

# **Cabinet Office Order on Financial Instruments Business, etc.**

(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 Cabinet Order, the Cabinet Office Order on Financial Instruments Business, etc. is enacted as follows:

Chapter I General Provisions (Articles 1 - 3)

Chapter II Financial Instruments Business Operators, etc.

Section 1 General Provisions

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Subsection 2 Financial Instruments Business Operators (Articles 5 - 35)

Subsection 3 Major Shareholders (Articles 36 - 39)

Subsection 4 Registered Financial Institutions (Articles 40 - 52)

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Section 5 Special Provisions Concerning Foreign Business Operators

    Subsection 1 Foreign Securities Service Providers (Articles 208-36 - 214)

    Subsection 2 Permission of Part of Underwriting Business (Articles 215 - 217)

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    Section 2 Business (Articles 265 - 281)

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Supplementary Provisions

## **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" or "Credit Rating Agency" 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 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 (xiii), Article 201 (xxiv), Article 202 (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) Invested Business: the Invested Business defined in Article 2, paragraph (2), item (v) 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.
  - (iv) Foreign Financial Instruments Market: the Foreign Financial Instruments Market defined in Article 2, paragraph (8) item (iii), sub-item (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), sub-item (iv) of the Act.
  - (vi) Underwriting of Securities: the Underwriting of Securities defined in Article 2, paragraph (8), sub-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), sub-item (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), sub-item (b) of the Act.
  - (x) Registered Financial Institution: the Registered Financial Institution defined in Article 2, paragraph (11) of the Act.
  - (x)-2 Securities for Professional Investors: the Securities for Professional Investors defined in Article 4, paragraph (3) of the Act.
  - (x)-3 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 Investment Management Business for Qualified Investors: the Investment Management Business for Qualified Investors defined in Article 29-5, item (i) of the Act.
  - (xii)-3 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 Juridical Person, etc.: the Parent Juridical Person, 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 Juridical Person, etc.: the Subsidiary Juridical Person, 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 33-5, paragraph (1), item (iii) of the Act.
- (xxii) Financial Instruments Business Operator, etc.: the Financial Instruments Business Operator, etc. defined in Article 34 of the Act.
- (xxiii) Acts of Financial Instruments Transaction: the Acts of Financial Instruments Transaction defined in Article 34 of the Act.
- (xxiv) Contract for Financial Instruments Transaction: the Contract for Financial Instruments Transaction defined in Article 34 of the Act.
- (xxv) Investment Property: the Investment Property defined in Article 35, paragraph (1), item (xv) of the Act.
- (xxvi) Purchase and Sale or Other Transactions of Securities, etc.: the Purchase and Sale or Other Transactions of Securities, etc. 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.
- (xxxix) Authorized Transaction-at-Exchange Operator: the Authorized Transaction-at-Exchange Operator defined in Article 60-4, paragraph (1) of the Act.
  - (xxxii) Qualified Institutional Investors, etc.: the Qualified Institutional Investors, etc. defined in Article 63, paragraph (1), item (i) of the Act.
  - (xxxiii) Specially Permitted Businesses for Qualified Institutional Investor, etc.: the Specially Permitted Businesses for Qualified Institutional Investor, etc. defined in Article 63, paragraph (2) of the Act.
  - (xxxiv) Specially Permitted Business Notifying Person: the Specially Permitted Business Notifying Person defined in Article 63, paragraph (3) of the Act.
  - (xxxv) Sales Representative: the Sales Representative defined in Article 64, paragraph (1) of the Act.
  - (xxxvi) Entrusting Financial Instruments Business Operators, etc.: the Entrusting Financial Instruments Business Operators, etc. defined in Article 66-2, paragraph (1), sub-item (iv) of the Act.
  - (xxxvii) Acts of Financial Instruments Intermediation: the Acts of Financial Instruments Intermediation defined in Article 66-11 of the Act.
  - (xxxviii) 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 Business of Dispute Resolution, etc.: the Category for

- Business of Dispute Resolution, etc. defined in Article 156-38, paragraph (12) of the Act.
- (xlix) Basic Contract 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 juridical person 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 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 or Financial Instruments Intermediary Service Provider, or a permission which is currently in effect to any Authorized Transaction-at-Exchange Operator.
- (iv) Commissioner of Financial Services Agency or Other Competent Official: the Special Financial Instruments Business Operators and the Commissioner of the Financial Service Agency, in case of a person designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) or Article 43, paragraph (2) of the Order for Enforcement of the Financial Instruments and Exchange Act (hereinafter referred to as the "Cabinet Order"); or the Competent Director-General of Local Finance Bureau, etc., in 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 Structured Financial Institution: a cooperative structured financial institution defined in Article 2, paragraph (1) of the Act on Preferred Equity Investment by Cooperative Structured 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) Non-Disclosure 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), sub-item (b) of the Act; the same applies hereinafter), or information on ordering trends in the customers' Purchase and Sale or Other Transactions of Securities, etc. and any other special information which may come to knowledge of any the Officers (in the case where an Officer is a juridical person, including executive members thereof) or employees of the party itself or its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. in the course of duties.
- (xiii) Non-Disclosure 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 juridical person, including its representative person in Japan; the same applies hereinafter except in Section 5 of the following Chapter) 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 pertaining to 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 Intermediary Service Operation (meaning a service operation to conduct Acts of Financial Instruments Intermediation; the same applies hereinafter); or information on ordering trends in the customers' Purchase and Sale or Other Transactions of Securities, etc. 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 Intermediary Service 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.

(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 (limited to the cases where the provisions of the main clause of that paragraph applies), 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 (limited to the cases where the provisions of the main clause of that paragraph applies).

(Attachment of Japanese Translation)

Article 2 In cases where, due to any special circumstance, there is any document to be submitted to the Commissioner of 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 Financial Services Agency or Other Official") pursuant to the provisions of the Act (limited to Chapter III through Chapter III-3 and Article 188 of the Act (limited to the provisions pertaining to Financial Instruments Business Operators, etc., Designated Parent Company, Financial Instruments Intermediary Service Providers or Credit Rating Agencies; the same applies in the following Article)), the Cabinet Order (limited to Chapters IV through IV-3; the same applies in the following Article) or this Cabinet Office Order (excluding Article 236 and Articles 239 through 243) that cannot be prepared in Japanese, a Japanese translation thereof must be attached thereto; provided,

however, that if the documents to be submitted is the articles of incorporation, or the minutes of a shareholders meeting or a Board of Officers, etc. (meaning a Board of Officers, etc. as prescribed in Article 221, item (i)) prepared in English, attaching a Japanese translation of the outline thereof is to be sufficient.

(Conversion of Foreign Currency)

Article 3 In cases where the documents to be submitted to the Commissioner of Financial Services Agency or Other Official under the Act, the Cabinet Order or this Cabinet Office Order contains any document indicating the amount in a foreign currency, a supplementary note on the amount 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 Cabinet 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), in the case where, 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 (in cases where such Wholesale Underwriting Contract is the contract listed in Article 15, item (iii) of the Cabinet 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) cases where the Total Amount of Underwriting is ten billion yen or less, and about which the discussion is held.

(Securities, etc. 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) bonds with share options; and
- (ii) securities or certificates issued by a foreign person, and which have the nature of share option certificates or bonds with share options.
- (2) The right provided for by Cabinet Office Order as prescribed in Article 28, paragraph (7), item (iii) of the Act is the right for a foreign person and have the nature of share options.

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

(Application for Registration)

Article 5 A person who intends to obtain the registration under Article 29 of the Act must submit to the Director-General of a Local Finance Bureau having jurisdiction over the location of such person's Head Office, etc. (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where 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 Electromagnetic Record (meaning an Electromagnetic 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 Stated in Application for Registration)

Article 6 (1) The person to be specified by Cabinet Office Order as referred to in Article 15-4, item (i) of the Cabinet Order is a person who 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 Cabinet Order is a person who 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), sub-item (b) of the Act; the same applies hereinafter).

(Matters to be Stated in 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 (viii) of the Act are the matters listed in the following:

- (i) the trade name or name of the Designated Dispute Resolution Organization with whom 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), sub-item (a), item (ii), sub-item (a), item (iii), sub-item (a) or item (iv), sub-item (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 registration applicant intends to become a member; and the name of the Certified Investor Protection Organization of which the registration applicant 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 registration applicant intends to become a Member or Trading Participant (hereinafter referred to as the "Members, etc.");
- (iii) in cases where the registration applicant intends to conduct a Securities-Related Business, the following matters:
  - (a) to that effect; and
  - (b) in cases where the registration applicant intends to conduct a Type I Financial Instruments Business, the name of the Investor Protection Fund of which the registration applicant intends to become a member.
- (iv) in cases where the registration applicant intends to conduct a Business Related to Commodities Investment (meaning the Business Related to Commodities Investment defined in Article 37, paragraph (2) of the Cabinet Order; the same applies hereinafter), the following matters:
  - (a) to that effect; and
  - (b) in cases where the Business Related to Commodities Investment to be conducted by the registration applicant only pertains to the goods specified in Article 37, paragraph (1), item (ii), sub-item (b) of the Cabinet 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 (vi), sub-item (b)), to that effect;

- (c) in cases where the Business Related to Commodities Investment to be conducted by the registration applicant only pertains to the goods listed in Article 37, paragraph (1), item (ii), sub-items (c) through (e) of the Cabinet 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 (vi), sub-item (c)), to that effect;
- (d) in cases where the registration applicant 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 the cases where it is 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 Cabinet 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, who is entitled to such right.
- (v) in cases where the registration applicant 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) in cases where the registration applicant intends to conduct 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 Invested Business is primarily intended for investment in a Beneficial Interest in Real Property Trust; the same applies hereinafter), to that effect;
- (vii) in cases where the registration applicant intends to conduct a 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 sub-item (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 Invested Business is primarily intended for investment in a Beneficial Interest in Real Property Trust; the same applies hereinafter), to that effect;
- (viii) in cases where the registration applicant 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; and
- (ix) in cases where the registration applicant intends to conduct an Act of Management of Specified Securities, etc. (meaning the act specified in Article 16, paragraph (1), item (xiv) of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act; the same applies in Article 181, paragraph (1), item (ii), sub-item (b)), to that effect.
- (x) 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 of Financial Instruments Transaction 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), sub-item (b), item (ii), sub-item (b), item (iii), sub-item (b) or item (iv), sub-item (b) of the Act);

- (vi) in cases where the registration applicant intends to conduct a Type I Financial Instruments Business, the following matters:
- (a) the types of the Securities to be handled, and the types of the Derivative Transactions to be conducted in the course of trade;
  - (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) in cases where the registration applicant intends to conduct a business in relation to the act specified in Article 2, paragraph (8), item (iv) of the Act, 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 juridical person, its directors, executive officers or any other person holding a position equivalent thereto who are stationed at a 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 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) in cases where the registration applicant 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) in cases where the registration applicant intends to conduct a Securities, etc. Management Business, the management methods set forth in Article 43-2 or Article 43-3 of the Act;
- (f) in cases where the registration applicant intends to conduct a Securities-Related Business, the following matters concerning the measures listed in the respective items of Article 70-3, paragraph (1):
  - 1. the method 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) in cases where the registration applicant intends to receive or supply information in the cases referred to in Article 123, paragraph (1), item (xviii), sub-item (e) and item (xxiv), sub-item (d), and Article 153, paragraph (1), item (vii), sub-items (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 Affairs prescribed in paragraph (3) of that Article:
  - 1. the trade name or name of the Registered Financial Institution, Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. who receives or supplies said 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) in cases where the registration applicant intends to conduct a 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;
  - (b) in cases where the registration applicant 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) in cases where the registration applicant intends to handle the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act, the outline of the Invested Business pertaining to said rights; and
  - (d) in cases of implementing the operations defined in Article 29-5, paragraph (2) of the Act, to that effect.
- (viii) in cases where the registration applicant 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), item (xi) and (xiii) of the Act);

- (b) the type of the Securities and rights pertaining to Derivative Transactions regarding which the registration applicant intends to give advice;
- (c) in cases where the registration applicant 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) in cases where the registration applicant 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 Invested Business pertaining to such rights;
- (ix) in cases where the registration applicant intends to conduct an 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 sub-item (a) of that item, the act specified in that item which pertains to the contract specified in sub-item (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 sub-items (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;
  - (c) in cases where 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) in cases where 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 Invested Business pertaining to such right; and
  - (e) in cases where 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.

(Documents to be Attached to Written Application 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 registration applicant's business execution system, such as its personnel structure and the organizational structure pertaining to the business;
- (ii) in cases where the registration applicant is a juridical person, the following documents:
  - (a) the resumes of the Officers (including those who are found to have the

- same or a higher authority over the juridical person 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, item (i), (ii) and (iv), Article 47, paragraph (1), item (ii), Article 49, item (i), (ii) and (iv), Article 199, item (ii), Article 201, item (ix), Article 202, item (viii), Article 208-20, items (ii) through (v), Article 208-22, item (ii), sub-item (c), Article 208-31, paragraph (1), item (iv), and paragraph (2), item (iv), and Article 208-32, item (ii)) (in cases where an Officer is a juridical person, the document describing the background of said Officer); and the resumes of the employees defined in Article 15-4 of the Cabinet Order (hereinafter referred to as the "Major Employees", except in Article 47, paragraph (1), item (ii), Article 51, paragraph (1), item (iv) and Article 91, paragraph (1), item (iv));
- (b) the extracts of the certificates of residence of the Officers and the Major Employees (in cases where an Officer is a juridical person, the certificate of registered matters of said Officer), or any document in lieu thereof;
  - (c) 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 (a) or (b) of the Act, or any other document in lieu thereof;
  - (d) 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 (c) through (g) of the Act;
- (iii) in cases where the registration applicant is an individual, the following documents:
- (a) the resumes of the registration applicant and the Major Employees;
  - (b) the extracts of the certificates of residence of the registration applicant and the Major Employees, or any other documents in lieu thereof;
  - (c) the certificate issued by a public agency evidencing that none of the registration applicant or the Major Employees falls under Article 29-4, paragraph (1), item (ii), sub-item (a) or (b) of the Act, or any other document in lieu thereof; and
  - (d) 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 (c) through (g) of the Act;
- (iv) the document stating the status of the Persons in Specified Relationships (meaning the Parent Juridical Person, etc., Subsidiary Juridical Person, etc. and Holding Company (meaning the Holding Company defined in Article 29-4, paragraph (1), item (v), sub-item (d) of the Act; the same applies hereinafter except in Article 198); and in cases where the registration applicant intends to conduct a Type I Financial Instruments Business, Associated Company (meaning a Related Company as prescribed in Article 177, paragraph (6); the

same applies in sub-item (f)); the same applies in sub-item (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 registration applicant 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 Juridical Person, etc., Subsidiary Juridical Person, etc., or Holding Company (in cases where the registration applicant intends to conduct a Type I Financial Instruments Business, information as to whether the Persons in Specified Relationship falls under the category of Parent Juridical Person, Subsidiary Juridical Person, etc., Holding Company or Associated Company);
- (v) in cases where the registration applicant intends to conduct a Business Related to Commodities Investment which pertains to racehorses, a document evidencing that the registration applicant does not fall under the criteria specified in Article 13, item (iii);
- (vi) in cases where the registration applicant intends to conduct a Business of Transaction, etc. of Beneficial Interest in Real Property Trust, a document evidencing that the registration applicant does not fall under the criteria specified in Article 13, item (iv); and
- (vii) a document stating the matters related to the registration applicant's ability to carry out the business, in cases where the registration applicant intends to conduct a Specified Investment Management Business Related to Real Property.

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) in cases where the registration applicant intends to conduct a 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), sub-item (b) of the Act; the same applies hereinafter);
  - (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), sub-item (c), Article 201 item (xx), Article 202, item (v), sub-item (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 (in cases where 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 (4) of that Article);

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

(iii) in cases where the registration applicant intends to conduct a Type I Financial Instruments Business, the following documents:

(a) in cases where the registration applicant is a foreign juridical person, a document evidencing that the registration applicant 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 said foreign state (including a person prescribed in Article 15-8 of the Cabinet Order);

(b) a document stating the calculated ratio prescribed in Article 29-4, paragraph (1), item (vi), sub-item (a) of the Act;

(c) in cases where the registration applicant intends to conduct any business pertaining to the act specified in Article 2, paragraph (8), item (iv) of the Act 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; and
3. the contracts to be used in transactions with customers in connection with the business.

