

(Where to Submit Written Notifications, etc.)

Article 59 (1) If a notifier of specially permitted services for the transitional period intends to submit a written notification or any other document prescribed in the Act, the Order or this Cabinet Office Order to the competent Director-General of a Local Finance Bureau or other competent official for specially permitted services for the transitional period, and the location of its head office, etc. falls within the jurisdictional district of the finance branch office, the Otaru Branch or the Kitami Branch, the notifier of specially permitted services for the transitional period must submit the relevant document and a copy thereof via the head of the finance branch office, the head of the Otaru Branch or the head of the Kitami Branch.

(2) Where to submit the written notification prescribed in Article 49, paragraph (1) and Article 53, paragraph (1) of the Supplementary Provisions is to be as specified in the preceding paragraph.

(Cases When the State of the Operation of Business is Likely to Compromise the Protection of Investors)

Article 60 (1) The acts to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (5), item (i), sub-item (a) of the Supplementary Provisions of the Act are the acts of investing money or other properties invested or contributed by persons who hold any of the beneficiary certificates of foreign investment trusts, rights indicated on the foreign investment securities, or the rights set forth in Article 2, paragraph (2), item (vi) of the Act wherein the rights pertaining to these securities are indicated on financial values but no technical measures have been taken to prevent the relevant financial values from being transferred to persons other than foreign investors, etc.

- (2) The acts to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (5), item (i), sub-item (b), and item (ii), sub-item (b) of the Supplementary Provisions of the Act are the acts wherein the rights pertaining to the relevant beneficiary certificates are indicated on financial values but no technical measures have been taken to prevent the relevant financial values from being transferred to persons other than foreign investors, etc.
- (3) The acts to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (5), item (i), sub-item (c), and item (ii), sub-item (c) of the Supplementary Provisions of the Act are the acts wherein the relevant rights are indicated on financial values but no technical measures have been taken to prevent the relevant financial values from being transferred to persons other than foreign investors, etc.
- (4) The acts to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (5), item (ii), sub-item (a) of the Supplementary Provisions of the Act are the acts wherein the rights pertaining to the relevant securities are indicated on financial values but no technical measures have been taken to prevent the relevant financial values from being transferred to persons other than foreign investors, etc.

(Persons Excluded from the Category of Foreign Investors, etc.)

Article 61 The persons to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (5), item (i), sub-item (a), 3. of the Supplementary Provisions of the Act are the following persons:

- (i) a special purpose company, if any person other than a foreign investor, etc. (meaning the foreign investor, etc. prescribed in Article 3-3, paragraph (6) of the Supplementary Provisions of the Act; the same applies in the following item) has acquired the rights indicated on the securities set forth in Article 2, paragraph (1), item (v), (ix), or (xv) of the Act or securities specified in item (xvii) of that paragraph (limited to those having the nature of the securities specified in item (v), (ix), or (xv) of that paragraph) issued by the specified purpose company, or has acquired the rights set forth in paragraph (2), item (iii) or (iv) of that Article (excluding the rights wherein no property in excess of the amount of the consideration for the acquisition thereof is to be delivered); and
- (ii) in accordance with a contract or other juridical act pertaining to the investment business for the right specified in Article 2, paragraph (2), item (v) or (vi) of the Act (but only if the right under the relevant contract or other juridical act falls under the category of the right specified in item (v) or (vi) of that paragraph), a person that concluded with a person other than a foreign investor, etc., conducts or intends to conduct the investment business by using the money or other properties invested or contributed by the other



party to the contract or other juridical act (excluding a financial instruments business operator, etc. (limited to an operator engaged in an investment management business)).

(Matters to be Specified in a Contract Pertaining the Transfer)

Article 62 The matters to be specified by Cabinet Office Order as referred to in paragraph (9), item (i) of the Supplementary Provisions of the Order are the following matters:

- (i) the person intending to acquire the relevant securities will not transfer the beneficiary certificates or foreign investment securities that the person acquired in response to the solicitation for acquisition (meaning the solicitation for acquisition defined in Article 2, paragraph (3) of the Act; the same applies in the following item and the following Article) to persons other than foreign investors, etc.;
- (ii) in cases where the person intending to acquire the relevant securities intends to transfer the beneficiary certificates or foreign investment securities that the person acquired in response to the solicitation for acquisition, the person should inform the other party of the fact that a condition for purchase between a person who implements the solicitation for selling, etc. (meaning the solicitation for selling, etc. defined in Article 2, paragraph (4) of the Act; hereinafter the same applies in item (ii) of the following Article) of the beneficiary certificates or foreign investment securities and a person who intends to purchase the beneficiary certificates or foreign investment securities in response to the solicitation for selling, etc. is the conclusion of a contract pertaining the transfer in which it is stipulated that the person who intends to purchase will not transfer the purchased beneficiary certificates or foreign investment securities to persons other than foreign investors, etc.

