

Cabinet Office Ordinance on Securities Finance Companies

(Ordinance of the Ministry of Finance No. 45 of August 1, 1955)

Pursuant to the provisions of the Securities and Exchange Act, and for the purpose of enforcing said Act, the Ministerial Ordinance on Securities Finance Companies is established as follows.

(Route of Written Application for License)

Article 1 A person who intends to submit a written application to the Prime Minister pursuant to the provisions of Article 156-24, paragraph (2) of the Act must submit said written application via the Commissioner of the Financial Services Agency.

(Documents to be Attached to Written Application for License)

Article 1-2 (1) Documents prescribed in Article 156-24, paragraph (3) of the Financial Instruments and Exchange Act (Act No. 25 of 1948; hereinafter referred to as the "Act") shall be the documents listed in the following items:

- (i) certificate of registered information;
- (ii) Officers' resume (when the Officer is a juridical person, a document stating the history of said Officer) and extracts of residence certificate (limited to those stating the registered domicile; when the Officer is a juridical person, a certificate of registered information of said Officer) or other documents in lieu thereof and a document with which Officers pledge that said Officers do not fall under any of Article 82, paragraph (2), item (iii) (a), (b) or (e) of the Act;
- (iii) a document stating the name or trade name of shareholders and the number of shares held by said shareholders;
- (iv) a copy of a document on a contract concerning the utilization of clearing systems of a Financial Instruments Exchange Market (meaning Financial Instruments Exchange Market prescribed in Article 2, paragraph (17) of the Act; the same shall apply hereinafter) established by a Financial Instruments Exchange (meaning Financial Instruments Exchange prescribed in paragraph (16) of that Article; the same shall apply hereinafter) or an Over-the-Counter Securities Market (meaning Over-the-Counter Securities Market prescribed in Article 67, paragraph (2) of the Act; the same shall apply hereinafter) established by an Authorized Financial Instruments Business Association (meaning Authorized Financial Instruments Business Association prescribed in Article 2, paragraph (13) of the Act; the same shall

- apply hereinafter) concluded by the applicant for license with said Financial Instruments Exchange or said Authorized Financial Instruments Business Association;
- (v) a document related to the conditions for lending money or Securities;
 - (vi) a document related to fund procurement method;
 - (vii) a document stating the projections for transactions and income and expenditure for the three business years after the commencement of business (if the duration of the business year is one year or more, two business years; the same shall apply hereinafter);
 - (viii) if money or Securities are loaned to a Member, etc. of a Financial Instruments Exchange (meaning Member, etc. prescribed in Article 56-4, paragraph (1) of the Act) or an Association Member of an Authorized Financial Instruments Business Association upon filing an application for a license, a document stating the loan status thereof;
 - (ix) the balance sheet as of the end of the last three business years (including related notes; the same shall apply hereinafter, excluding Article 3-3, paragraph (1), item (ii)) and profit and loss statement for the last three business years (including related notes; the same shall apply hereinafter);
 - (x) the statements of changes in net assets for the last three business years (including related notes; the same shall apply hereinafter);
 - (xi) recent daily trial balance sheet; and
 - (xii) other documents that will be helpful.
- (2) If a Securities Finance Company (meaning Securities Finance Company prescribed in Article 2, paragraph (30) of the Act; the same shall apply hereinafter) has come to fall under any of the following items, it must promptly give notification to the Commissioner of the Financial Services Agency:
- (i) If the articles of incorporation (excluding matters pertaining to authorization and approval) are amended;
 - (ii) If the contents and methods of business (excluding matters pertaining to authorization prescribed in Article 156-28, paragraph (1)) of the Act are amended; or
 - (iii) If a contract concerning the utilization of clearing systems of a Financial Instruments Exchange Market established by a Financial Instruments Exchange or an Over-the-Counter Securities Market established by an Authorized Financial Instruments Business Association concluded with said Financial Instruments Exchange or said Authorized Financial Instruments Business Association are amended.