(2) In cases where the registration applicant 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 Electromagnetic Record, or if a profit and loss statement (including notes in reference thereto) has been prepared by means of an Electromagnetic Record, instead of as written documents, such registration applicant may attach the Electromagnetic Record (limited to those specified in the following Article) in lieu of documents.

(Electromagnetic Record)

- Article 11 (1) The Electromagnetic 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 is a 90mm flexible magnetic disk cartridge which complies with the X6223 of the Japanese Industrial Standards under the Industrial Standardization Act (Act No. 185 of 1949) (hereinafter referred to as the "JIS").
- (2) Entry onto an Electromagnetic Record as set forth in the preceding paragraph must be completed in accordance with the following methods:
- (i) with regard to the track format, the method designated by the JIS X6225;
  - and
  - (ii) with regard to volume and file configuration, the method designated by the JIS X0605.
- (3) With regard to the Electromagnetic Record set forth in paragraph (1), a document containing the following matters must be affixed to the label area specified by the JIS X6223:
- (i) the trade name or name of the registration applicant; and
  - (ii) the date of application.

(Public Inspection of Registry of Financial Instruments Business Operators)

Article 12 A Competent Director-General of 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 having jurisdiction over the location of the relevant Financial Instruments Business Operator's Head Office, etc. (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, at the Fukuoka Local Finance Branch Bureau; or in cases where 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 Personnel Structure)

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

- (i) that the registration applicant 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 registration applicant 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, in cases where the registration applicant intends to conduct a Business Related to Commodities Investment pertaining to racehorses, such registration applicant does not fall under the following requirements:
- (a) that the registration applicant 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 registration applicant only falls under either the Business Related to Investment in Racehorses pertaining to the rights specified in Article 7, item (iv), sub-item (d)1. or the Business Related to Investment in Racehorses pertaining to the rights specified in Article 7, item (iv), sub-item (d)2.;
  - (c) that, in cases where the registration applicant intends to conduct a Business Related to Investment in Racehorses pertaining to the rights specified in Article 7, item (iv), sub-item (d)2., such registration applicant has obtained a registration under Article 13, paragraph (1) of the Horse Racing Act (including the cases where it is applied mutatis mutandis pursuant to Article 22 of that Act).
- (iv) that, in cases where the registration applicant intends to conduct a Business of Transaction, etc. of Beneficial Interest in Real Property Trust, such registration applicant does not fall under the following requirements:
- (a) that the registration applicant 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), sub-item (a), Article 49, item (iv), sub-item (a)3., Article 199, item (vii) and item (xiii) sub-item (a), Article 200, item (vi), Article 208-31, paragraph (1), item (viii), sub-item (a), and Article 223, item (x));

- (b) that the Officers or the employees who 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 Contract for Financial Instruments Transaction.
- (v) that, in cases where the registration applicant intends to conduct a Specified Investment Management Business Related to Real Property, such registration applicant does not fall under the requirements specified by the Commissioner of the Financial Services Agency.

(Calculation of Net Assets)

- Article 14 (1) The Net Assets to be calculated under Article 29-4, paragraph (1), item (v), sub-item (b) of the Act (including the cases where it is 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) in cases where, in connection with any other business conducted by the registration applicant, 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) in cases where 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) in cases where, 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) in cases where 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 where it is found unlikely that such value will recover to the level of the book value: such market value.

- (iv) in cases where, 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) in cases where any underdepreciation with regard to deferred assets has arisen: the amount after deduction of the underdepreciation.

(Facts Estimated to Have Material Influence on Decision of Company's Financial and Operational Policies)

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

- (i) that any Officer or employee, or person who has formerly held such positions, who 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 exists 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 Manner of Holding or Other Circumstances)

Article 16 The voting rights to be specified by Cabinet Office Order as referred to in Article 29-4, paragraph (2) of the Act (including the cases where it is 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 juridical person, in cases where a person having the authority of representation for such juridical person or a manager having the authority to act as 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 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), in cases where 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 wherein 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 the cases where it is applied by replacing certain terms under Article 165, paragraph (3) of that Act), the above is limited to the case where such 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 the cases where 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 a business pertaining to the Underwriting of Securities (excluding shares owned on or after the day immediately following the payment date for said shares (or on or after the day immediately following the delivery date for said shares, in cases of the Secondary Distribution of Securities or Solicitation for Selling, etc. Only for Professional Investors) (in cases where 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 Cabinet 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.

(Content of Contract for the Transfer of Securities related to Solicitation for

Acquisition by Financial Instruments Business Operators who Engage in Investment Management Business for Qualified Investors)

Article 16-2 The matters provided for by Cabinet Office Order as defined in Article 15-10-4 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 equivalent to Professional Investors)

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

- (i) judging reasonably from the status of the transactions or any other circumstances, the surviving employee's pension fund (limited to one for which management and investment system of pension benefit funds defined in Article 136-3, paragraph (4) of the Social Pension Insurance Act (Act No. 115 of 1954) has been developed and the notification defined in Article 136-3, paragraph (4) of that Act is submitted) and corporate pension funds, of those which the total amount of assets (limited to those listed in Article 62, item (ii), sub-items (a) through (g); hereinafter the same applies in this Article) is likely to be ten billion yen or more;
- (ii) a juridical person that corresponds to any of the following requirements (excluding the surviving employee's pension fund and corporate pension funds; in cases of a juridical person that corresponds to (b), limited to cases where it transacts as an Operating Partner, etc. (meaning a partner who has concluded a partnership contract and is designated for the execution of operations of the partnership, a proprietor of a business who has concluded a silent partnership agreement, or a partner who has concluded a Limited Liability Partnership Agreement, is involved in the decision-making on the execution of the important business of the partnership, and personally

executes such business; the same applies in sub-item (b) )):

- (a) judging reasonably from the status of the transactions or any other circumstances, the total amount of the assets held by said juridical person is likely to be 300 million yen or more; or
  - (b) the juridical person is an Operating Partner, etc. and the total amount of assets held by said juridical person as an Operating Partner, etc. is likely to be 300 million yen or more by the Invested Business pertaining to the partnership contract, silent partnership agreement, or limited liability partnership agreement, judging reasonably from the status of the transactions or any other circumstances (excluding cases where the juridical person corresponds to sub-item (a)).
- (iii) an individual who corresponds to any of the following requirements (in cases of an individual who corresponds to sub-item (b), limited to cases where the individual transacts as an Operating Partner, etc. (meaning a partner who has concluded a partnership contract and is designated for the execution of operations of the partnership, a proprietor of a business who has concluded a silent partnership agreement or a partner who has concluded a Limited Liability Partnership Agreement, is involved in the decision-making on the execution of the important business of the partnership, and personally executes such business, and a person equivalent thereto based on foreign laws and regulations; the same applies in sub-item (b) )):
- (a) all of the following requirements are satisfied:
    - 1. judging reasonably from the status of the transactions or any other circumstances, the total amount of the assets held by said individual is likely to be 300 million yen or more; and
    - 2. one year has elapsed from the day when said individual opened an account with a Financial Instruments Business Operators, etc. for Securities transactions or Derivatives Transactions.
  - (b) the individual is an Operating Partner, etc. and the total amount of assets held by said individual as an Operating Partner, etc. is likely to be 300 million yen or more for the Invested Business pertaining to the partnership contract, silent partnership agreement or limited liability partnership agreement, or agreement equivalent thereto based on foreign laws and regulations, judging reasonably from the status of the transactions or any other circumstances, (excluding cases where the individual corresponds to sub-tem (a)).

(Persons Excluded from Qualified Investors)

Article 16-4 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)I, (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 (in the case where 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 of determination of the purchase and sale price;
- (vii) the method of publication of the price information such as quotes, purchase and sale 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 of the cases where there occurs any malfunction of such electronic data processing system;
- (ix) the method of transfer or other settlement procedures for the Securities related to the Proprietary Trading System Operation, and the method of handling of the cases where there arises any customer's default in the performance of a contract;
- (x) the method for the preparation and preservation of the transaction records for the Proprietary Trading System Operation;
- (xi) 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

- (xii) 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, item (v), (viii) or (x); 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 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) in cases where there has been any change to the matters specified in Article 29-2, paragraph (1), item (i) of the Act: the certificate of the registered matters (in cases of an individual, an extract copy of the certificate of residence) containing the particulars so changed, or any other document in

- lieu thereof;
- (ii) in cases where there has been any change to the matters specified in Article 29-2, paragraph (1), item (ii) of the Act: the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
  - (iii) in cases where 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 personnel structure and the organization pertaining to the business;
    - (b) in cases where 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 who has newly assumed the position of Officer or Major Employee:
      - 1. the resumes (in cases where the Officer is a juridical person, the document containing the background of said Officer);
      - 2. the extracts of the certificates of residence (in cases where the Officer is a juridical person, the certificate of the registered matters of said Officer), or any other document in lieu thereof;
      - 3. 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 (a) or (b) of the Act, or any other document in lieu thereof;
      - 4. 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 (c) through (g) of the Act;
  - (iv) in cases where there has been any change to the matters specified in Article 29-2, paragraph (1), item (vi) of the Act (limited to the cases where 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 cases where there has been any change to the matters specified in Article 7, item (iv), sub-item (d) (limited to the cases where 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);
  - (vi) in cases where there has been any change to the matters specified in Article 7, item (vi) (limited to the cases where 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);

- (vii) in cases where there has been any change to the matters specified in Article 7, item (vii) (limited to the cases where 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;
- (2) In cases where the Commissioner of 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 said Financial Instruments Business Operator and any other documents to the Director-General of a Local Finance Bureau having jurisdiction over the relocated address of the Head Office, etc. notified thereunder (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where 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.

(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 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 matters specified in the items of Article 8 (limited to those matters whose details have been changed).

(Application of Registration of Change)

- Article 22 (1) A Financial Instruments Business Operator which intends to obtain the registration of change under Article 31, paragraph (4) of the Act must submit to the Commissioner of 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) 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), and sub-item (c) of item (v));
  - (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 to the case where 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 Financial Services Agency or Other Competent Official a written application for authorization stating the following matters:

- (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 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 Operation, etc.)

Article 25 (1) A person who has completed making a deposit pursuant to the provisions of Article 31-2, paragraph (1), (4) or (8) of the Act must submit to a Commissioner of 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) In cases where a Financial Instruments Business Operator (limited to an individual engaged in a Type II Financial Instruments Business or a person engaged only in an 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 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 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 Deposit for Operation)

Article 26 The financial institutions to be specified by Cabinet Office Order as referred to in Article 15-13 of the Cabinet Order are a Cooperative Structured Financial Institution and the Shoko Chukin Bank Limited.

(Notification of Conclusion, etc. of Contracts in Lieu of Deposit 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 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 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 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 Financial Services Agency or Other Competent Official, it must submit to the Commissioner of 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.

(Commencement Day 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) in cases where 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 Cabinet 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 Cabinet Order: the day when the term of the Contract was changed;
- (ii) in cases where the Financial Instruments Business Operator has cancelled the Contract with the Approval: the day of the cancellation of the Contract;
- (iii) in cases where the procedures for execution of the right as set forth in Article 15-14 of the Cabinet 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 Regulation on Security Deposits by Financial Instruments Business Operators (Order of the Cabinet Office and the Ministry of Justice No. 3 of 2007);
- (iv) in cases where, for the purpose of implementing procedures for the execution of the rights as set forth in Article 15-14 of the Cabinet Order, the Commissioner of 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 Transfer of Corporate Bonds, Shares, etc. (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) in cases where a Financial Instruments Business Operator (limited to an individual only engaged in an Investment Advisory and Agency Business) has obtained a registration of change under Article 31, paragraph (4) of the Act, as a person engaged in a Type II Financial Instruments Business: the day when such operator obtained the registration of change.

(Types of Securities Which May be Substituted for Deposit 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 Transfer of Corporate Bonds, Shares, etc., 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), sub-item (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 Deposit for Operation)

Article 30 (1) The value of the Securities in cases where the Securities are to be substituted for the Deposit for Operation 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 (in cases where 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 Transfer of Corporate Bonds, Shares, etc., 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.

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

- (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, such 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 matters to the Commissioner of 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

matters must be submitted to the Commissioner of 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 matters to the Commissioner of 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 Definition of Parent Juridical Person, etc. and Subsidiary Juridical Person)

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

- (i) a person solely engaged in a business for the execution of the Financial Instruments Business, etc. or the Financial Instruments Intermediary Service of any of the following parties:
  - (a) the party itself; or
  - (b) the party itself, and its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc.
- (ii) a person solely engaged in a business (excluding a business related to the Non-Disclosure Information (limited to information which relates to customers of a Financial Instruments Business, etc. or a Financial Instruments Intermediary Service 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. and a Financial Instruments Intermediary Service):

- (a) the party itself; or
- (b) the party itself, and its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc.
- (iii) a juridical person 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 Category of Parent Company, etc.)

Article 33 (1) The companies to be specified by Cabinet Office Order as referred to in Article 15-16, paragraph (3) of the Cabinet 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 to the case where 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 sub-item (e) of item (ii) 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. consist a majority of the voting rights in such other Company, etc.;
  - (b) that the officers or employees of the Company, etc. or persons formerly in such positions, who would have an influence on the decision of such other Company, etc. with regard to its financial policies and operational or business policies consist 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 a provision of a guarantee of obligation and a provision of securities; the same applies in sub-item (d) and Article 34, item (ii), sub-item (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 the cases where 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 such other Company, etc.;
- (iii) the Company, etc. which falls under any of the requirements specified in sub-items (b) through (e) of the preceding item, in the case where 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. consist a majority of the voting rights in another Company, etc. (including the case where 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 have been transferred to said Special Purpose Company 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. (meaning the Subsidiary Company, etc. specified in Article 15-16, paragraph (3) of the Cabinet Order; the same applies in the following Article) of the Transferor Company, etc.



(Persons Falling Under Category of Affiliated Companies, etc.)

Article 34 The Affiliated Companies, etc. to be specified by Cabinet Office Order as referred to in Article 15-16, paragraph (4) of the Cabinet Order are as follows; provided, however, that this does not apply to the cases where 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., in cases where 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, in the case where 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 formerly in such a position who 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 sub-items (a) through (e) of the preceding item, in the case where 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 the case where the Company, etc. does not hold voting rights on its own account).

(Criteria for Determination of Holding of Voting Rights)

Article 35 (1) For the purpose of the determination of the holding of voting rights as set forth in Article 15-16, paragraph (5) of the Cabinet 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) the cases where 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) the cases where any person in special relationship as set forth in Article 15-10 of the Cabinet Order holds the voting rights in the Company, etc.;
  - (iii) in cases where, pursuant to the provisions of Article 147, paragraph (1) or Article 148, paragraph (1) of the Act on Transfer of Corporate Bonds, Shares, etc. (including the cases where 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 Cabinet 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 juridical person, in cases where a person having the authority of representation for such juridical person or a manager having the authority to act as 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 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 the cases where an unqualified acceptance is deemed to have been given) or a qualified acceptance, or the Shares, etc. which the coheirs of such inherited property have not yet divided).

### **Subsection 3 Major Shareholders**

(Submission of Notification of Holding Subject Voting Rights)

Article 36 A person who 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 having jurisdiction over the location of the Head Office, etc. (in the case of an individual, the domicile or residence) (or, in cases where 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 Subsection); 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 Subsection and in Article 208).

(Matters to be Specified in Notification 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 juridical person, 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) (in the cases where 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 Notification 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; and
- (ii) in the case of a juridical person, 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 who 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 said notification, to the Director-General of a Local Finance Bureau having 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 (in cases where said 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 Which Fall Under Category of Parent Company, etc.)

Article 38-3 The companies provided for by Cabinet Office Order defined in Article 15-16-2, paragraph (2) of the Cabinet 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 the Terminology, Forms, and Preparation Methods of Financial Statements, etc. (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 the Terminology, Forms, and Preparation Methods of Consolidated 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 Falling Under Category of Affiliated Companies, etc.)

Article 38-4 The Affiliated Companies, etc. provided for by Cabinet Office Order as defined in Article 15-16-2, paragraph (3) of the Cabinet 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 who 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 said notification, to the Director-General of a Local Finance Bureau having 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 (in cases where said 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 the case where the provisions of Article 32, paragraphs (1) and (2) of the Act is 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 Cabinet Order are those which satisfy all of the following requirements:

- (i) that there exist assets to be assigned directly or indirectly from the owner to a juridical person incorporated or managed for the purpose of the issuance of such Securities (such assets are hereinafter referred to as the "Assigned Assets" in the following item); and
- (ii) that the juridical person set forth in the preceding item issues such Securities, and appropriates the money generated from the management, investment or disposition of the Assigned 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, etc.)

