

Order on Investor Protection Funds

(Ministry of Finance Order No. 125 of November 4, 1998)

Pursuant to the provisions of the Securities and Exchange Act (Act No. 25 of 1948) and the Act on Revision, etc. of Related Acts for the Financial System Reform (Act No. 107 of 1998), and for the purpose of enforcing the Securities and Exchange Act, the Ministerial Order on Investor Protection Funds is established as follows.

(Property Corresponding to Customer Asset)

Article 1 Those to be specified by Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-20, paragraph (3), item (ii) of the Financial Instruments and Exchange Act (Act No. 25 of 1948); hereinafter referred to as the "Act") are money, Securities (meaning Securities prescribed in Article 2, paragraph (1) of the Act or Rights to Be Indicated on Securities pursuant to the provisions of paragraph (2) of that Article; the same applies hereinafter) or warehouse receipts deposited by a General Customer (meaning General Customer prescribed in Article 79-20, paragraph (1) of the Act; the same applies hereinafter) with a Financial Instruments Business Operator (meaning Financial Instruments Business Operator prescribed in Article 79-20, paragraph (1) of the Act; the same applies hereinafter) pursuant to the provisions of Article 109 of the Act.

(Documents to Be Attached to Written Application for Authorization)

Article 1-2 (1) Documents to be specified in Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-30, paragraph (2) of the Act are the resume and extracts of residence certificate (limited to those stating the registered domicile) of officers or other documents in lieu thereof and a document in which each officer pledges that the officer does not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) to (i) inclusive of the Act. (2) If the Prime Minister and the Minister of Finance finds it necessary for the purpose of conducting the examination referred to in Article 79-31, paragraph (1) of the Act, the Prime Minister and the Minister of Finance may request the founder to submit reports or materials that will be helpful for the examination.

(Where to Submit Written Application for Authorization)

Article 1-3 A person who intends to obtain an authorization under the provisions of Article 79-30, paragraph (1) of the Act must submit a written application for authorization to the Prime Minister via the Commissioner of the Financial

Services Agency.

(Matters Related to Articles of Incorporation Stipulating Limitation of Scope of Business of the Fund)

Article 1-4 (1) Customer Assets to be specified by Cabinet Office Order and Ministry of Finance Order as being related to a Transaction Related to Subject Securities prescribed in Article 79-49, paragraph (2) of the Act are money or Securities on the account of a General Customer prescribed in Article 18-7, item (i) of the Order for Enforcement of the Financial Instruments and Exchange Act (Cabinet Order No. 321 of 1965); hereinafter referred to as "Order" in the following paragraph) or money or Securities deposited by a General Customer with a Financial Instruments Business Operator.

(2) Customer Assets to be specified by Cabinet Office Order and Ministry of Finance Order as being related to a Subject Commodity Derivatives Transaction-Related Transaction prescribed in Article 79-49, paragraph (4) of the Act are money or Securities on the account of a General Customer prescribed in Article 18-7, item (ii) of the Order or money or Securities deposited by a General Customer with a Financial Instruments Business Operator and commodities on the account of a General Customer prescribed in item (iii) of that Article or commodities deposited by a General Customer with a Financial Instruments Business Operator.

(Matters to Be Specified in Operational Rules)

Article 2 Matters to be specified in Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-51, paragraph (1) of the Act are the following matters:

- (i) matters related to acquisition of Claims to Be Compensated (meaning Claims to Be Compensated prescribed in Article 79-56, paragraph (1) of the Act; the same applies hereinafter) under the provisions of Article 79-57, paragraph (4) of the Act;
- (ii) matters related to loan of funds under the provisions of Article 79-59, paragraph (1) of the Act;
- (iii) matters related to judicial or extra-judicial acts prescribed in Article 79-60 of the Act;
- (iv) matters related to business for contributing to expeditious refunding of Customer Assets prescribed in Article 79-61 of the Act;
- (v) methods of submission of a customer list under the provisions of Chapter IV, Section 5, Chapter V, Section 3 and Chapter VI, Section 3 of the Act on Special Measures, etc. Concerning Reorganization Proceedings of Financial Institutions, etc. (Act No. 95 of 1996) and other business under these provisions;