Article 63 The matters to be specified by Cabinet Office Order as referred to in paragraph (10) of the Supplementary Provisions of the Order are the following matters:

- (i) the person intending to acquire the relevant securities will not transfer the beneficiary certificates that the person acquired in response to the solicitation for acquisition to persons other than foreign investors, etc.;
- (ii) in cases where the person intending to acquire the relevant securities intends to transfer the beneficiary certificates that the person acquired in response to the solicitation for acquisition, the person should inform the other party of the fact that a condition for purchase between a person who implements the solicitation for selling, etc. of the beneficiary certificates and a person who intends to purchase the beneficiary certificates in response to

the solicitation for selling, etc. is the conclusion of a contract pertaining the transfer in which it is stipulated that the person who intends to purchase will not transfer the purchased beneficiary certificates to persons other than foreign investors, etc.

(Range of Foreign Investors, etc.)

Article 64 (1) The persons to be specified by Cabinet Office Order as referred to in paragraph (12), item (iv) of the Supplementary Provisions of the Order are the following persons:

- (i) a subsidiary company, etc. (meaning the subsidiary company prescribed in Article 15-16, paragraph (3) of the Order; hereinafter the same applies in this item) of the foreign investment management business operator, or a subsidiary company, etc. of the parent company, etc. (meaning the parent company, etc. prescribed in that paragraph) of the foreign investment management business operator;
- (ii) a person that has received an entrustment of all or part of the authority for the investment of a set of investment property (meaning money or other property that the foreign investment management business operator manages for the right holder pertaining to the operations to execute the acts set forth in the items of Article 3-3, paragraph (5) of the Supplementary Provisions of the Act; the same applies in the following item) to be conducted by the foreign investment management business operator;
- (iii) a person that has concluded a contract with the foreign investment management business operator in which the person promises to provide the foreign investment management business operator with advice, orally, in writing (excluding newspapers, magazines, books, or any other written work issued for sale to many and unspecified persons that many and unspecified persons can buy as needed), or by any other method, regarding the value, etc. of the subject of transactions conducted by the foreign investment management business operator as an investment of a set of investment property (hereinafter the subject is referred to as the "transaction property" in this item; and the value, etc. means the value of the transaction property, the amount of the consideration for the options, or the trend of an indicator pertaining to the transaction property; hereinafter the same applies in this item) or regarding investment decisions based on analysis of the value, etc. (meaning decisions as to the types, quantities, and prices of investment property, whether the type of transaction is a purchase or sale, methods and timing thereof, or decisions on the details and timing of the transactions to be conducted), and the foreign investment management business operator promises to pay remuneration for this, or another person that has concluded a contract with the relevant person in which said other person promises to

- provide the person with advice regarding investment decisions by these methods, and the person promises to pay remuneration for this;
- (iv) an officer or employee of any of the persons specified in paragraph (12), item (iii) of the Supplementary Provisions of the Order and the preceding three items; and
  - (v) a relative (limited to the spouse and a relative by blood or by affinity within the third degree) of the foreign investment management business operator (limited to one that is an individual) or of any of the persons specified in paragraph (12), items (i) and (ii) of the Supplementary Provisions of the Order and the preceding three items.
- (2) The persons to be specified by Cabinet Office Order as referred to in Article 3-3, paragraph (6), item (iii) of the Supplementary Provisions of the Act are financial instruments business operators, etc. engaging in the investment management business.

Appended Table (Re: Article 125-8)

Matters for Publication	Points Requiring Attention
<p>(i) the date and time when the transaction was effected;</p> <p>(ii) if the obligations of the party and other party under the transaction are to be assumed by a Financial Instruments Clearing Organization (in cases where the Financial Instruments Clearing Organization is to conduct a Collaborative Financial Instruments Obligation Assumption Services, including the Collaborating Clearing Organization, etc.) or a Foreign Financial Instruments Clearing Organization, to that effect;</p> <p>(iii) the date when the transaction takes effect;</p> <p>(iv) the date when the transaction ceases to be in effect;</p> <p>(v) the method of calculation of the number of days;</p>	<p>In cases of malfunctioning or maintenance inspections of the electronic data processing system, or if matters to be publicized have dramatically and rapidly increased or if there is any other compelling reason, the publication is to be made promptly after such reason has ceased to exist.</p>

(vi) the type of currency to be used for the settlement;  
(vii) the type of contract;  
(viii) the Interest Rate, etc. for the financial instruments or the type of financial indicator agreed between a party and the other party;  
(ix) the amount determined by the parties as a notional principal (excluding the case falling under the following item);  
(x) if the amount determined by the parties as a notional principal exceeds the amount provided in the items of Article 125-8, paragraph (2), according to the period from the day when the Specified Over-the-Counter Transactions of Derivatives specified in those items and the day when such transaction ceases to be in effect, to that effect;  
(xi) the schedule for payment; and  
(xii) the schedule for calculation.