Article 41 The Securities to be specified by Cabinet Office Order as referred to in Article 15-17, paragraph (3) of the Cabinet 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 Transfer of Corporate Bonds, Shares, etc. 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 sub-item (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, etc.)

Article 42 The Securities to be specified by Cabinet Office Order as referred to in Article 15-18, item (i) of the Cabinet 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 Structured Financial Institutions; the same applies hereinafter)), share option certificates or bonds 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 who intends to obtain the registration under Article 33-2 of the Act must submit to the Director-General of a Local Finance Bureau having jurisdiction over the location of such person's Head Office, etc. (in cases where 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 Electromagnetic 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 (vii) of the Act are as follows:

- (i) in cases where any of the registration applicant's employees falls under any of the following, the name of such employee:
  - (a) a person who 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 who holds a position whereby the person may exercise the authority on behalf of the person who supervises such affairs, such as a general manager, vice-chief, section manager or any other person, irrespective of the job title;
  - (b) a person who supervises the section in charge of carrying out advise and investment (including provision of an instruction thereon; the same applies hereinafter) and a person who 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 whom 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), sub-item (a) of the Act and the name of the Financial Instruments Firms Association of which the registration applicant is to become a member; and the name of the Certified Investor Protection Organization of which the registration applicant is to become a Target Business Operator;
- (iii) the name or trade name of the Financial Instruments Exchange of which the registration applicant is to become a Member, etc.;
- (iv) in cases where the registration applicant 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) in cases where the registration applicant 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;
- (v) in cases where the registration applicant intends to conduct any Financial Instruments Intermediary Service Operation, the trade name of the Entrustor Financial Instruments Business Operator (meaning the Financial Instruments Business Operator engaged in a Type I Financial Instruments Business from which the registration applicant accepts the entrustment of a Financial Instruments Intermediary Service Operation; the same applies hereinafter except in Article 275, paragraph (1), item (xxvii));
- (vi) in cases where the registration applicant intends to conduct a Business Related to Commodities Investment, the following matters:
  - (a) to that effect;
  - (b) in cases where the Business Related to Commodities Investment to be conducted by the registration applicant only pertains to the goods specified in Article 37, paragraph (1), item (ii), sub-item (b) of the Cabinet Order or the Agriculture, Forestry and Fisheries Goods, etc., to that effect;
  - (c) in cases where the Business Related to Commodities Investment to be conducted by the registration applicant only pertains to the goods specified in Article 37, paragraph (1), item (ii), sub-items (c) through (e) of the Cabinet Order or the Economy, Trade and Industry Goods, etc., to that effect; and
  - (d) in cases where the registration applicant intends to conduct a Business Related to Investment in Racehorses, to that effect;
- (vii) in cases where the registration applicant 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;
- (viii) in cases where the registration applicant intends to conduct a Business of Transaction, etc. of Beneficial Interest in Real Property Trust, to that effect; and
  - (ix) in cases where the registration applicant intends to conduct a Specified Investment Management Business Related to Real Property, to that effect.
  - (x) 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 of Financial Instruments Transaction 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), sub-item (b) of the Act);
- (vi) in the cases where the registration applicant 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;
  - (b) in cases where the registration applicant 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) in cases where the applicant intends to handle the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act, the outline of the Invested Business pertaining to such rights;
  - (d) the method of risk management concerning loss;
  - (e) in cases where the registration applicant 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) in cases where the registration applicant 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 juridical person, its directors, executive officers or any other person holding a position equivalent thereto who 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) in cases where the registration applicant intends to conduct an Investment Advisory and Agency Business, the matters listed in Article 8, item (viii), sub-items (a) through (d);
- (viii) in cases where the registration applicant intends to conduct an Investment Management Business, the matters listed in Article 8, item (ix), sub-items (a) through (e);
- (ix) in cases where the registration applicant intends to conduct a Securities, etc. Management Business, the management methods under Article 43-2 or Article 43-3 of the Act;
- (x) the following matters concerning the measures listed in the respective items of Article 70-3, 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;
- (xi) in cases where the registration applicant intends to receive or supply information in the cases referred to in Article 123, paragraph (1), item (xviii), sub-item (e) and item (xxiv), sub-item (d), the following matters concerning affairs related to the maintenance and management of Electronic Data Processing Systems and concerning affairs related to Internal Management Affairs prescribed in Article 153, paragraph (3):
- (a) the trade name or name of the Entrustor Financial Instruments Business Operator who receives or supplies said 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; and
- (xii) in cases where the registration applicant intends to supply information in

the case referred to in Article 154, item (iv), sub-items (g), (i) and (j), the trade name or name of the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. who receives such information.

(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 Juridical Person, etc., a Subsidiary Juridical Person, 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 registration applicant 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 Juridical Person, etc., Subsidiary Juridical Person, 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 registration applicant's business execution system, such as its personnel structure and the organizational structure pertaining to the business;
- (ii) the resumes of the Officers and Major Employees (meaning an employee who falls under any of Article 44, item (i), sub-item (a) or (b); the same applies in Article 51, paragraph (1), item (iv)) in charge of the Registered Financial Institution Business (in cases where the Officer is a juridical person, the document containing the background of such Officer);
- (iii) in cases where the registration applicant intends to conduct a Business Related to Commodities Investment pertaining to racehorses, a document evidencing that the registration applicant does not fall under the criteria specified in Article 49, item (iii);
- (iv) in cases where the registration applicant intends to conduct a Business of Transaction, etc. of Beneficial Interest in Real Property Trust, a document evidencing that the registration applicant does not fall under the criteria specified in Article 49, item (iv);
- (v) a document stating the matters related to the registration applicant's

- ability to carry out the business, in cases where the registration applicant intends to conduct a Specified Investment Management Business Related to Real Property;
- (vi) the notes in reference to the balance sheet and the notes in reference to the profit and loss statement;
  - (vii) in cases where the registration applicant 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
  - (viii) in cases where the registration applicant intends to conduct a Financial Instruments Intermediary Service Operation, the following documents:
    - (a) a copy of the contract for the entrustment of a Financial Instruments Intermediary Service Operation concluded with the Entrustor Financial Instruments Business Operator; and
    - (b) in cases where the registration applicant is not a member of the Financial Instruments Firms Association, its internal rule regarding Financial Instruments Intermediary Service Operation.
- (2) In cases where the registration applicant intends to attach the document specified in item (vi) 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 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 having jurisdiction over the location of the relevant Registered Financial Institution's Head Office, etc. (in cases where 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 Personnel Structure)

Article 49 When conducting an examination under Article 33-5, paragraph (1),

item (iii) of the Act as to whether the registration applicant lacks a personnel structure sufficient to conduct a Registered Financial Institution Business in the appropriate manner, it is to be examined whether the registration applicant falls under any of the following criteria:

- (i) that the registration applicant 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 registration applicant 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, in cases where the registration applicant intends to conduct a Business Related to Commodities Investment for racehorses, such registration applicant does not fall under any of the following requirements:
  - (a) that the registration applicant 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 registration applicant only falls under either of the Business Related to Investment in Racehorses pertaining to the rights specified in Article 7, item (iv), sub-item (d)1. or the Business Related to Investment in Racehorses pertaining to the rights specified in Article 7, item (iv), sub-item (d)2.;
  - (c) that, in cases where the registration applicant intends to conduct a Business Related to Investment in Racehorses pertaining to the rights specified in Article 7, item (iv), sub-item (d)2., such registration applicant has obtained a registration under Article 13, paragraph (1) of the Horse Racing Act (including the cases where it is applied *mutatis mutandis* pursuant to Article 22 of that Act);
- (iv) that, in cases where the registration applicant intends to conduct a Business of Transaction, etc. of Beneficial Interest in Real Property Trust, such registration applicant does not fall under the following requirements:
  - (a) that the registration applicant 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 who 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 Contract for Financial Instruments Transaction.
- (v) that, in cases where the registration applicant intends to conduct a Specified Investment Management Business Related to Real Property, such registration applicant 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, in cases where 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, in the case where 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, in cases where 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 Change to Matters Stated in 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 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) in cases where there has been any change to the matters specified in Article 33-3, paragraph (1), item (i) or (ii) of the Act: the certificate of the registered matters containing the particulars so changed, or any other document in lieu thereof;
- (ii) in cases where 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 business execution system, such as its personnel structure 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 who has newly assumed the position of Officer (limited to an Officer in charge of Registered Financial Institution Business and an accounting advisor) (in cases where the Officer is a juridical person, the document containing the background of said Officer);
  - (iii) in cases where there has been any change to the matters specified in Article 33-3, paragraph (1), item (v) of the Act (limited to the cases where 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) in cases where there is a change to the matters specified in Article 44, item (i): the resume of the person who newly assumes the position of a Major Employee;
  - (v) in cases where there is a change to the matters specified in Article 44, item (v) (limited to the cases where the Registered Financial Institution has come to newly accept the entrustment of a Financial Instruments Intermediary Service Operation): the following documents:
    - (a) a copy of the contract for the entrustment of such Financial Instruments Intermediary Service Operation; and
    - (b) in cases where the Registered Financial Institution is not a member of a Financial Instruments Firms Association, the internal rule regarding Financial Instruments Intermediary Service Operation;
  - (vi) in cases where there is a change to the matters specified in Article 44, item (vi), sub-item (d) (limited to the cases where 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);
  - (vii) in cases where there is a change to the matters specified in Article 44, item (viii) (limited to the cases where 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
  - (viii) in cases where there is a change to the matters specified in Article 44, item (ix) (limited to the cases where 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) In cases where the Commissioner of 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 having jurisdiction over the relocated address of the Head Office, etc. notified thereunder (in cases where 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 Contents 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 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 matters specified in the items of Article 45 (limited to those matters whose details have been changed).

### **Subsection 5 Professional Investors**

(Kind of Contract)

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 the acts listed in Article 2, paragraph (8), items (i) through (x) of the Act, the acts specified in item (xvi) of that paragraph to be conducted with regard to any of such acts, or the act specified in item (xvii) of that paragraph, in relation to the Securities;
- (ii) a contract for conducting the acts listed in Article 2, paragraph (8), items (i) through (v) of the Act, the acts specified in item (xvi) of that paragraph to be conducted with regard to any of such acts, or the act 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 Who 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;
- (ii) that, with regard to any Contract for Financial Instruments Transaction 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.; and

(Provision by Use of Information and Communications Technology)

Article 56 (1) The methods to be specified by Cabinet Office Order as referred to in Article 34-2, paragraph (4) of the Act (including the cases where it is applied mutatis mutandis pursuant to Article 34-3, paragraph (12) (including the cases where it is 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 methods (hereinafter referred to as the "Electromagnetic Means"):

- (i) the methods using an Electronic Data Processing System, as set forth by 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 who, 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 who, 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. (in cases where the Applicant acknowledges the provision of information by the method specified in Article 34-2, paragraph (4) of the Act or where the Applicant notifies to the effect that the Applicant will not receive information by such means, the method 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, in cases where the Applicant acknowledges the provision of information by the method specified in Article 34-2, paragraph (4) of the Act or where 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 methods listed in the items of the preceding paragraph must conform to the following criteria:

- (i) that the method enables a Customer to prepare a document by way of outputting information recorded on the Customer File or Inspection File;
  - (ii) in the case of the method listed in sub-item (a), (c) or (d) of item (i) of the preceding paragraph (excluding the method 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 to the cases where it is confirmed that the Customer has inspected the Information;
  - (iii) in the case of the method listed in sub-item (c) or (d) of item (i) 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 such complaint was settled, whichever comes later); provided, however, that the Information may be deleted in cases where the Information which have been made available for inspection are delivered in writing, where such Information are provided by the methods listed in sub-item (a) or (b) of item (i) of the preceding paragraph or in item (ii) of the preceding paragraph with the Customer's consent (meaning consent given by the method specified in Article 15-22 of the Cabinet Order), or where the Customer has instructed that the Information should be deleted:
    - (a) in the case of the method specified in sub-item (c) of item (i) of the preceding paragraph, the Information recorded in the Customer File; and
    - (b) in the case of the method specified in sub-item (d) of item (i) of the preceding paragraph, the Information recorded in the Inspection File;
  - (iv) in the case of the method specified in sub-item (d) of item (i) 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 sub-item (a) and such Inspection File are kept connectible via telecommunications line; provided, however, that this does not apply to the cases where the Customer who has been given access to the files has notified to the effect that such connectibility need not be maintained.
- (3) The "Electronic data processing system" as used in item (i) of paragraph (1) 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 Contents of Electromagnetic Means)

Article 57 The types and contents of the methods to be specified as set forth in Article 15-22, paragraph (1) and Article 15-23, paragraph (1) of the Cabinet Order are as follows:

- (i) the methods listed 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 where 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 who, 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 Contract for Financial Instruments Transaction 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 methods to be specified by Cabinet Office Order as referred to in Article 34-2, paragraph (12) of the Act (including the cases where it is applied mutatis mutandis pursuant to Article 34-3, paragraph (3) (including the cases where it is applied mutatis mutandis pursuant to Article 34-4, paragraph (6) of the Act) and Article 43-4, paragraph (2) of the Act; hereinafter the same applies in this Article) are as follows:

- (i) the methods 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 from whom it seeks consent 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 methods listed in the items of the preceding paragraph must be the methods 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 item (i) of paragraph (1) 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 in Cases Where Juridical Person Which is Customer Other Than Professional Investor is Deemed to be Professional Investor)

Article 58 (1) The case to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (2) of the Act is the case where 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) such 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 Juridical Person 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), sub-item (a) of the Act are the fact that the provisions listed in the items of Article 45 of the Act do not apply to the cases where 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 in the cases where such act is conducted after the Expiration Date;

(ii) in cases where 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, item (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 Contract for Financial Instruments Transaction 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 Juridical Person 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 Document to Deliver to Juridical Person Who Made Request for Reinstatement as Customer Other Than 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 juridical person 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 Contract for Financial Instruments Transaction 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, etc. Who may Make Request 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, is involved in the decision-making on the execution of the important business of the partnership, and is 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 Request 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 sub-items (e) and (f) (limited to contracts that are concluded with a special enterprise operator as defined in Article 2, paragraph (2) 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 11-2-4 of the Agricultural Co-operatives Act (Act No. 132 of 1947), Specified Deposits, etc. as prescribed in Article 11-9 of the Fishery Cooperatives Act (Act No. 242 of 1948), Specified Deposits, etc. as prescribed in Article 6-5-2 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 15-7 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)).
- (iii) that one year has elapsed from the day when the Applicant concluded with the Financial Instruments Business Operator, etc. a Contract for a Financial Instruments Transaction 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 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 case where 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) such 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 Document Indicating Consent by Individual Who is Customer Other Than Professional Investors that Made Request)

Article 64 (1) The matters to be specified by Cabinet Office Order as referred to in Article 34-3, paragraph (2), item (iv), sub-item (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 to the cases where 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 in the cases where such act is conducted after the Expiration Date;

(ii) in cases where 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, item (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 Contract for Financial Instruments Transaction 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 Individual Who is Customer Other Than Professional Investors that Made Request to Make 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 Document to Deliver to Individual Who Made Request for Reinstatement as Customer Other Than 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 juridical person 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 Contract for Financial Instruments Transaction 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 in the following sub-items 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, Investment Corporation Bond Certificates or Foreign Investment Securities as prescribed in the Act on Investment Trust and Investment Corporations;
  - (h) securities or certificates issued by a foreign state or a foreign juridical person, which have the natures of the Securities listed in sub-items (a) through (e);
- (ii) in cases where 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 who



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 who 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) Beneficiary Certificates of a Bond Investment Trust (meaning the Bond Investment Trust prescribed in Article 13, item (ii), sub-item (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); the same applies hereinafter except in sub-item (c), Article 80, paragraph (1), item (v), sub-item (g), Article 110, paragraph (1), item (i), sub-item (c) and Article 125-4, paragraph (1), item (iii)) which satisfy 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 sub-items (a) through (d) of the preceding item (including securities or certificates issued by a foreign state or a foreign juridical person 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 1. to 4. of sub-item (a) 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 Contract 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.