- (vi) matters related to entrustment of business under the provisions of Article 79-50, paragraph (1) of the Act;
- (vii) matters related to the business of a bankruptcy trustee, provisional administrator, bankruptcy trustee representative or provisional administrator representative appointed pursuant to the provisions of the Bankruptcy Act (Act No. 75 of 2004), supervisor, trustee, provisional administrator, trustee representative or provisional administrator representative appointed pursuant to the provisions of the Civil Rehabilitation Act (Act No. 225 of 1999), trustee, trustee representative, provisional administrator, provisional administrator representative or supervisor appointed pursuant to the provisions of the Corporate Reorganization Act (Act No. 154 of 2002), or recognition trustee, provisional administrator, recognition trustee representative or provisional administrator representative appointed pursuant to the provisions of the Act on Recognition of and Assistance for Foreign Insolvency Proceedings (Act No. 129 of 2000);
- (viii) matters related to the business of a Special Surveillance Agent prescribed in Article 126-4, paragraph (3) of the Deposit Insurance Act (Act No. 34 of 1971);
- (ix) matters related to the business of a Corporation Agent prescribed in Article 126-6, paragraph (1) of the Deposit Insurance Act; and
- (x) other matters deemed necessary.

(Evaluation Method of Claims to Be Compensated)

Article 3 (1) The amount calculated pursuant to the provisions of Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-56, paragraph (1) of the Act is the amount specified in the following items for the categories of cases set forth respectively in those items:

- (i) when Customer Assets pertaining to Claims to Be Compensated (meaning Customer Assets prescribed in Article 79-20, paragraph (3) of the Act; the same applies hereinafter) are money: the amount of the Customer Assets;
- (ii) when Customer Assets pertaining to Claims to Be Compensated are Securities listed on a Financial Instruments Exchange (meaning Financial Instruments Exchange prescribed in Article 2, paragraph (16) of the Act, including similar markets established in foreign states; hereinafter the same applies in this item and Article 4-2, paragraph (1), item (i)): the amount calculated based on the closing prices on the Financial Instruments Exchange on the date that the Investor Protection Fund (hereinafter referred to as "Fund") makes a public notice under the provisions of Article 79-55, paragraph (1) of the Act (if the closing prices do not exist, indicative price quotations published by the Authorized Financial Instruments Firms

Association (meaning Authorized Financial Instruments Firms Association prescribed in Article 2, paragraph (13) of the Act; hereinafter the same applies in the following item and Article 4-2, paragraph (1), item (ii)) on the date of the public notice, or the closing prices on the Financial Instruments Exchange on the nearest date prior to the date of the public notice, whichever is specified by the Fund; hereinafter the same in Article 4-2, paragraph (1), item (i));

(iii) when Customer Assets pertaining to Claims to Be Compensated are Over-the-Counter Traded Securities (meaning Over-the-Counter Traded Securities prescribed in Article 2, paragraph (8), item (x), sub-item (c) of the Act; hereinafter the same applies in this item and Article 4-2, paragraph (1), item (ii)): the amount calculated based on the closing price published by the Authorized Financial Instruments Firms Association to which the Over-the-Counter Traded Securities pertaining to the Claims to Be Compensated is registered (when the Over-the-Counter Traded Securities are registered to more than one Authorized Financial Instruments Firms Association, the Authorized Financial Instruments Firms Association specified by the Fund; hereinafter the same applies in this item and Article 4-2, paragraph (1), item (ii)) on the date the Funds makes a public notice under the provisions of Article 79-55, paragraph (1) of the Act (if the closing price does not exist, the closing price published by the Authorized Financial Instruments Firms Association on the nearest date prior to the date of the public notice; hereinafter the same applies in Article 4-2, paragraph (1), item (ii));

(iv) when Customer Assets pertaining to Claims to Be Compensated are properties other than money and Securities prescribed in the preceding three items: the amount calculated based on the closing price published on the date that the Fund makes a public notice under the provisions of Article 79-55, paragraph (1) of the Act that is deemed as a fair price by the Fund or the equivalent amount calculated by a reasonable method.