(Electronic or magnetic Records to be Attached to Written Application for License)

Article 1-3 (1) The electronic or magnetic record specified by Cabinet Office

Ordinance prescribed in Article 81, paragraph (3) of the Act applied *mutatis mutandis* pursuant to Article 156-24, paragraph (4) of the Act shall be a magnetic disk whose structure corresponds to a ninety millimeter flexible disk cartridge compliant with Japanese Industrial Standards (hereinafter referred to as "JIS" in this Article) X6223 based on the Industrial Standardization Act (Act No. 185 of 1949).

- (2) Recording in the electronic or magnetic record referred to in the preceding paragraph must be done in accordance with the following methods:
 - (i) Track format: Method prescribed in JIS X6225
 - (ii) Volume and file composition: Method prescribed in JIS X0605
- (3) The electronic or magnetic record referred to in paragraph (1) must have a document stating the following matters pasted in the label area prescribed in JIS X6223:
 - (i) trade name of applicant; and
 - (ii) application date.

(Scope of Concurrent Business)

Article 1-4 (1) The businesses specified by Cabinet Office Ordinance prescribed in Article 156-27, paragraph (1), item (iv) of the Act shall be the following businesses:

- (i) lending of money secured by securities (excluding business specified in Article 156-24, paragraph (1) of the Act and Article 156-27, paragraph (1), items (ii) and (iii) of the Act);
- (ii) agency business related to delivery of securities;
- (iii) agency business for payment of principal and interest of national government bond securities;
- (iv) custody business for securities and certificates, etc. notified to the Commissioner of the Financial Services Agency;
- (v) business of leasing facilities to accommodate money or securities, etc. to a customer who will be the counterparty to a transaction when conducting business specified in Article 156-24, paragraph (1) of the Act, Article 156-27, paragraph (1), items (i) to (iii) inclusive of the Act or the preceding items;
- (vi) transfer business conducted as an account management institution referred to in Article 2, paragraph (4) of the Act on Book-Entry of Company Bonds, Shares, etc. (Act No. 75 of 2001); and
- (vii) business of lending money or securities as necessary for settlement of Brokerage for Clearing of Securities, etc. (meaning Brokerage for Clearing of Securities, etc. prescribed in Article 2, paragraph (27) of the Act) by a Clearing Participant (meaning Clearing Participant prescribed in Article 156-7, paragraph (2), item (iii) of the Act) of a Financial Instruments Clearing Organization (meaning Financial Instruments Clearing

Organization prescribed in Article 2, paragraph (29) of the Act) by utilizing clearing systems of a Financial Instruments Exchange Market or Over-the-Counter Securities Market (excluding business pertaining to transactions specified in Article 19-6, items (ii) and (iii) of the Order for Enforcement of the Financial Instruments and Exchange Act (Cabinet Order No.321 of 1965).

- (2) When filing a notification under the provisions of Article 156-27, paragraph (2) of the Act, the following documents must be attached to the written notice and submitted to the Commissioner of the Financial Services Agency:
- (i) a document stating the reason for conducting the businesses listed in the items of Article 156-27, paragraph (1) of the Act;
 - (ii) a document stating the methods of business; and
 - (iii) other documents that will be helpful.

(Application for Approval of Subsidiary Business)

Article 2 (1) A Securities Finance Company that intends to obtain the approval referred to in Article 156-27, paragraph (3) of the Act must submit a written application for approval to the Commissioner of the Financial Services Agency with the following documents attached:

- (i) a document stating the contents of business to be approved and the projections of income and expenditure thereof;
 - (ii) if it is necessary to amend the articles of incorporation, the minutes of the shareholders meeting related thereto (if a resolution of the shareholders meeting is deemed to have been made pursuant to the provisions of Article 319, paragraph (1) of the Companies Act (Act No. 86 of 2005), a document proving that such case applies; the same shall apply hereinafter); and
 - (iii) a recent daily trial balance sheet.
- (2) A Securities Finance Company that intends to change the contents of the business approved under Article 156-27, paragraph (3) of the Act must obtain approval from the Commissioner of the Financial Services Agency based on the provisions of that paragraph.