(Transaction Conducted by Using Fluctuations, etc. 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 intermediary, brokerage or agency service therefor;
- (ii) business pertaining to conclusion of a Partnership Contract, or an intermediary, brokerage or agency service therefor;
- (iii) business pertaining to conclusion of a Silent Partnership Contract, or an intermediary, brokerage or agency service 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 intermediary, brokerage or agency service therefor;
- (v) business pertaining to insurance solicitation as prescribed in Article 2,

- paragraph (26) of the Insurance Business Act;
- (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, 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, etc. 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 sub-item (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 121-2, paragraph (2) of the Fishery Cooperatives Act and the Norinchukin Bank Agency Service prescribed in Article 95-2,

- paragraph (2) of the Norinchukin Bank Act; 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 (6) 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 intermediary, brokerage or agency service therefor;
  - (xvii) business of conducting any of the following transactions, or an intermediary, brokerage or agency service 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 sub-item (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 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), item (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 intermediary, brokerage or agency service therefor;
  - (xxi) business of making an arrangement with or introducing another business operator, to customers of its business;
  - (xxii) business of creating any advertisement or promotion in regard to the business of any other business operator;

- (xxiii) funds transfer business prescribed in Article 2, paragraph (2) of the Act on Funds Settlement (Act No. 59 of 2009); 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 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 discontinuance 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 matters:
  - (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 discontinuance of the business: a document stating the method of the treatment of customers' accounts incidental to the discontinuance 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 Financial Services Agency or Other Competent Official a written application for approval stating the following matters:

- (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 matters 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 a 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; 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.

(Range of Financial Instruments Related Business)

Article 70-2 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 Cabinet Order: the businesses listed in sub-items (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 Cabinet Order: the businesses listed in

sub-items (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 70-3 (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 said 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 method 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 Contract for Financial Instruments Transaction;
- (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 sub-items (b) through (d)) (if any of the following information is not indicated on the premiums or other goods, such



provision includes the case of 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 Contract for Financial Instruments Transaction or the types thereof;
  - 2. the Securities or the types thereof;
  - 3. the Invested Business 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 (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), sub-item (b).

(Method of Indication of Advertisement, etc. on Contents of Financial Instruments Business)

Article 73 (1) In cases where 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) In cases where 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 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, in cases where 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 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 Cabinet Order are the amount of the consideration payable by customers in relation to a Contract for Financial Instruments Transaction 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 method 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 Cabinet Order or the amount of Investment Properties, which pertains to the Contract for Financial Instruments Transaction, or the ratio to the profit generating from the Acts of Financial Instruments Transaction; 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 in cases where these details cannot be indicated, such fact and the reason therefor are indicated.

- (2) In cases where the Contract for Financial Instruments Transaction 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 item (v) or (vi) of paragraph (2) of that Article (hereinafter referred to as the "Investment Trust Beneficial Interests, etc." in this Article and Article 268), and where 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) In cases where 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 cases where 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 the cases where it is 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 Cabinet 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 item (iv) of paragraph (21) of that Article; the same applies hereinafter) of the Financial Instruments (excluding that specified in item (iii) of paragraph (24) 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 Cabinet Order are as follows:

- (i) the facts regarding important matters on the Contract for Financial Instruments Transaction, which would be disadvantageous to the customer; and
- (ii) in cases where the Financial Instruments Business Operator, etc. is a member of a Financial Instruments Firms Association, such fact and the name of such Financial Instruments Firms Association.

(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 Cabinet 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 who 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 Cabinet Order are the matters specified in Article 72, item (iii), sub-item (d).

(Matters Prohibited from Misleading Advertisement)

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 Contract for a Financial Instruments Transaction (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 Contract for a Financial Instruments Transaction;
- (iii) the matters related to agreement for liquidated damages (including penalties) pertaining to the Contract for Financial Instruments Transaction;
- (iv) the matters related to the Financial Instruments Market or any other market similar thereto located in a foreign state, which pertains to the Contract for Financial Instruments Transaction;
- (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 Contract for Financial Instruments Transaction 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; and
- (xi) in cases of an Advertisement, etc. regarding the public offering or private placement of the rights specified in Article 7, item (iv), sub-item (d)1., the matters related to bloodlines of the racehorses and the status of the management of the breeding thereof.

(Method of Statement of Document for Delivery Prior to Conclusion of Contract)

Article 79 (1) The matters listed 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), item (v) and (vi) of the Act and Article 82, items (iii) through (vi) of this Cabinet Office Order;
- (ii) in cases where the Contract for Financial Instruments Transaction is a

contract for Over-the-Counter Derivatives Transactions (meaning contracts listed in Article 16-4, paragraph (1), sub-items (a) through (c) of the Cabinet Order pertaining to the translations listed in those items (hereinafter referred to as the "Over-the-Counter Transactions of Financial Futures") or contracts listed in item (ii) of that paragraph (excluding contracts pertaining to transactions listed in Article 116, paragraph (1), item (iii), sub-items (a) and (b)); the same applies hereinafter), the matters listed in Article 94, paragraph (1), item (i) and (iv); and

(iii) 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) (limited to cases where the Financial Instruments Transaction Contract to be concluded pertains to the purchase and sale and other transactions of the right of the Equity of Invested Business (meaning the right listed in Article 2, paragraph (2), item (v) or (vi) of the Act; the same applies hereinafter), of which Invested Business pertaining to said Equity of Invested Business 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 of Delivery of Document for Delivery Prior to Conclusion of 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) the cases where, 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 Contract for a Financial Instruments Transaction pertaining to the transaction, had delivered to the customer a document on the Contract for Financial Instruments Transaction containing the matters set forth in Article 37-3, paragraph (1), items (i) through (v) of the Act and Article 82, item (i), (iii), (v), (xi), (xiv) and (xv) of this Cabinet Office Order prepared in accordance with the methods equivalent to those specified in the preceding Article (hereinafter referred to as the "Explanatory Document on Listed Securities, etc.");

- (ii) in cases where, within one year prior to the conclusion of the Contract for Financial Instruments Transaction 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 Contract for Financial Instruments Transaction which is in substance identical to the first-mentioned Contract for Financial Instruments Transaction;
- (iii) in cases where 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 methods equivalent to those specified in the preceding Article) (if the Prospectus does not contain all of such matters, including the cases where 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) where the Financial Instruments Business Operator, etc. intends to conclude a Contract for Financial Instruments Transaction for the purpose of effecting a partial change to any term of a Contract for Financial Instruments Transaction already in effect, the following cases:
  - (a) where 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 Contract for Financial Instruments Transaction 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 Contract for Financial Instruments Transaction already in effect, the cases where 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) where the Contract for Financial Instruments Transaction pertains to any of the following acts:
  - (a) the sale of Securities (limited to the cases where a Contract for Financial Instruments Transaction 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 (limited to the cases where 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 the cases where it is applied mutatis mutandis pursuant to Article 27-22-2, paragraph (2) of the Act); the same applies in Article 110, paragraph (1), item (ii), sub-item (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 the cases where it is 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 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 sub-item (e) and Article 110, paragraph (1), item (i), sub-item (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 item (v) or (vi) of paragraph (2) 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) 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 (limited to the cases where the customer pertaining to the Contract for Financial Instruments Transaction 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 Cabinet Order and Article 56 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, delivery of a document under item (iii) of that paragraph and delivery of an Explanatory Document on Change to Contract Information under sub-item (b), item (iv) of that paragraph.
- (3) In cases where, 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 Contract for Financial Instruments Transaction 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 item (i) of paragraph (1) apply.
- (4) In cases where, 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 Contract for Financial Instruments Transaction 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 item (ii) of paragraph (1) apply.
- (5) With regard to the application of the provisions of item (iii) of paragraph (1), to a Prospectus (if there is any document to be delivered as an integral part of a Prospectus pursuant to the provisions of item (iii) of paragraph (1), 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 methods equivalent to those specified in the preceding Article" is deemed to be replaced with

"Document for Delivery Prior to Conclusion of Contract."

(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 Contract for Financial Instruments Transaction 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 Cabinet Order or the amount of Investment Property, which pertains to the Contract for Financial Instruments Transaction, or the ratio to the profit generating from Acts of Financial Instruments Transaction; 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 in cases where these details cannot be indicated, such fact and the reason therefor are indicated.
- (2) The provisions of paragraphs (2) to (4) of Article 74 apply mutatis mutandis to the Fees, etc. set forth in the preceding paragraph.

(Matters to be Stated in All Types of Documents for Delivery 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 Cabinet Order;
  - (iii) in cases where any Act of 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) in cases where 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 sub-item (a).
- (v) in cases where the Act of 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) in cases where 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 who 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 sub-item (a) may result in Risk of Loss in Excess of Principal, and reasons therefor.
- (vii) an outline of the taxation related to the Contract for Financial Instruments Transaction;
- (viii) in cases where there is any ground for termination of the Contract for Financial Instruments Transaction, the details thereof;
- (ix) information as to whether the provisions of Article 37-6 of the Act is applicable to the Contract for Financial Instruments Transaction;
- (x) in the cases where the provisions of Article 37-6 of the Act is applicable to the Contract for Financial Instruments Transaction, 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 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 any Financial Instruments Firms Association, or whether it is a Target Business Operator of any Certified Investor Protection Organization (limited to such Certified Investor Protection Organization

where the Contract for Financial Instruments Transaction 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) (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 sub-item (a) or (b), the matters specified in the following sub-item (a) or (b):

(a) in cases where there is a Designated Dispute Resolution Organization (limited to such organization of which Category for Business of Dispute Resolution, etc. covers the business concerning such Contract for Financial Instruments Transaction; hereinafter the same applies in this item): the trade name or name of the Designated Dispute Resolution Organization with whom 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), sub-item (a), item (ii), sub-item (a), item (iii), sub-item (a), item (iv), sub-item (a) or item (v), sub-item (a) of the Act; or

(b) in cases where 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), sub-item (b), item (ii), sub-item (b), item (iii), sub-item (b), item (iv), sub-item (b) or item (v), sub-item (b) of the Act of the Financial Instruments Business Operator, etc.

(Matters to be Stated in All Types of Documents for Delivery Prior to Conclusion of Contract pertaining to Purchase and Sale and Other Transactions of Securities)

Article 83 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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, in addition to the matters specified in the items of the preceding Article:

(i) in cases where the transfer of the Securities is subject to any restriction, to that effect and the details of such restriction; and

(ii) in cases where 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 said Tradable Securities.

(2) Notwithstanding the provisions of the preceding paragraph, in the cases where two or more Financial Instruments Business Operators, etc. are

required to deliver to the customer a Document for Delivery Prior to Conclusion of Contract 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, and where one of such Financial Instruments Business Operators, etc. 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), in cases where the Contract for Financial Instruments Transaction to be concluded pertains to an intermediary, brokerage or agency service for the sale of Securities, and where the customer pertaining to such Contract for Financial Instruments Transaction 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 Document for Delivery Prior to Conclusion of Contract Pertaining to Purchase and Sale or Any Other Transaction of Beneficial Interest in Trust, etc.)

Article 84 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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 item (i) or (ii) of paragraph (2) 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, in addition to 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 who has been granted the authority to manage or dispose of the trust property, as well as the details of such authority (in cases where the person is the Financial Instruments Business Operator who 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) in cases where 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 the cases where it is applied mutatis mutandis pursuant to Article 54, paragraph (4) of that Act) (excluding the cases where 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) in cases where there are any special provisions on the decision-making of beneficiaries, to that effect and the details thereof;
  - (c) in cases where there are any special provisions on the change, consolidation or split of the trust, to that effect and the details thereof;
  - (d) in cases where there are any special provisions on the grounds for the termination of the trust, to that effect and the details thereof;
  - (e) in cases where there are any special provisions on the termination of the trust based on an agreement, to that effect and the details thereof; and
  - (f) in cases where 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) in cases where 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 (in cases where 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, method of repayment and creation of security, as itemized by the relevant contracts, and aim and purpose of use of such borrowing);

- (b) in addition to what is provided for in sub-item (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) in cases where 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) in cases where 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) in cases where 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 method of public notice;
- (xiv) in cases where 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) in cases where the Contract for Financial Instruments Transaction pertains to the purchase and sale or any other transaction of the Beneficial Interest in Trust, etc. pertaining to the trust created by the method 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 Electromagnetic 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) in cases where the inspection under Article 50-2, paragraph (10) of the Trust Business Act has been conducted, the results thereof; and
  - (d) in cases where the inspection under Article 50-2, paragraph (10) of the Trust Business Act has not been conducted, and where 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) in cases where the Contract for Financial Instruments Transaction 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 in addition to those listed in items (i) through (xiv):

(a) the name of the Limited Liability Trust;

(b) the place where 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 Document for Delivery Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Beneficial Interest in Real Property Trust)

Article 85 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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, in addition to 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) 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 juridical person, 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 (in cases where these facilities have not been constructed or maintained, the matters related to plans for construction or maintenance thereof and special burden therefor);
- (v) in cases where 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) in cases where 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 (in cases where two or more buildings are built in a housing complex, and where 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) in cases where 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) in cases where 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 6, paragraph (1) of the Act on Sediment Disaster Countermeasures for Sediment Disaster Prone Areas (Act No. 57 of 2000), to that effect;
- (ix) in cases where 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;
- (x) in cases where, 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) in cases where 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) in cases where 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, in regard to the performance of a defect warranty obligation related to the Building Lot or building comprising the trust property pertaining to the Beneficial Interest in Real Property Trust, any of the measures as specified in any of the following sub-items such as a conclusion of guarantee insurance contract has been taken, the outlines thereof:

- (a) the conclusion of a guarantee insurance contract or a liability insurance contract for the performance of a defect warranty obligation related to the Building Lot or building;
  - (b) the conclusion of a contract for the consignment of the establishment of guarantee insurance or liability insurance for the performance of a defect warranty obligation related to the Building Lot or building; or
  - (c) the conclusion of a contract for consigning the bank, etc. to jointly and severally guarantee the obligation of the performance of a defect warranty obligation related to the Building Lot or building.
- (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 Document for Delivery Prior to Conclusion of Contract Pertaining to Purchase and Sale and Other Transactions of Mortgage Securities, etc.)

Article 86 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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, in addition to those specified in Article 83, paragraph (1):

- (i) the matters related to a unit of principal;
- (ii) the matters related to interest;
- (iii) in cases where 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 sub-item (d); and
- (f) in cases where the debtor is a juridical person, the following matters in relation to the juridical person:
  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 (in cases where the Financial Instruments Business Operator, etc. is a foreign juridical person, six months) prior to the delivery date of the Document for Delivery Prior to Conclusion of Contract falls;
- (g) in cases where 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, in cases where 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) in cases where the Financial Instruments Business Operator, etc. is not a company with accounting auditors, and where 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) in cases where the Financial Instruments Business Operator, etc. is not a company with accounting auditors, and where 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 Document for Delivery Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transactions of Equity in Invested Business)

Article 87 (1) With regard to the cases where the Contract for Financial Instruments Transaction to be concluded pertains to the purchase and sale or any other transaction of the Equity in Invested Business (such contract is hereinafter referred to as "Contract for Transaction of Equity in Invested Business" 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, in addition to those specified in Article 83, paragraph (1):

- (i) the following matters related to the Contract for Transaction of Equity in Invested Business:
  - (a) the name of the Equity in Invested Business;
  - (b) the type of the Equity in Invested Business;
  - (c) the matters related to an application for the conclusion of the Contract for Transaction of Equity in Invested Business;
  - (d) the matters related to the payment of money to be invested or contributed;
  - (e) in cases where the contract term for the Equity in Invested Business has been prescribed, such contract term;
  - (f) the following matters related to the cancellation of the Equity in Invested Business:

1. whether the Equity in Invested Business is cancellable;
  2. the calculation method, payment method and scheduled payment date of the money related to the distribution of the properties pertaining to the Equity in Invested Business, which is payable upon cancellation thereof; and
  3. the cancellation fee.
- (g) in cases where 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 Invested Business and if so, the details of such right;
  2. ownership in the properties pertaining to the Invested Business;
  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 Invested Business due to any loss; and
  5. the details of the Equity in Invested Business.
- (ii) the following matters in relation to the operation of the Invested Business:
- (a) the contents of the Invested Business and the operation policy therefor;
  - (b) matters related to the operational system for the Invested Business, such as its organizational structure, internal rules and decision-making process for the Invested Business;
  - (c) the trade name, name, duty and relevant business of the issuer of the Equity in Invested Business;
  - (d) the trade name, name, duty and relevant business of the person operating the Invested Business (in cases where the person is a Financial Instruments Business Operator who 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) in cases where the Invested Business is a business which invests in Securities, the trade name, name, duty and relevant business of the following persons (in cases where the person listed in 2. is a Financial Instruments Business Operator who 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) (in cases where 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 Invested Business or a person specified in 1. (another person to whom such person re-entrusts an investment is deemed to be the person accepting entrustment from the Issuer of the Equity in Invested Business 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 Invested Business (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 Invested Business 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 Invested Business:
- (a) the balance sheet;
  - (b) the profit and loss statement;
  - (c) the total amount of the Equity in Invested Business;
  - (d) the total number of issued Equity in Invested Business;
  - (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. in cases where the distribution of the properties pertaining to the Invested Business is to be made prior to the last day of the contract term specified in sub-item (e) of item (i), 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 Invested Business;
  - (h) the capital-to-asset ratio and return on equity;
  - (i) in cases where the Invested Business 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 where the Financial Instruments Exchange or any others similar thereto are located; in cases where 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 in cases where 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 Invested Business.
- (j) in cases where the Invested Business 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.; and
  3. the proportion of each of the amounts specified in 1. to the total amount of assets pertaining to the Invested Business.
- (2) The provisions of Article 83, paragraph (2) apply mutatis mutandis to the purchase and sale or any other transaction of Equity in Invested Business. 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 Invested Business. 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 Document for Delivery Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Equity in Foreign Invested Business)

Article 88 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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 Invested Business"), 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, in addition to those specified in paragraph (1) of the preceding Article:

- (i) the name of the laws governing the contract or any other juridical act pertaining to the Equity in Foreign Invested Business, and the outline thereof;
- (ii) existence of the authority of the foreign state supervising the Issuer of the Equity in Foreign Invested Business, and in cases where said 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 Invested Business 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) in cases where the contract or any other juridical act pertaining to the Equity in Foreign Invested Business provides for the court to have jurisdiction over an action related to such Equity in Foreign Invested Business, 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 Invested Business. 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 Invested Business. 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 Document for Delivery Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transactions of Equity in Invested Business Whose Invested Business is Business Which Primarily Invests in Beneficial Interest in Trust, etc.)