(2) The amount of money that corresponds to the payment for the sale of Securities pertaining to Margin Transaction prescribed in Article 156-24, paragraph (1) of the Act provided as security for claims pertaining to credit granted to a customer by a Financial Instruments Business Operator upon performing the Margin Transaction is to be deducted when calculating the amount of Customer Assets prescribed in item (i) of the preceding paragraph.

(Estimated Amount Pertaining to Customer Assets Provided as the Subject Matter of Security Interest)

Article 4 The amount estimated pursuant to the provisions of Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-57, paragraph (1), item (i) of the Act is the amount pertaining to the portion of the amount

prescribed in the items of paragraph (1) of the preceding Article that is provided as the subject matter of security interest.

(Estimated Amount of Customer Assets Equivalent to Duplicate Claims to Be Compensated)

Article 4-2 (1) The amount estimated pursuant to the provisions of Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-57, paragraph (1), item (iii) of the Act is the amount specified in the following items for the categories of cases set forth respectively in those items:

- (i) when the Customer Assets pertaining to Claims to Be Compensated include Claims Subject to Compensation prescribed in Article 60, paragraph (1) of the Act on Book-Entry of Company Bonds, Shares, etc. (Act No. 75 of 2001) and Customer Assets equivalent to the Claims to Be Compensated (hereinafter referred to as "Duplicate Claims to Be Compensated" in this Article) are Securities listed on a Financial Instruments Exchange: The amount calculated based on the closing price on the Financial Instruments Exchange on the date that the Fund makes a public notice under the provisions of Article 79-55, paragraph (1) of the Act;
 - (ii) when Customer Assets equivalent to Duplicate Claims to Be Compensated are Over-the-Counter Traded Securities: The amount calculated based on the closing price published by the Authorized Financial Instruments Firms Association to which the Over-the-Counter Traded Securities pertaining to the Duplicate Claims to Be Compensated is registered on the date that the Fund makes a public notice under the provisions of Article 79-55, paragraph (1) of the Act;
 - (iii) when Customer Assets equivalent to Duplicate Claims to Be Compensated are Securities other than the Securities prescribed in the preceding two items: The amount calculated based on the closing price published on the date that the Fund makes a public notice under the provisions of Article 79-55, paragraph (1) of the Act that is deemed as a fair price by the Fund or the equivalent amount calculated by a reasonable method.
- (2) The Fund may, when paying the amount payable as prescribed in the case specified in Article 79-57, paragraph (1) of the Act (limited to the case in which the case specified in item (iii) of that paragraph applies), request the trustee of a protective trust agreement prescribed in Article 52 of the Act on Book-Entry of Company Bonds, Shares, etc. to provide the following matters after the granting of recognition prescribed in Article 79-54 of the Act:
- (i) when it is found whether Article 60, paragraph (5) of the Act on Book-Entry of Company Bonds, Shares, etc. is applicable, a statement to that effect; and
 - (ii) when Article 60, paragraph (5) of the Act on Book-Entry of Company Bonds, Shares, etc. is applicable, if there is a reduction in the amount of payment

pursuant to the provisions of that paragraph, the name and address of the Participant (meaning the Participant prescribed in Article 11, paragraph (2) of that Act) pertaining to the reduction, as well as the amount of the reduction with respect to each of the Participants.