(Application for Authorization of Changes in Contents of Business)

Article 3 A Securities Finance Company that intends to obtain authorization referred to in Article 156-28, paragraph (1) of the Act must submit a written application for authorization with the following documents attached to the Commissioner of the Financial Services Agency:

- (i) a document stating the reason for the change;
- (ii) If said application for authorization pertains to the reduction of the amount of the stated capital, the minutes of the shareholders meeting or the minutes of the meeting of the board of directors related thereto, or other document proving that necessary procedures had been taken; and

(iii) a recent daily trial balance sheet.

(Conditions for Lending Money or Securities)

Article 3-2 The conditions for lending money or securities prescribed in Article 156-28, paragraph (2) of the Act (limited to those pertaining to the business prescribed in Article 156-24, paragraph (1) of the Act) shall be the cap on the interest rate and the rate of stock loan fees in loan transactions, the type of security, the cap on the Assessment rate of collateral and the minimum rate of the margin transaction guarantee money.

(Documents to be Attached to Written Notice)

Article 3-3 (1) A Securities Finance Company that intends to make a notification under the provisions of Article 156-28, paragraph (2) of the Act must, attach the documents specified therein and submit said documents to the Commissioner of the Financial Services Agency, in addition to a document stating the reason according to the categories specified in the following items.,

(i) When determining or changing the conditions for lending money or securities: a table comparing the new and old documents stating the conditions for lending.

(ii) When increasing the amount of the stated capital: the minutes of the shareholders meeting or the minutes of the meeting of the board of directors or other document proving that necessary procedures had been taken, and a document stating the method of capital raising as well as the estimated balance sheet after the capital raising.

(iii) When changing the trade name: the minutes of the shareholders meeting.

(2) A Securities Finance Company that intends to make a notification under the provisions of Article 156-28, paragraph (3) of the Act must attach a document stating the reason for falling under the items of that paragraph to the written notice and submit said documents to the Commissioner of the Financial Services Agency.

(3) A Securities Finance Company that intends to make a notification under the provisions of Article 1-2, paragraph (2) must attach a document stating the description of and reasons for changes to the written notice and submit said documents to the Commissioner of the Financial Services Agency.

(Submission of Reports or Materials)

Article 3-4 (1) The business report prescribed in Article 156-35 of the Act must be prepared and submitted by using Appended Form 1.

(2) After the close of the meeting of the board of directors for the interim closing of accounts pursuant to the provisions of Article 188 of the Act, a Securities Finance Company must promptly prepare and submit an interim closing status

table by using Appended Form 2.

- (3) When a Securities Finance Company has come to fall under any of the following items in relation to the transactions prescribed in Article 156-24, paragraph (1) of the Act, it must promptly report to that effect:
- (i) if restrictive measures for transactions have been implemented or withdrawn;
 - (ii) if the lending interest rate or the rate of stock lending fees in lending transactions has been established or changed; or
 - (iii) if the loan limit amount has been established or changed.

(Application for Authorization of Resolution of Abolition or Dissolution of Business,)

Article 4 A Securities Finance Company that intends to obtain the authorization referred to in Article 156-36 of the Act must attach the following documents to the written application for authorization and submit said documents to the Commissioner of the Financial Services Agency:

- (i) a document stating the reason for determining the matters listed in the items of Article 156-36 of the Act;
- (ii) the minutes of the shareholders meeting or other document proving that necessary procedures had been taken; and
- (iii) a daily trial balance sheet and a document clarifying what assets and liabilities consisted of as at the time of said resolution.

(Standard Processing Period)

Article 5 (1) The Prime Minister or the Commissioner of the Financial Services Agency shall endeavor to process an application for approval prescribed in Article 156-27, paragraph (3) or Article 2, paragraph (2) of the Act, or authorization prescribed in Article 156-28, paragraph (1) of the Act within one month of the arrival of said application at the office of that person, and an application for license prescribed in Article 156-24, paragraph (1) of the Act or authorization prescribed in Article 156-36 of the Act within two months of the arrival of said application at the said office.

- (2) The period prescribed in the preceding paragraph shall not include the following periods:
- (i) period required to make corrections to said application;
 - (ii) period required by the person who filed said application to change the content of said application; or
 - (iii) period required by the person who filed said application to add materials deemed necessary for examination of said application.