- Article 89 (1) With regard to the cases where the Contract for Financial Instruments Transaction to be concluded pertains to a purchase and sale or any other transaction of Equity in Invested Business wherein the Invested Business pertaining to such Equity in Invested Business 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) (in cases where the Contract for Financial Instruments Transaction pertains to the purchase and sale or any other transaction of Equity in Foreign Invested Business, in addition to 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. in cases where the Invested Business set forth in that paragraph is a business which invests in an Equity in Invested Business and the Invested Business pertaining to such Equity in Invested Business (referred to as the "Secondary Invested Business" in the following paragraph and paragraph (4)) is a business which invests in Beneficial Interest in Trust, etc.
  - (3) In cases where the Secondary Invested Business set forth in the preceding

paragraph is a business which invests in Equity in Invested Business and the Invested Business pertaining to such Equity in Invested Business is a business which invests in Beneficial Interest in Trust, etc., such Invested Business is deemed to be a Secondary Invested Business, and the provisions of the preceding two paragraphs apply.

- (4) The provisions of the preceding paragraph apply mutatis mutandis to the cases where the Invested Business which is deemed to be the Secondary Invested Business pursuant to the provisions of that paragraph (including the cases where it is applied mutatis mutandis pursuant to this paragraph) is a business which invests in Equity in Invested Business, and where the Invested Business pertaining to such Equity in Invested Business 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 Invested Business in the case where the Invested Business pertaining to such Equity in Invested Business 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 Invested Business in the case where the Invested Business pertaining to such Equity in Invested Business 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 Document for Delivery Prior to Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Right under Partnership Contract, etc., Wherein Invested Business Pertaining to such Right is Primarily Intended for Investment in Beneficial Interest in Real Property Trust)

Article 90 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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 Invested Business 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), in addition to 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, in cases where the Invested Business set forth in that paragraph is a business which invests in any Equity in Invested Business, and where the Invested Business pertaining to such Equity in Invested Business (referred to as the "Secondary Invested Business" in the following paragraph and paragraph (4)) is a business which invests in the Beneficial Interest in Real Property Trust.
- (3) In cases where the Secondary Invested Business set forth in the preceding paragraph is a business which invests in Equity in Invested Business, and where the Invested Business pertaining to such Equity in Invested Business is a business which invests in the Beneficial Interest in Real Property Trust, such Invested Business is deemed to be the Secondary Invested Business, and the provisions of the preceding two paragraphs apply.
- (4) The provisions of the preceding paragraph apply mutatis mutandis to the cases where the Invested Business which is deemed to be the Secondary Invested Business pursuant to the provisions of that paragraph (including the cases where it is applied mutatis mutandis pursuant to this paragraph) is a business which invests in Equity in Invested Business, and where the Invested Business pertaining to such Equity in Invested Business 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 in the case where the Invested Business 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 in the case where the Invested Business 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 Document for Delivery Prior to Conclusion of 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), in the cases where the Contract for Financial Instruments Transaction 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, in addition to those specified in Article 83, paragraph (1):

- (i) the trade name, name and address of the person who 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 who 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 who accepts the investment or contribution from the Commodity Fund (excluding the Investment Manager); and
  - (c) the person to whom the Investment Manager and the person specified in sub-item (b) entrusts the investment of the Commodity Fund.
- (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), sub-item (d), 6, i); and in cases where 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 juridical person or operates a business, the name of such Officer, the trade name or name of such other juridical person or the type of such ordinary business or business;
  - (v) the following matters related to the type of the Contract for Financial Instruments Transaction and the scope of the customer's rights and liabilities:
    - (a) the type of the Contract for Financial Instruments Transaction;
    - (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 Contract for Financial Instruments Transaction 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) in cases where the investment is of a principal-protected type, the method of the protection of principal and the amount of principal that may be protected;
    - (c) in cases where 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) in cases where 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) in cases where 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 in cases where any restriction on investment is to be imposed, the contents and basis of such 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) in cases where 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 acceptance of transferred 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) in cases where 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) in cases where a juridical person 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 who 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 Contract for Financial Instruments Transaction, 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 Contract for Financial Instruments Transaction:
  - (a) information as to whether the Contract for Financial Instruments Transaction is cancellable;
  - (b) in cases where the Contract for Financial Instruments Transaction 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) in cases where 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 notification to 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) in cases where the Investment Manager is a foreign juridical person, information as to whether there it has any person domiciled in Japan who 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) in cases where 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) in cases where a Contract for Financial Instruments Transaction 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 where 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), sub-items (a) through (e) of the Cabinet Order or by way of having such goods used (including a breakdown by category of the goods pertaining to such investment as listed in sub-items (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) in cases where there is any person who has accepted an investment or a contribution from the Commodity Fund set forth in sub-item (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) in cases where the document specified in sub-item (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 (excluding the cases where 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 where the scope of such auditing is clearly indicated in such 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 item (i) or (ii) of paragraph (2) 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), sub-items (a) through (e) of the Cabinet Order, or having such goods used.
- (ii) the rights specified in Article 2, paragraph (2), item (v) or (vi) of the Act in the case where the Invested Business 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 in cases where the Invested Business pertaining to such rights is primarily intended for conducting the act specified in sub-item (a) or (b) of item (i).

(Special Provisions on Matters to be Stated in Document for Delivery Prior to Conclusion of Contract Pertaining to Transaction Pertaining to Business Related to Investment in Racehorses)

Article 92 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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, in addition to 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), sub-item (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 for Delivery Prior to Conclusion of a Contract Pertaining to Purchase and Sale or Any Other Transaction of Business-Type Equity of Invested Business)

Article 92-2 (1) The matters provided for by Cabinet Office Order defined in Article 37-3, paragraph (1), item (vii) of the Act in cases where the Financial Instruments Transaction Contract to be concluded pertains to the purchase and sale and other transactions of the right, of which the Invested Business pertaining to the Equity of Invested Business is mainly the business other than a business which invests primarily in the rights pertaining to Securities or derivative transactions from among said Equity of Invested Business (hereinafter referred to as "Business-Type Equity of Invested Business" in this Article) are the following matters in addition to the matters specified in Article 87, paragraph (1) (in cases where the Financial Instruments Transaction Contract is related to the purchase and sale or other transactions of Equity in Foreign Invested Business, the matters specified in Article 88, paragraph (1); in cases where 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 in cases where 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 sub-items (a) through (c) corresponding to the categories of money management methods listed in those sub-items (a) through (c) related to the Business-Type Equity of Invested Business:
  - (a) the method listed in Article 125, item (ii), sub-item (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 said deposit.
  - (b) the method listed in Article 125, item (ii), sub-item (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 who 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 said deposits or savings.
- (c) the method listed in Article 125, item (ii), sub-item (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 said money trust.
- (ii) implementation status of the management specified in Article 40-3 and the method 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 Invested Business and the statement that investment should be implemented only after understanding said characteristics;
- (iv) the following matters related to the flow of funds pertaining to the Invested Business: and
  - (a) specific content of use of money and other property that is invested or paid by a person who has Business-Type Equity of Invested Business 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 who transfers or sends, or manages or keeps money or other properties invested or paid by the person who has Business-Type Equity of Invested Business.
- (v) existence of an external audit pertaining to money and other properties invested or paid by the person who has Business-Type Equity of Invested Business, and in cases of receiving an external audit, the name of the person who implements said 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 Invested Business. 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 Invested Business. 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 Contract Pertaining to Derivative Transactions, etc.)

Article 93 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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, in addition to those specified in the items of Article 82:

- (i) the matters prescribed in Article 16, paragraph (1), item (iii) and (vi) of the Cabinet Order;
- (ii) the method of the performance of the obligations arising from the Derivative Transactions, etc., and the method of settlement of such Derivative Transactions, etc.;
- (iii) in cases where 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 the Acceptance of Entrustment, etc. thereof (meaning the Acceptance of Entrustment, 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 Document for Delivery Prior to Conclusion of Contract Pertaining to the Contact of Over-the-Counter

Derivatives Transactions)

Article 94 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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, in addition to those specified in the preceding Article:

- (i) in the case where 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), sub-items (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 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 where 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 such Foreign Financial Instruments Market has been established, as well as the Japanese translation of such 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 (hereinafter referred to as the "Counterparties to Cover Deals"); and if any of the Counterparties to Cover Deals is a foreign juridical person, the name of the competent authority supervising such juridical person;
- (ii) the trade name, name and the business contents of the Counterparty Business Operator, etc. which is the counterparty to the intermediary, brokerage or agency service, in cases where a Financial Instruments Business Operator, etc. conducts an intermediary, 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), sub-item



- (d)); and in the cases where such Counterparty to Intermediary Services, etc. is a foreign juridical person, 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 Document for Delivery Prior to Conclusion of Contract Pertaining to Investment Advisory Contracts, etc.)

Article 95 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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, in addition to those specified in the items of Article 82:

- (i) in the case where the Financial Instruments Business Operator, etc. is a juridical person, 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 who 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 who 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 who performs the advisory service for customers under the Investment Advisory Contracts;
- (v) in cases where the provisions of Article 37-6 of the Act is applicable to the Contract for Financial Instruments Transaction, 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 Contract for Financial Instruments Transaction 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") (in the cases where, instead of the receipt of the Document for

- Delivery Upon Conclusion of Contract, any information to be specified therein was provided by Electromagnetic Means, from the day specified in the following sub-items in accordance with the categories of the cases set forth respectively therein), cancel the Contract for Financial Instruments Transaction in writing;
- (a) in cases where such information has been provided by the methods 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) in cases where such information has been provided by the methods 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 Contract for Financial Instruments Transaction 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 intermediary, brokerage or agency services 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: in cases where the Financial Instruments Business Operator, etc. falls under the category of the following persons:
    - (a) a person engaged in a Type I Financial Instruments Business;
    - (b) a person engaged in a Type II Financial Instruments Business;
    - (c) a Registered Financial Institution; or
    - (d) a Financial Instruments Intermediary Service Provider.
  - (ii) the provisions of item (viii) of the preceding paragraph: in cases where 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: in cases where the Financial Instruments Business Operator, etc. falls under the category of the following persons:
  - (a) a person engaged in a Type I Financial Instruments Business;
  - (b) a Financial Instruments Intermediary Service Provider; or
  - (c) a Registered Financial Institution (limited to a financial institution engaged in a trust business).
- (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 Document for Delivery Prior to Conclusion of Contract Pertaining to Discretionary Investment Contract, etc.)

Article 96 (1) With regard to the cases where the Contract for Financial Instruments Transaction 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, in addition to those specified in the items of Article 82:

- (i) basic investment policy;
- (ii) the method 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 who makes an Investment Decision, or a person who 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 (in cases where the person is a Financial Instruments Business Operator who 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, in cases where 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 the cases where a part of the authority so entrusted is to be re-entrusted));
- (v) in cases where a person who manages for the Right Holder based on a Discretionary Investment Contract is the Financial Instruments Business Operator who 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. (in cases where the Contract for Financial Instruments Transaction 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. who is a counterparty of the Discretionary Investment Contract pertaining to said act) or a Discretionary Investment Contract, and in cases where said external audit has been implemented, the name of the person who implemented said external audit, the results of said external audit, and the outline of the results.
- (2) In cases where the Contract for Financial Instruments Transaction 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 in addition to the matters prescribed in the preceding paragraph:
- (i) the name of said Subject Securities, calculation method of the price of said Subject Securities, and matters related to the frequency and method of reporting the price to the person who holds the right pertaining to said Subject Securities;
  - (ii) the trade name or name, address or residence of the Issuer of the Subject Securities, the person who engages in important operations pertaining to the investment of assets invested or paid by the person who holds the right pertaining to the Subject Securities (hereinafter it is referred to as "Fund Assets" in this item and item (iv)), the person who engages in important operations pertaining to preservation of the Fund Assets, and the person who 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 method of the price specified in said item or the method 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 in cases where the external audit is implemented, the name of the person who implements said 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 where the disclosure prescribed in Article 4, paragraph (7) of the Act is implemented in relation to said 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 to be specified by Cabinet Office Order as referred to in the proviso to Article 37-3, paragraph (3) of the Act are the cases where, in connection with the solicitation for the conclusion of a Contract for Financial Instruments Transaction set forth in that paragraph, a notification under Article 4, paragraph (1) or (2) of the Act has been filed (limited to cases where 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 (22) of the Act on Investment Trust and Investment Corporations (excluding the cases falling under the effectuation of a Contract for Financial Instruments Transaction as set forth in Article 37-4, paragraph (1));
- (ii) in cases where 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) in cases where a Contract for Financial Instruments Transaction 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 in cases where the Securities or money were delivered, the following cases:
  - (a) in cases where 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 where the Contract for Financial Instruments Transaction has been effected or such delivery has been made, each occasion where the Contract for Financial Instruments Transaction was effected or such delivery has been made;
  - (b) in the case referred to in the following sub-items, for each last day of the Reporting Period containing the day when the Contract for Financial Instruments Transaction 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 (in cases where no Contract for Financial Instruments Transaction 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 where 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. where the customer is not the one who made the request set forth in sub-item (a); or
    2. where the statement of the matters specified in Article 108, paragraph

(1), item (v) and (vi) is to be omitted pursuant to the provisions of Article 108, paragraph (5).

(iv) in cases where a Contract for Financial Instruments Transaction 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 for Delivery Prior to Conclusion of 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 Contract for Financial Instruments Transaction, 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 Contract for Financial Instruments Transaction is effected, or when the cancellation set forth in item (i) of paragraph (1) 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 Contract for Financial Instruments Transaction, 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) In cases where any Contract for Financial Instruments Transaction 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. (in cases where 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 whereby, at the same time, the sale or purchase under a Market Transaction of Derivatives identical to the sale and purchase 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. for whom sales or purchases under the Market Transactions of Derivatives were extinguished toward the future under its name through such Give-Up; the same applies hereinafter) and the Clearance Executing Member, etc. (meaning the Member, etc. for whom the sales or purchases of the Market Transactions of Derivatives was newly effected under its name 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 when 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; and
- (iv) 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, etc.)