(Business for Contributing to Expeditious Payment)

Article 4-3 Business to be specified by Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-61 of the Act is business performed as an agent for a beneficiary of a trust prescribed in Article 43-2, paragraph (2) of the Act or Article 142-4, paragraph (1) of the Cabinet Office Order on Financial Instruments Business, etc. (Cabinet Office Order No. 52 of 2007) pertaining to a Financial Instruments Business Operator who is a member of the Fund by being entrusted by the Financial Instruments Business Operator or business of refunding of Customer Assets on behalf of the Financial Instruments Business Operator.

(Accounting Principles)

Article 5 In order to clarify its financial status, the Fund must account for increases and decreases in its properties and acquisition and transfer thereof as well as its income and expenditure on an accrual basis.

(Establishment of Account Items)

Article 6 The Fund is to conduct accounting by establishing balance sheet account items and profit and loss account items, and if necessary, establishing account items to clarify the calculation process.

(Contents of Budget)

Article 7 The budget of the Fund consists of the general budget provisions and an income and expenditure budget.

(General Budget Provisions)

Article 8 General budget provisions are to include comprehensive provisions pertaining to an income and expenditure budget and the provisions related to the matters listed below:

- (i) with regard to acts to assume debt under the provisions of Article 12, a maximum amount of debt associated with each of the acts and the term of payment of each debt as well as necessary reasons therefor;
- (ii) the designation of expenses under the provisions of Article 13, paragraph (2); and
- (iii) beyond the matters set forth in the preceding items, other matters necessary for the implementation of the budget.

(Income and Expenditure Budget)

Article 9 An income and expenditure budget is classified in accordance with the nature of income and the purpose of expenditure.

(Attached Documentation to Budget)

Article 10 When submitting a budget pursuant to the provisions of Article 79-69 of the Act, the Fund must attach and submit the following documents to the Commissioner of the Financial Services Agency and the Minister of Finance; provided, however, that when the Fund changes the budget pursuant to the provisions of the second sentence of the same Article, the document prescribed in item (i) is not required to be attached:

- (i) a projected balance sheet and projected income statement for the previous business year;
- (ii) a projected balance sheet and projected income statement for the current business year; and
- (iii) beyond those set forth in the preceding two items, any documents that serve as a reference for the budget.

(Contingency Fund)

Article 11 The Fund may provide contingency funds within an income and expenditure budget in order to compensate for possible deficiency in expenditure budget for unforeseeable reasons.

(Act to Assume Debts)

Article 12 The Fund may act to assume debts within the scope of the expenditure budget and, if it is necessary to conduct its business, may act to assume debts within the scope of the amount of budget submitted to the Commissioner of the Financial Services Agency and the Minister of Finance for every business year.

(Diversion of Budgeted Funds)

Article 13 (1) The Fund must not use the funds in the expenditure budget for any purpose other than those specified in the budget; provided, however, that if it is appropriate and necessary to implement the budget, it may divert the budget funds to other budget items regardless of classifications made under Article 9.

- (2) If the amount of expense is designated by the general budget provisions, the Fund is not allowed to divert it among other expenses designated by the provisions or to other expenses not designated by the provisions, or use it for the contingency funds, without obtaining the resolutions of the General

Meeting.

(Financial Plan)

Article 14 (1) A financial plan referred to in Article 79-69 of the Act must be set forth a plan related to the following matters:

- (i) sources and methods of raising funds;
- (ii) uses of funds; and
- (iii) other necessary matters.

(2) When a financial plan is changed pursuant to the provisions of the second sentence of Article 79-69 of the Act, the Fund must submit a document including the matters pertaining to the change and the reasons therefor to the Commissioner of the Financial Services Agency and the Minister of Finance.

(Report of Income and Expenditure)

Article 15 The Fund must report quarterly to the Commissioner of the Financial Services Agency and the Minister of Finance the income and expenditure by preparing a trial balance of totals and the debts assumed pursuant to the provisions of Article 12 by preparing a written report of the amount of debt for each action within one month after the end of each quarter of the business year.

(Business Report)

Article 16 The Business Report referred to in Article 79-70, paragraph (1) of the Act must specify the business results and the results of the financial plan.