Article 100 (1) In addition to the matters listed 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 Contract for Financial Instruments Transaction 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) (in cases where 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 the purchase specified in Article 1-12 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 itself is dealing or it is a transaction based on entrustment by 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 assignment for value, or a cancellation or refunding; the same applies in Article 108, paragraph (1), item (ii), sub-item (c) or a Purchase, etc. (meaning a purchase or any other manner of acquisition for value; the same applies in sub-item (c) of that item) (with regard to the transactions listed in sub-items (a) through (d) 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 item (ii) of paragraph (22) of that Article: whether it is a transaction wherein the customer becomes a party paying money, or a party receiving money, when 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 items (iii) and (iv) of paragraph (22) 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 item (v) of paragraph (22) 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 (v) of the Act (including a Foreign Market Derivatives Transaction similar thereto) and a transaction specified in item (vi) of paragraph (22) 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 (in cases where 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 method of calculation thereof;
  - (vii) the type of transaction; and
  - (viii) in addition to what is listed in the preceding items, the matters necessary for accurately disclosing the details of the transaction.
- (2) Notwithstanding the provisions of the preceding paragraph, in the cases where two or more Financial Instruments Business Operators, etc. are required to deliver to the customer a Document for Delivery Upon Conclusion of Contract 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, and where one of such Financial Instruments Business Operators, etc. 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, such 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), in cases where the Contract for Financial Instruments Transaction 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 wherein 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 Contract for Financial Instruments Transaction 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 (in cases where 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 items (iii), (v) and (vi) of paragraph (1); provided, however, that a document specifying such matters must be delivered before the issue date.

(Special Provisions on Matters to be Stated in Document for Delivery Upon Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction of Securities or Transactions of Securities-Related Derivatives, etc.)

Article 101 (1) In addition to 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 Contract for Financial Instruments Transaction pertaining to the purchase and sale or any other transaction of Securities or Transactions of Securities-Related Derivatives, etc. is effected:

- (i) in cases where the Contract for Financial Instruments Transaction 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) in cases where a Contract for Financial Instruments Transaction 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) in cases where the Contract for Financial Instruments Transaction pertains to a transaction specified in Article 28, paragraph (8), item (iii), sub-item (a) of the Act, or to a transaction similar to that specified in sub-item (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) in cases where the Contract for Financial Instruments Transaction 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) in cases where the Contract for Financial Instruments Transaction pertains to a transaction specified in Article 28, paragraph (8), item (iii), sub-item (b) or (c) of the Act, or to a transaction similar to that specified in sub-item (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) in cases where a Contract for Financial Instruments Transaction pertains to a transaction specified in Article 28, paragraph (8), item (iv), sub-item (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) in cases where the transaction is to be settled by means of the delivery or receipt of the difference, the method of calculation of such difference.
- (v) in cases where the Contract for Financial Instruments Transaction pertains to a transaction specified in Article 28, paragraph (8), item (iv), sub-item (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 method of calculation of the amount of money to be delivered or received;
  - (c) the day when the money will be delivered or received;
  - (d) in addition to what is listed in sub-items (a) through (c), the matters equivalent to such matters which are necessary for accurately disclosing the details of the transaction.
- (vi) in cases where the Contract for Financial Instruments Transaction pertains to a transaction specified in Article 28, paragraph (8), item (iv), sub-item (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 sub-item (a) or (b) of item (i);
  - (b) a transaction specified in Article 28, paragraph (8), item (iv), sub-item (a) of the Act: the matters specified in sub-items (a) through (c) of item (iv);
  - (c) a transaction specified in Article 28, paragraph (8), item (iv), sub-item (b) of the Act: the matters specified in sub-items (a) through (d) of the preceding item;
  - (d) a transaction specified in Article 28, paragraph (8), item (iv), sub-item (e) of the Act: the matters specified in sub-items (a) through (g) of the following item; and

- (e) a transaction other than that specified in sub-items (a) through (d): the matters necessary for accurately disclosing the details of the transaction.
- (vii) in cases where the Contract for Financial Instruments Transaction pertains to a transaction specified in Article 28, paragraph (8), item (iv), sub-item (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), sub-item (e) of the Act; and
  - (g) in addition to what is listed in sub-items (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), sub-item (a), item (iii) and (iv), sub-item (a) need not be specified.

(Special Provisions on Matters to be Stated in Document for Delivery Upon Conclusion of Contract Pertaining to Derivative Transactions, etc.)

Article 102 (1) In addition to the matters specified in Article 100, paragraph (1) (in cases where a Contract for Financial Instruments Transaction 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 Contract for Financial Instruments Transaction 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 (in cases where 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 method 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 in cases where 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) in cases where the Contract for Financial Instruments Transaction 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 method of calculation of the amount of money to be received or paid by the customer in cases where 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 in cases where 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 Document for Delivery Upon Conclusion of Contract Pertaining to Purchase and Sale or Other Transaction

of Mortgage Securities, etc.)

Article 103 (1) In addition to 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 Contract for Financial Instruments Transaction pertaining to the purchase and sale or any other transaction of Mortgage Securities, etc. is effected:

- (i) in cases where 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) in cases where 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) in cases where the debtor is a juridical person, the following matters in relation to such juridical person:
  - (a) the year and month when the juridical person 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, in cases where the Financial Instruments Business Operator, etc. is a foreign juridical person) 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 Document for Delivery Upon Conclusion of Contract Pertaining to Commodity Fund-Related Transactions)

Article 104 (1) In addition to 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 Contract for Financial Instruments Transaction pertaining to Commodity Fund-Related Transactions

is effected:

- (i) the matters specified in Article 37-3, paragraph (1), item (v) and (vi) of the Act;
  - (ii) the matters specified in Article 83, paragraph (1), item (i), Article 91, paragraph (1), item (i), (v), (xvi), (xviii), sub-item (b)2. and 4. through 6. of that sub-item, 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) sub-item (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 Document for Delivery Upon Conclusion of Contract Pertaining to Transaction of Business Related to Investment in Racehorses)

Article 105 (1) In addition to 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 Contract for Financial Instruments Transaction 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 Document for Delivery Upon Conclusion of Contract Pertaining to Investment Advisory Contract, etc.)

Article 106 (1) In addition to 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 Contract for Financial Instruments Transaction 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) in cases where 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 who 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: the cases where the Financial Instruments Business Operator, etc. falls under the category of any of the following persons:
    - (a) a person engaged in a Type I Financial Instruments Business;
    - (b) a person engaged in a Type II Financial Instruments Business;
    - (c) a Registered Financial Institution; or
    - (d) a Financial Instruments Intermediary Service Provider.
  - (ii) the provisions of item (x) of the preceding paragraph: the cases where 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: the cases where the

Financial Instruments Business Operator, etc. falls under the category of any of the following persons:

- (a) a person engaged in a Type I Financial Instruments Business;
- (b) a Financial Instruments Intermediary Service Provider; or
- (c) a Registered Financial Institution (limited to a financial institution engaged in a trust business).

(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 Document for Delivery Upon Conclusion of Contract Pertaining to Discretionary Investment Contract, etc.)

Article 107 (1) In addition to 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 Contract for Financial Instruments Transaction 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 (in cases where 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 (in cases where the person is the Financial Instruments Business Operator who 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) in cases where 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 who makes an Investment Decision, or a person who 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) in cases where the Contract for Financial Instruments Transaction 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) in cases where the person who engages in investment for the Right Holder based on the Discretionary Investment Contract is the Financial Instruments Business Operator who 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 Contract for Financial Instruments Transaction as set forth in Article 98, paragraph (1), item (iii), sub-item (a), or to the Contract for Financial Instruments Transaction effected during the Reporting Period:
  - (a) the date of the contract;
  - (b) the date of the delivery of the Securities;
  - (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 4. 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, when 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), item (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; and
- 4. 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 the events specified in any of item (v) of paragraph (21) of that Article or item (vi) of paragraph (22) 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 (in cases where 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;
- (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 and Securities 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) in cases where a Contract for Financial Instruments Transaction 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) in cases where a Contract for Financial Instruments Transaction set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iii), sub-item (a) and (b) of the Act, information as to whether it is a new transaction or a settlement transaction;
- (ix) in cases where the Contract for Financial Instruments Transaction set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iii), sub-item (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 wherein 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) in cases where the Contract for Financial Instruments Transaction set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iii), sub-item (d) of the Act, the following matters in regard to the transaction:
  - (a) the term of the transaction; and
  - (b) the delivery date.
- (xi) in cases where the Contract for Financial Instruments Transaction set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iv), sub-item (a) or (b) of the Act, the following matters in regard to such transaction;

- (a) information as to whether 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) in cases where the Contract for Financial Instruments Transaction set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iv), sub-item (c) or (d) of the Act, the following matters in connection with such transaction:
- (a) information as to whether 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) in cases where the Contract for Financial Instruments Transaction set forth in item (ii) pertains to a transaction specified in Article 28, paragraph (8), item (iv), sub-item (e) of the Act, the following matters in regard to such transaction:
- (a) information as to whether the transaction 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), in the cases where 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), sub-item (a) (limited to the cases where the delivery of the Securities and money pertaining to the Contract for Financial Instruments Transaction specified in sub-item (a) of that item has been completed):
- (i) the matters specified in item (i) of paragraph (1), and sub-items (b) and (e) of item (ii);
  - (ii) the outstanding balance of Securities and money after completion of delivery of Securities 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 and money after the completion of the delivery of the Securities 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 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), sub-item (a), in the cases where 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), in cases where a Financial Instruments Business Operator, etc. prepares and delivers to the customer who has made a request under Article 98, paragraph (1), item (iii), sub-item (a) a Report on Outstanding Balance of Transactions pursuant to sub-item (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 and money pertaining to the Contract for Financial Instruments Transaction set forth in sub-item (a) of that item:
- (i) the matters specified in item (ii) of paragraph (3); and
  - (ii) the matters specified in item (iv) of paragraph (3).
- (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), in the case where a Financial Instruments Business Operator, etc. has obtained from a customer to whom 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 sub-item (g), item (ii) of paragraph (1), state the average of

the unit price for the transaction of such issues as of the same day.

- (8) In cases where the Contract for Financial Instruments Transaction set forth in item (ii) of paragraph (1) 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 sub-item (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 sub-item (a) and sub-items (d) through (f) of item (ii) of that paragraph, and the matters specified in sub-item (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) In cases where any act has been conducted which falls under the items of Article 118, item (i), sub-items (a) through (e), and where any transaction has been conducted following the customer's consent for the purpose of cancelling the transaction pertaining to such 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) In cases where the Contract for Financial Instruments Transaction under item (ii) of paragraph (1) 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), sub-item (a), item (viii) and item (ix), sub-item (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 Commodity 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 Commodity Investment, such as precious metals, agricultural products, energy resources and others);
  - (c) the Commodity 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 Commodity 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), sub-items (a) through (e) of the Cabinet 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 (in cases where there is any person who 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); and
  - (vi) in cases where 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 (excluding the cases where a document related to auditing by a certified public accountant or an auditing firm is attached to the document specified in that item, and where the scope of such auditing is clearly indicated in such document).
  - (vii) in cases where 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;

- (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.

(Cases Where Delivery of Document for Delivery Upon Conclusion of Contract is Not Required)

Article 110 (1) 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 Document for Delivery Upon Conclusion of Contract are as follows:

- (i) the cases where the Contract for Financial Instruments Transaction falls under any of the following sub-items, and where the Financial Instruments Business Operator, etc. has established a system which enables the periodic delivery of documents containing the particulars of the Contract for Financial Instruments Transaction 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 such Securities.
- (ii) the case where a Contract for Financial Instruments Transaction

pertaining to the transaction listed in any of the following has been effected, and where 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 items (i) through (v) and item (xv) of Article 2, paragraph (1) 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 bonds with share options; the same applies in sub-item (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 Cabinet 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 intermediary, brokerage or agency service for the sale of Securities (limited to cases where the customer pertaining to the Contract for Financial Instruments Transaction 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 (limited to the case where the customer pertaining to the Contract for Financial Instruments Transaction is the Issuer or owner of the Securities).
- (iii) the cases where a Contract for Financial Instruments Transaction 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) the cases of the Handling of Problematic Conduct;
  - (v) the cases where 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 where purchase and sale or any other transaction of Securities or Derivative Transactions, etc. to be conducted thereunder satisfy all of the following requirements:
    - (a) that the Financial Instruments Business Operator, etc. obtains from the customer, in writing or by Methods 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; 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) in cases where a Contract for Financial Instruments Transaction has been effected for the purpose of a partial change to the terms the Contract for Financial Instruments Transaction already in effect, the following cases:
    - (a) in cases where such 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 Contract for Financial Instruments Transaction already in effect; or
    - (b) in cases where such partial change results in a change to the matters to be stated in the Document for Delivery Upon Conclusion of Contract pertaining to the Contract for Financial Instruments Transaction already in effect, the cases where the Financial Instruments Business Operator, etc. has delivered to the customer a document containing the matters subject to such change.
  - (vii) in cases where the Contract for Financial Instruments Transaction is a Market Transaction of Derivatives for which Give-Up was implemented upon the customer's instruction, and where 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 Electromagnetic Means (excluding the methods specified in Article 56, paragraph (1), item (i), sub-item (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) In cases where 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 Electromagnetic Means to as specified in Article 56, paragraph (1), item (i), sub-items (a) through (c) or item (ii) which it uses and obtain approval therefrom in writing or through Methods Utilizing Information Technology.
- (4) In cases where a customer has made a notice in writing or through Methods Utilizing Information Technology, to the effect that the customer will not receive information provided by Electromagnetic Means, a Financial Instruments Business Operator, etc. which has obtained approval under the preceding paragraph must not provide the customer with the Information through the Methods Utilizing Information Technology; provided, however, that this does not apply to the case where the customer has given approval again pursuant to that paragraph.
- (5) The provisions of Article 56, paragraph (2) (excluding sub-item (b) of item (iii), and also excluding item (iv)) apply mutatis mutandis to the provision of information by the Electromagnetic 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 "Methods Utilizing Information Technology" as used in sub-item (a) of item (v) of paragraph (1), and in paragraphs (3) and (4) are following methods:
  - (i) of the methods using electronic data processing system set forth in Article 56, paragraph (3), the following methods:
    - (a) a method 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 method 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 method 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 methods listed in the items of the preceding paragraph must be methods 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 Cabinet Order and Article 56 of this Cabinet Office Order apply mutatis mutandis to the delivery of the documents as set forth in item (vi) of paragraph (1).

(Cases Where 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) the cases where the customer is a foreign government, foreign governmental organization, foreign local government, foreign central bank or an international organization to which Japan has acceded; where 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 Methods Utilizing Information Technology as set forth in paragraph (6) of the preceding Article; and where 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 (excluding the cases where the customer falls under a Qualified Institutional Investor, or a foreign juridical person which is a Professional Investor);
- (ii) the case of an intermediary or agency service for the purchase of Securities (limited to the cases where 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) the cases where the delivery set forth in Article 98, paragraph (1), item (iii) pertains to the Underwriting of Securities;
- (iv) the cases where the Contract for Financial Instruments Transaction 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 (limited to the cases where 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) the cases where 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 or money is conducted;
- (vi) in cases where the Contract for Financial Instruments Transaction is a Market Transaction of Derivatives for which Give-Up was implemented upon the customer's instruction, and where 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.

(Cases Where Delivery of Report on Status of Investment of Commodity Fund is Not Required)

Article 112 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 under Article 98, paragraph (2) are the cases where 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 Operator 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 a Type II Financial Instruments Business, and excluding a Qualified Institutional Investor).

(Type of Security Deposit for Which 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 Cabinet 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 method 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) in cases where 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 in cases where 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 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) in cases where, 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) in cases where 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 (in cases where 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 (in cases where, 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 (in cases where, in lieu of delivering such Document for Delivery Upon Conclusion of Contract, information to be contained therein was provided by Electromagnetic Means, the day specified in Article 95, paragraph (1), item (v), sub-item (a) or (b), in accordance with the categories of cases set forth respectively therein) and the Time of Cancellation (in cases where 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 Business of Financial Instruments Business, etc.)

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), sub-item (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 sub-item (a) and the internal rules under sub-item (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 the cases where it is 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 in the following sub-items 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 in the respective sub-items, or by a person holding a designation listed in the items of Article 19-7 of the Cabinet 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), sub-item (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), sub-item (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), sub-item (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), sub-item (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), sub-item (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 juridical person who has a financial accounting basis and a personnel structure 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 juridical person 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), sub-item (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 the cases where it is 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 in the following sub-items according to the category of Business of a Financial Instruments Business, etc. set forth in the respective sub-items, or by a person holding a designation listed in the items of Article 19-7 of the Cabinet 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 juridical person who has a financial accounting basis and a personnel structure 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 item (v) of paragraph (1) 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 juridical person who falls under any of the following items:
- (i) a juridical person who was fined pursuant to any provisions of the Act or the Attorney Act and for whom 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 juridical person who 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 for whom five years have not elapsed since the day of that rescission, or a juridical person who had its designation listed in the items of Article 19-7 of the Cabinet Order rescinded and for whom five years have not elapsed since the day of that rescission; or

- (iii) a juridical person that has a person falling under any of the following among its Officers (in the case where an Officer is a juridical person, including a member who is supposed to conduct the duty thereof; hereinafter the same applies in this item) in charge of its business:
  - (a) a person who was sentenced to imprisonment or a severer punishment, or was sentenced under any provisions of the Act or the Attorney Act and for whom 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 who, at a juridical person who 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 juridical person within one month prior to the day of that rescission and for whom five years have not elapsed since the day of that rescission, or a person who, at a juridical person who had had its designation listed in the items of Article 19-7 of the Cabinet Order rescinded, was an Officer of that juridical person within one month prior to the day of that rescission and for whom five years have not elapsed since the day of that rescission.

(Exception to Prohibition of Cold Calling, etc.)

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 who 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 who, as of the day of such solicitation, has an unsettled balance of Over-the-Counter Transactions of Financial Futures) to conclude a Contract for Financial Instruments Transaction pertaining to Over-the-Counter Transactions of Financial Futures;
- (ii) an act of soliciting a juridical person engaged in foreign trade or any other foreign exchange transactions to conclude a Contract for Financial Instruments Transaction 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 juridical person;
- (iii) an act of soliciting an individual to conclude a Contract for Financial Instruments Transaction 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), sub-item (a) of the Act where 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), sub-item (c) of the Act (limited to transactions where the transaction effected by execution of the right prescribed in sub-item (c) of that item is the transaction listed in sub-item (c), 1 of that item), where said 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 who are individuals in a continuous business relationship therewith (limited to a customer who concluded two or more Contracts for Financial Instruments Transaction pertaining to Securities-Related Over-the-Counter Transactions of Derivatives (excluding transactions listed in sub-item (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 who, as of the day of such solicitation, has an unsettled balance of Securities-Related Over-the-Counter Transactions of Derivatives) to conclude a Contract for Financial Instruments Transactions pertaining to Securities-Related Over-the-Counter Transactions of Derivatives; and
- (v) an act of the Financial Instruments Business Operators, etc. soliciting customers who are individuals in a continuous business relationship therewith (limited to a customer who 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 who, as of the day of such solicitation, has an unsettled balance of Over-the-Counter Derivatives Transactions) to conclude a Contract for Financial Instruments Transactions pertaining to Over-the-Counter Derivatives Transactions:
  - (a) transactions where the parties promise that one of the parties grants the other party the right to effect a transaction to pay or receive the amount of money calculated based on the difference between the figure agreed in advance as Financial Indicators when such manifestation is made between parties by one of the parties of manifestation (limited to the price of Financial Instruments (limited to those listed in Article 2, paragraph (24), item (ii) or (iii) of the Act) or the interest rate of Financial Instruments

- (limited to those listed in item (ii) of that paragraph; the same applies in sub-item (b)), or figures calculated based on them; hereinafter the same applies in this item) and the figure of actual Financial Indicators at the time when said manifestation is made, and one of the parties pays the value thereof, or transactions similar thereto;
- (b) transactions with regard to the amount that parties specified as principal, where 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 sub-item (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 where parties promise mutually that the counterparty grants to the other party the right to effect transactions listed in sub-item (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 Contract for Financial Instruments Transaction was concluded (excluding a Credit Rating which is deemed to be substantially a Credit Rating for the assessment of the credit status of said Asset Securitization Products); and
- (ii) In addition to what is provided for 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 Contract for Financial Instruments Transaction or the credit status of any party other than the Issuer of said Securities (excluding a Credit Rating which is deemed to be substantially the Credit Rating for the assessment of the credit status of said Securities).



(Significance of Registration of Credit Rating Agency 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 who has determined the Credit Rating:
  - (a) the trade name or name;
  - (b) in cases where a person is a juridical person (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 methods used by the person who 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 who is Associated Juridical Person (meaning an "Associated Juridical Person" defined in Article 295, paragraph (3), item (x); hereinafter the same applies in this paragraph) of a Credit Rating Agency and who is designated by the Commissioner of the Financial Services Agency taking into consideration contents and methods of Credit Rating Business conducted by the Associated Juridical Person of said Credit Rating Agency or the status of the disclosure of information or other factors (hereinafter referred to as the "Specified Associated Juridical Person" 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 said Credit Rating Agency;
- (iii) the name used by said Specified Associated Juridical Person as a representation of the Credit Rating Business;
- (iv) an outline of the policies and methods adopted by the Specified Associated Juridical Person in determining such its Credit Ratings, or way to obtain information on the said outline from said Credit Rating Agency; and
- (v) the assumptions, significance and limitations of Credit Ratings.

(Prohibited Acts)

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

- (i) an act to conclude a Contract for Financial Instruments Transaction, without having provided a customer (excluding a Professional Investor (excluding a person who 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 the cases where it is 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 (in cases where the document specified in sub-item (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 Contract for Financial Instruments Transaction:
  - (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 Change 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 Contract for Financial Instruments Transaction 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 Contract for Financial Instruments Transaction;
- (iv) an act to use fraudulent means, or to commit an assault or intimidation, in connection with the conclusion or cancellation of the Contract for Financial Instruments Transaction;
- (v) an act to refuse or unreasonably delay the performance of all or part of the obligations under the Contract for Financial Instruments Transaction, such

- as the performance of an Act of 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 Contract for Financial Instruments Transaction, through any wrongful means such as use of false quotations;
  - (vii) in connection with the conclusion or cancellation of the Contract for Financial Instruments Transaction, an act to solicit a customer (limited to an individual customer, in cases where the Contract for Financial Instruments Transaction 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 Cabinet 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 Contract for Financial Instruments Transaction specified in Article 38, item (iv) of the Act (excluding those pertaining to transactions listed in Article 116, paragraph (1), item (iii), sub-items (a) and (b)), without clearly indicating to them in advance that the purpose of such assembly is solicitation for conclusion of such Contract for Financial Instruments Transaction;
  - (ix) an act to solicit a customer (excluding a Professional Investor) to conclude a Contract for Financial Instruments Transaction as specified in Article 38, item (vi) of the Act (excluding those pertaining to transactions listed in Article 116, paragraph (1), item (iii), sub-items (a) and (b)), notwithstanding that the customer has, in advance, manifested the intention not to conclude such Contract for Financial Instruments Transaction (including manifesting the intention that the customer does not wish to accept any solicitation for the conclusion of such Contract for Financial Instruments Transaction);
  - (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), sub-item (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 (in the case where the Officer is a juridical person, including executive members thereof) or employee of a Financial Instruments Business Operator, etc. to conduct the Purchase and Sale or Other Transactions of Securities, etc., by taking advantage of the business position and by the use of information on ordering trends in the customers' Purchase and Sale or Other Transactions of Securities, etc. 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) an act of making an Acceptance of Entrustment, etc. for the Purchase and Sale or Other Transactions of Securities, etc. from a customer, knowing that such customer's Purchase and Sale or Other Transactions of Securities, etc. 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 intermediary, brokerage or agency service 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 intermediary, brokerage or agency service therefore, an act to solicit a customer to implement said Purchase and Sale, etc. for the purpose of having the customer gain interest by having the customer implement said Purchase and Sale, etc. before Corporate Information on the Issuer of said Securities comes to be disclosed or to avoid causes loss with the customer (excluding the

acts listed in the preceding item); and  
(xv) in cases where, in connection with Public Offering prescribed in Article 166, paragraph (2), item (i), sub-item (a) or item (ix), sub-item (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 such Public Offering, an act to provide the Corporate Information relevant to such Public Offering to the persons subject to the pre-hearing (hereinafter referred to as the "Target" in this item), or to any third party, in case where such third party has been entrusted with such pre-hearing or furnished with the Corporate Information pertaining to such Public Offering to carry out such pre-hearing, without implementing the measures specified in sub-item (a) or (b) below in accordance with the categories of the cases set forth respectively therein:

(a) in cases where 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), sub-item (h), and Article 154, item (iv), sub-item (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 sub-item (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 acceptance 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) to (vi) and (viii) of the Act, and also excluding the cases where 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, in cases where 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 where 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 who was responsible for the affairs related to the pre-hearing and the person who 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 method of the provision thereof, and has taken the necessary measures in order to preserve such document for five years after preparation thereof.
- (b) in cases where 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, in cases where 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 where 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 who was responsible for the affairs related to the pre-hearing and the person who 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 method 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 sub-item (a)2. and 3.;

(xvi) an act to conduct the Purchase and Sale or Other Transactions of Securities, etc. pertaining to the Corporate Information (in the cases where such Purchase and Sale or Other Transactions of Securities, etc. 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 pertain to the Foreign Market Derivatives Transactions similar to the transaction set forth in Article 28, paragraph (8), item (iii), sub-item (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 a 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 or Financial Instruments Intermediary Service Provider which accepts entrustment of the Financial Instruments Intermediary Service 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; 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) an act of Acceptance of Entrustment, etc. of 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 means of an electronic data processing system or any other method using 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 in cases where 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 methods 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 Cabinet Order, in connection with the purchase within a Period for Stabilizing Transactions as specified in Article 24, paragraph (1), item (i), sub-item (a) of the Cabinet 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 (meaning the Investment Securities prescribed in Article 2, paragraph (15) of the Act on Investment Trust and Investment Corporations; the same applies hereinafter) 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 Cabinet 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), 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), sub-item (c) of the Act (limited to a transaction pertaining to sub-item (c)1. of that item) or in Article 28, paragraph (8), item (iv), sub-item (c) of the Act (limited to a transaction pertaining to sub-item (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 Cabinet Order (limited to a purchase); the Stabilizing Transactions prescribed in Article 20, paragraph (1) of the Cabinet Order to be implemented pursuant to the provisions of Articles 20 to 25 of the Cabinet Order (hereinafter referred to as the "Stabilizing Transactions", except in sub-item (c)); the purchase provided for in the regulations of a Financial Instruments Exchange (limited to the regulations authorized by the Commissioner of 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 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) an act to make an Acceptance of Entrustment, etc. of the purchase of Share Certificates on the account of the company which is the Issuer of the

- Securities subject to Stabilizing Transactions as set forth in Article 20, paragraph (1) of the Cabinet Order (excluding the Acceptance of Entrustment, etc. of Brokerage for Clearing of Securities);
- (d) an act to make an Acceptance of Entrustment, etc. of purchasing on the account of any of the persons listed in the items of Article 20, paragraph (3) of the Cabinet 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 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 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 made an Acceptance of Entrustment, etc. therefor (excluding an acceptance of entrustment of Brokerage for Clearing of Securities, etc.), to make an Acceptance of Entrustment, etc. for 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 or Investment Securities issued by the Issuer of the Securities subject to a Stabilizing Transaction (excluding an Acceptance of Entrustment, etc. for purchasing entrusted 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 an Acceptance of Entrustment, etc. (excluding an Acceptance of Entrustment, etc. from a Financial Instruments Business Operator, etc.) of Transactions of Securities-Related Derivatives, etc. pertaining to the purchase and sale of such 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 such Securities subject to the Stabilizing Transaction;
- (xxiv) in cases where 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 where 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 Cabinet 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 Cabinet Order (including the cases where it is applied mutatis mutandis pursuant to paragraph (6) 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 (in cases where 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, etc. (Cabinet Office Order No. 59 of 2007; referred to as the "Order on Restrictions on Transactions, etc." 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 Beneficiary Certificates and any intermediary, brokerage or agency service for the sale of the Beneficiary Certificates, and, in addition, excluding any intermediary, brokerage or agency service for the entrustment of the selling of such Beneficiary Certificates 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 delivering to the customer a document containing a statement to that effect (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 document to the customer, or where the Registered Financial Institution or Financial Instruments Intermediary Service Provider which accepts entrustment of Financial Instruments Intermediary Service Operation had provided such explanation and document to the customer):

(a) Foreign Company Statements prescribed in Article 5, paragraph (8) of the Act (including cases where it is applied mutatis mutandis to Article 27 of the Act);

(b) a Foreign Company Report as prescribed in Article 24, paragraph (8) of

- the Act (including the cases where it is 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 the cases where it is 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 the cases where it is 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, etc. (Order of the Ministry of Finance No. 5 of 1973);
  - (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 of 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 cases where it is applied *mutatis mutandis* to Article 27 of the Act);
  - (h) a document for correction any of the documents specified in sub-items (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, etc.
- (xxvi) with regard to an Over-the-Counter Derivatives Transaction or the Acceptance of Entrustment, etc. therefor (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; in cases where the Over-the-Counter Derivatives Transactions are other than Over-the-Counter Transactions of Financial Futures, 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) 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 (3) to (5)) that a customer (limited to an individual (excluding, 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 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) to (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)) 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 (referred to as the "Actual Deposit Amount" in the following item and paragraph (6)) 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;

(xxviii) where the Actual Deposit Amount of the Margin, etc. pertaining to a Currency-Related 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 Currency-Related Derivatives Transaction without promptly having the customer pertaining to such Currency-Related Derivatives Transaction deposit such shortfall amount with the Depository for Margins, etc. (excluding an act listed in the preceding item);

(xxix) 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 (13) to (15)) that a customer (limited to an individual (excluding, 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 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 (16) to (19)) 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 (16) through (18)) 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 (16)) 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:
- (a) a transaction listed in Article 28, paragraph (8), item (iv), sub-item (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), sub-item (b) of the Act;
  - (c) a transaction listed in Article 28, paragraph (8), item (iv), sub-item (c) of the Act (limited to such transaction for which the transaction effected by exercising the right prescribed in sub-item (c) of that item is a transaction listed in sub-item (a) or (b) of that item or a transaction listed in sub-item (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), sub-item (d) of the Act.
- (xxx) where 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) with regard to the cases where a Entrustor Financial Instruments



Business Operator is to become an Underwriter of Securities issued by a person who owes a debt pertaining to a borrowing to such Entrustor Financial Instruments Business Operator's Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 where the Registered Financial Institution or any of its Officers (in the case where the Officer is a juridical person, including executive members thereof) or employees is aware of the circumstance where the proceeds from these Securities (in cases where said Entrustor 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 said Article pertaining to the Securities (limited to an act pertaining to the case where the Securities are to be sold within the period between the day when the Entrustor 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 to the cases where 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 sub-item (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.

(2) The provisions of items (xix) and (xx) of the preceding paragraph do not apply to the series of Purchase and Sale of Securities, etc. (meaning the Purchase and Sale 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, in cases where such series of Purchase and Sale 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 the Public Offering made to 50 or more persons), the Solicitation for Acquisition Only for Professional Investors (limited to the solicitation made to 50 or more persons), the Secondary Distribution of Securities (limited to the Secondary Distribution made to 50 or more persons) or the Solicitation for Selling, etc. Only for Professional Investors (limited to the Solicitation made to 50 or more persons).

- (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 who acquired the share option certificates prescribed in that item; and
  - (b) an act of soliciting the person who 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. who 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 in case where such customer concludes a Discretionary Investment Contract with such 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.
- (3) The Margin, etc. under items (xxvii) and (xxviii) of paragraph (1) may be satisfied by Securities.
- (4) The collateral value of Securities 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 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, etc. (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, etc. in any one Financial Instruments Exchange.