(Statement of Accounts)

Article 17 (1) The statement of accounts referred to in Article 79-70, paragraph (1) of the Act consists of a financial statement of income and expenditure and an account statement of debts.

(2) The statement of accounts set forth in the preceding paragraph must indicate the actual results of budget pertaining to each matter prescribed in the general budget provisions pursuant to the provisions of Article 8.

(Financial Statements)

Article 18 (1) A financial statement of income and expenditure prescribed in paragraph (1) of the preceding Article must be prepared in accordance with the classifications adopted in the income and expenditure budget, and must state the following matters set forth below:

- (i) income:
 - (a) the amount of budgeted income;
 - (b) the determined amount of income; and
 - (c) the difference between the amount of budgeted income and the

determined amount of income.

(ii) expenditure:

- (a) the amount of the budgeted expenditure;
- (b) the amount of used contingency funds if any, and the reasons for the usage;
- (c) the amount of diversion if any, and the reasons for the diversion;
- (d) the actual budget for expenditure;
- (e) the determined amount of expenditure; and
- (f) the amount of unused budget.

(2) An account statement of debts prescribed in paragraph (1) of the preceding Article must state the amount of debt for each action pursuant to the provisions of Article 12.

(Designation of Financial Institutions)

Article 19 Persons to be specified by Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-72 of the Act are as follows:

- (i) Securities Finance Company prescribed in Article 2, paragraph (30) of the Act;
- (ii) Insurance Company prescribed in Article 2, paragraph (4) of the Insurance Business Act (Act No. 105 of 1995) and Foreign Insurance Company, etc. prescribed in paragraph (7) of that Article; and
- (iii) other financial institutions, etc. designated by the Commissioner of the Financial Services Agency and the Minister of Finance.

(Application for Authorization of Borrowings)

Article 20 The Fund must, when it intends to obtain authorization to borrow funds pursuant to the provisions of Article 79-72 of the Act, submit a written application containing the following matters to the Commissioner of the Financial Services Agency and the Minister of Finance:

- (i) the reason why borrowing is necessary;
- (ii) the lender;
- (iii) an amount of borrowing;
- (iv) an interest rate on borrowing;
- (v) the repayment method and due date of borrowing;
- (vi) the payment method and due date of interest; and
- (vii) other necessary matters.

(Ways of Investment of Surplus Funds)

Article 21 The ways to be specified by Cabinet Office Order and Ministry of Finance Order prescribed in Article 79-73, item (iii) of the Act are cash in trust.

(Accounting Rules)

Article 22 (1) The Fund must adopt accounting rules with regard to its finance and accounting.

(2) When adopting accounting rules prescribed in the preceding paragraph, the Fund must obtain an approval of the Commissioner of the Financial Services Agency and the Minister of Finance. The same applies when it intends to amend the rules.

(Assignment of Residual Assets)

Article 22-2 The liquidator must cause the residual assets of the Fund to vest in other funds which the members of the Fund will join pursuant to the provisions of Article 79-80, paragraph (1) of the Act, in proportion to the accumulated amount of dues paid by the members pursuant to the provisions of Article 79-65, paragraph (1) of the Act.

(Travel Expenses and Other Expenses Paid to Witnesses)

Article 23 (1) Pursuant to the provisions of Article 191 of the Act, a witness or an expert witness is paid travel expenses equivalent to the travel expenses paid to officials who are at the second grade in the service of the Administrative Service (I) Salary Schedule prescribed in Article 6, paragraph (1), item (i), sub-item (a) of the Act on Remuneration of Officials in the Regular Service (Act No. 95 of 1950) pursuant to the provisions of the Act concerning Travel Expenses of National Public Servants, etc. (Act No. 114 of 1950).

(2) For an expert witness, reasonable travel expenses may be paid beyond the travel expenses under the preceding paragraph, if the Commissioner of the Financial Services Agency and the Minister of Finance find it necessary.