- (5) Where the whole or part of the Margin, etc. under item (xxvii) or (xxviii) of paragraph (1) is, pursuant to the provisions of paragraph (3), 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) 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 item (xxvii) or (xxviii) of paragraph (1), 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 item (xxvii) of paragraph (1) 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 in cases where the Currency-Related Derivatives Transaction set forth in that item is to pay the specified amount in cases where an option pertaining to these transactions is exercised, when calculating for the transaction, meaning the amount of said 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 sub-item (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 sub-items (a) through (c) of the preceding item.
- (8) The Required Amount for Maintenance under item (xxviii) of paragraph (1) 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 in cases where the Currency-Related Derivatives Transaction set forth in that item is to pay the specified amount in cases where an option pertaining to these transactions is exercised, when calculating for the transaction, meaning the amount of said 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 sub-items (a) through (c) of item (i) of the preceding paragraph.
- (9) If, in the cases listed in item (ii) of paragraph (7) 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 sub-item (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 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) 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 sub-item (a): the transaction similar to the transaction specified in sub-item (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 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)).
- (12) A "purchase, etc. of a currency" under paragraph (9) means the following transaction:
- (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 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 receiving 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)).
- (13) The Margin, etc. under items (xxix) and (xxx) of paragraph (1) may be satisfied by Securities.
- (14) The collateral value of Securities 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 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, etc. in any one financial instruments exchange in any one Financial Instruments Exchange.
- (15) Where the whole or part of the Margin, etc. under item (xxix) or (xxx) of paragraph (1) is, pursuant to the provisions of paragraph (13), 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) 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.
- (16) The Actual Deposit Amount under item (xxix) or (xxx) of paragraph (1), 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 sub-item (b)) (limited to such figure that generally indicates the price level of a large number of shares); the same applies in sub-item (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 prescribed in the Act on Investment Trust and Investment Corporations 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.
- (17) The Required On-Contract Deposit Amount under item (xxix) 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; provided, however, that in cases where the Currency-Related Derivatives Transaction set forth in that item is to pay the specified amount in cases where an option pertaining to these transactions is exercised, when calculating for the transaction, meaning the amount of said 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), sub-item (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), sub-item (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), sub-item (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 an Other 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), sub-item (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), sub-item (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), sub-item (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 in 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), sub-item (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 an Other 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), sub-item (c) of the Act (limited to such transactions wherein the customer will become the party acquiring the Option) multiplied by 20/100.
- (18) The Required Amount for Maintenance under item (xxx) of paragraph (1) and paragraph (16) 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 such money); provided, however, that in cases where the Currency-Related Derivatives Transaction set forth in that item is to pay the specified amount in cases where an option pertaining to these transactions is exercised, when calculating for the transaction, meaning the amount of said 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), sub-item (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), sub-item (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), sub-item (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), sub-item (c) or (d) of the Act (limited to such transactions wherein the customer will become the party acquiring the Option) multiplied by 20/100.
- (19) If, in the cases listed in items (v) through (viii) of paragraph (17) 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), sub-item (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.

(20) 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 an Other 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), sub-item (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), sub-item (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 sub-item (c)1. or (c)2. of that item or the transaction prescribed in sub-item (d) of that item effected by exercising the right prescribed in sub-item (c) or (d) of that item multiplied by the number or volume of that transaction.

(21) "Sales, etc. of Securities" under paragraph (19) mean the following transaction:

(i) a sales of Securities; or

(ii) a transaction listed in Article 28, paragraph (8), item (iv), sub-item (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 sub-item (b) of item (iii) of that paragraph; the same applies in item (ii), paragraph (8) of that Article) exceeds the Agreed Figure for Securities (meaning an Agreed Figure for

Securities prescribed in sub-item (b) of item (iii) of that paragraph; the same applies in item (ii) of the following paragraph)).

(22) A "Purchase, etc. of Securities" under paragraph (19) means the following transaction:

- (i) a purchase of Securities; or
- (ii) a transaction listed in Article 28, paragraph (8), item (iv), sub-item (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).

(Problematic Conducts)

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

- (i) the cases where 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 sub-item (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 make the customer 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 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), sub-item (a) or (b) or Article 2, paragraph (22), item (vi), sub-item (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 (meaning the Right Holder prescribed in Article 42, paragraph (1) of the Act);
  - (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 to be specified by Cabinet Office Order as referred to in Article 39, paragraph (3) of the Act are as follows:

- (i) the cases where a final and binding judgment has been issued by the court;
- (ii) the cases where 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) the cases where a conciliation as prescribed in Article 16 of the Civil Conciliation Act (Act No. 222 of 1951) has been reached; or the cases where 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) the cases where a settlement has been reached through mediation (meaning a mediation as prescribed in Article 77-2, paragraph (1) of the Act (including the cases where it is 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 Cabinet Order; the same

- applies in Article 277, paragraph (1), item (iv));
- (v) the cases where 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 where an arbitral award under arbitration procedure conducted before such organization has been issued;
  - (vi) the cases where a settlement has been reached through mediation as prescribed in Article 19, paragraph (1) or Article 25 of the Consumer Basic Act, or where a resolution based on an agreement prescribed in that Article has been conducted;
  - (vii) the cases where 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 the cases where 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) the cases where a settlement has been reached, and where such settlement fulfills all of the following requirements:
    - (a) that an attorney or a judicial scrivener (limited to such person who 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 (in the case where the judicial scrivener set forth in sub-item (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 evidencing that the attorney or judicial scrivener set forth in sub-item (a) has verified and confirmed that the purpose of the payment under sub-item (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 to the Financial Instruments Business Operator, etc.

- (ix) the cases where 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 where 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 (in the case where the committee prescribed in sub-item (b) consists only of members who 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 sub-item (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 who 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) the cases where the Representative, etc. of the Financial Instruments Business Operator, etc. has caused any loss to its customer due to any act specified in sub-items (a) through (e) of item (i) of the preceding Article, and where 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) the cases where the Representative, etc. of the Financial Instruments Business Operator, etc. has caused any loss to its customers due to any act specified in sub-item (c) or (d) of item (i) of the preceding Article (limited to the case where 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 sub-items (a) through (e) of item (i) of paragraph (1) of the preceding Article. In this case, in calculating the amount of benefit pertaining to the categories of the acts specified in sub-item (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 items (ix) through (xi) of paragraph (1), and where 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 having jurisdiction over the location of the head office, or any other business office or office where the Problematic Conduct pertaining to such offer, promise or provision took place (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where 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 the following Article).

(Application for Confirmation of Problematic Conduct)

Article 120 A person who 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 having jurisdiction over the location of the head office, or any other business office or office where the Problematic Conduct pertaining to such confirmation took place one original of the written application set forth in paragraph (5) of that Article and the documents attached thereto, as well as one copy thereof.

(Matters to be Stated in Application for Confirmation)

Article 121 The matters to be specified by Cabinet Office Order as referred to in Article 39, paragraph (5) 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 where 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 (in cases where the customer is a juridical person, 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 Application for Confirmation)

Article 122 (1) The documents to be specified by Cabinet Office Order as referred to in Article 39, paragraph (5) 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 to the case where the written application under Article 39, paragraph (5) of the Act pertains to the application set forth in item (ii), paragraph (1) of that Article.

(Cases Where Status of Operation of Business is Likely to Go Against Public Interest or Hinder 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) where 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) where the Financial Instruments Business Operator, etc. makes an Acceptance of Entrustment, etc. of 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 of Financial Instruments Transaction 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) where 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) where the Financial Instruments Business Operator, etc. conducts the Wholesale Underwriting of Securities, and where it is found 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) where 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 Transactions of Securities, etc., has not implemented the measures necessary and appropriate for the prevention of unfair transactions based on the Corporate Information;

- (vi) where 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;
- (vii) where 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) where, in connection with the customer's Purchase and Sale or Other Transactions of Securities, etc., 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) where, 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), sub-items (a) through (c) of this Cabinet Office Order and those of a similar nature), Investment Securities, or Foreign Investment Securities (meaning the Foreign Investment Securities prescribed in Article 220, paragraph (1) of that Act; the same applies hereinafter) 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) where, 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 sub-item (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 where there is no intention to resell or any other act 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 method 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 abolition by the Financial Instruments Business Operator of its Financial Instruments Business or in any other case of the discontinuance of its business;
- (xi) where 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 where 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) where it is found that the Financial Instruments Business Operator, etc. has not established the trading management sufficient for prevention of making an Entrustment, etc. for the sale, purchase 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) where the Financial Instruments Business Operator, etc. conducts any of the following acts as a Type I Financial Instruments Business or a Type II Financial Instruments Business, and where 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), sub-item (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 (in the case where 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 sub-item (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 (in the case where the Officer is a juridical person,

- 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 in cases where the Financial Instruments Business Operator engages in Investment Management Business for Qualified Investors, where 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, who 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 15-10-2 of the Cabinet Order; hereinafter the same applies in this item) or a person who intends to be the Right Holder, understanding the trend of purchase and sale or other transactions of Securities of the Right Holder or other methods.
- (xiv) where the management of the electronic data processing system to be used for the Financial Instruments Business, etc. is found to be insufficient;
- (xv) where 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) where, 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) where the Financial Instruments Business Operator, etc. causes the entrusted Financial Instruments Intermediary Service Provider to deliver money or Securities to the customer;
- (xviii) where the Financial Instruments Business Operator, etc. has provided to the Registered Financial Institution or Financial Instruments Intermediary Service Provider 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 where the Financial Instruments Business Operator, etc. solicits the Purchase and Sale or Other Transactions of Securities, etc. by the use of any unpublished information on

a customer's property or any other special information acquired from the Registered Financial Institution or Financial Instruments Intermediary Service Provider to which it has entrusted services (limited to information provided by the Registered Financial Institution or Financial Instruments Intermediary Service Provider without obtaining the customer's written consent);

- (a) information on the Acts of Financial Instruments Intermediation performed by the Registered Financial Institution or the Financial Instruments Intermediary Service Provider;
- (b) information which is deemed necessary to be provided so as to ensure compliance by the Registered Financial Institution or the Financial Instruments Intermediary Service Provider of the laws and regulations applicable to the Financial Instruments Intermediary Service; and
- (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 Entrustor 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 the cases where it is 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 11-13, paragraph (1) of the Fishery Cooperatives Act (including the cases where it is applied mutatis mutandis pursuant to Article 92, paragraph (1), Article 96, paragraph (1) and Article 100, paragraph (1) of that Act) or Article 15-9-3, paragraph (1) of that Act (including the cases where it is applied mutatis mutandis pursuant to Article 96, paragraph (1) and Article 100-8, 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 sub-item (c) of item (xxiv)); and
- (e) in cases where the Entrustor Financial Instruments Business Operator is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of the Registered Financial Institution to which it entrusts services or where the Registered Financial Institution to which the Entrustor Financial

Instruments Business Operator entrusts services is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of said Entrustor Financial Instruments Business Operator, and where information necessary for such Entrustor Financial Instruments Business Operator to handle all or part of the Internal Management Affairs, etc. (meaning affairs related to the maintenance and management of Electronic Data Processing Systems and Internal Management Affairs prescribed in Article 153, paragraph (3); hereinafter the same applies in sub-item (e) and item (xxiv), sub-item (d)) is provided to such Registered Financial Institution (limited to cases where measures have been precisely taken by the such Entrustor 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 Affairs, etc. and where such Entrustor Financial Instruments Business Operator provides said information to any person other than Officers (in the case where an Officer is a juridical person, including executive members thereof) and employees engaged in the Financial Instruments Intermediary Service Operation of such Registered Financial Institution), such information;

(xix) where the Officer (in the case where the Officer is a juridical person, 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 Intermediary Service 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 Non-Disclosure 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 where the Officer or employee supervising the business provides an Officer or employee engaged in the Financial Instruments Business or Financial Instruments Intermediary Service Operation with the customer's Non-Disclosure Loan Information, etc. (excluding Corporate Information), without obtaining the customer's prior written consent for the provision of such information);

(xx) where, with regard to an Over-the-Counter Derivatives Transactions, there are both the prices for sale and purchase, 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, where said price or matters equivalent to the price are not presented to a customer who is an individual, at the same time);
- (xxi) where, 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, the customer is limited to an individual) to the customer who has requested the presentation of such price or any matter equivalent thereto;
- (xxi)-2 where a sufficient management system 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, 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 Currency-Related Derivatives Transaction, such Managing Partner, etc.); hereinafter the same applies in this item) if the customer settled a Currency-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), has not been established;
- (xxi)-3 where it is found that no Loss-Cutting Transaction has been conducted with regard to a Currency-Related Derivatives Transaction;
- (xxi)-4 where 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 (in case where the price is specified by a specified method, the calculation method) to the

customer (limited to an individual (excluding a Managing Partner, etc. corresponding to the requirements listed in Article 10, paragraph (1), item (xxiv), sub-item (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 sub-item (a) below) in case where 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 method 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.

(xxii) where 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 121-2, 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) of a financial institution (meaning a bank, Cooperative Structured Financial Institution, trust company or any other financial institution specified in the items of Article 1-9 of the Cabinet Order) and carries out its business therein, and where it is found 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) where 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) where the Registered Financial Institution has provided to its Entrustor 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 where the Registered Financial Institution solicits the Purchase and Sale or Other Transactions of Securities, etc. by the use of any unpublished information on a customer's property or any other special information acquired from the Entrustor Financial Instruments Business Operator (limited to information provided by the Entrustor Financial Instruments Business Operator without obtaining the customer's written consent);
- (a) information which is deemed necessary to be provided to the Entrustor Financial Instruments Business Operator, in order for the Registered Financial Institution to conduct the Acts of Financial Instruments Intermediation;
- (b) information which may come to knowledge of the Registered Financial Institution in the course of its Financial Instruments Intermediary Service Operation entrusted by the Entrustor Financial Instruments Business Operator, which is deemed necessary to be provided to the Entrustor 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 Entrustor Financial Instruments Business Operator for the Registered Financial Institution or Entrustor Financial Instruments Business Operator to comply with the Applicable Provisions; and
- (d) the information in cases where the Registered Financial Institution is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of the Entrustor Financial Instruments Business Operator or where the Entrustor Financial Instruments Business Operator is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of the Registered Financial Institution, and where information necessary for such Registered Financial Institution to handle all or part of the Internal Management Affairs, etc. is provided to such Entrustor Financial Instruments Business Operator (limited to cases where measures have been precisely taken by such Registered Financial Institution and such Entrustor Financial Instruments Business Operator, in order to prevent the leaking of such information from the sections in charge of the Internal Management

- Affairs, etc. and where any person other than Officers (in the case where an Officer is a juridical person, including executive members thereof) and employees engaged in the Financial Instruments Intermediary Service Operation of such Registered Financial Institution provides such information to such Entrustor Financial Instruments Business Operator);
- (xxv) where the Registered Financial Institution has not expressly informed the customer of the following matters, in advance of conducting an Act of Financial Instruments Intermediation;
- (a) in cases where the Registered Financial Institution has two or more Entrustor 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 Entrustor Financial Instruments Business Operator, to that effect;
  - (b) the trade name of the Entrustor Financial Instruments Business Operator which is the counterparty to the customer's transaction; and
  - (c) in cases where 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 sub-item (c)) and conducts an Act of Financial Instruments Intermediation for the customer of the Investment Advisory and Agency Business (excluding the cases where the amount of the Fees, etc. for the Act of Financial Instruments Intermediation to be performed in a certain period has been fixed without regard to the number of occasions of such Act of Financial Instruments Intermediation, and where 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 such Acts of Financial Instruments Intermediation (in the cases where the amount of the Fees, etc. has not been fixed in advance, the method of calculation thereof).
- (xxvi) 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), sub-items (a) through (j) of the Order on Restrictions on Transactions, etc.) (limited to cases where these are implemented before deciding the issue price or selling price of the Securities and excluding cases where there is no period specified in Article 15-5 of the Order on Restrictions on Transactions, etc.), where it is found that the customer is not informed of the following matters in advance in writing or by Electromagnetic Means when intending to have the customer acquire the Securities:
- (a) the fact that a person who 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, etc.) 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 Cabinet Order) for the period specified in Article 15-5 of the Order on Restrictions on Transactions, etc., or entrustment thereof or brokerage service for the entrustment thereof, cannot settle the borrowing of Securities pertaining to said 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 Cabinet Order; and

(b) the fact that in cases where the person prescribed in sub-item (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) in cases of implementing an act of buying-up prescribed in Article 31, of the Cabinet Order pertaining to the standard specified in Article 62 of the Order on Restrictions on Transactions, etc. (limited to those pertaining to item (ii) of that Article), where it is found 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 said buying-up (meaning Share Certificates, etc. prescribed in Article 31 of the Cabinet Order; the same applies in (b) below) immediately after the buying up; and

(b) in cases where 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 Cabinet 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 Cabinet 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) 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)), when the employee's pension fund, a counterparty of the Discretionary Investment Contract (excluding Professional Investors), presents the matters prescribed in Article 136-4, paragraph (2) of that Act by the provisions of that paragraph, where a sufficient system has not been developed in order to give an explanation to the 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) in the cases prescribed in Article 130, paragraph (1), item (xv), where it is found that the Financial Instrument Transactions Operator, etc. who invests the invested properties set forth in that item, has not been informed of the matters listed in Article 134, paragraph (1), item (ii), sub-item (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.

(2) With regard to the provisions of items (xviii) and (xxiv) of the preceding paragraph in cases where the Registered Financial Institution is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of the Entrustor Financial Instruments Business Operator, or where the Entrustor Financial Business Operator is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of the Registered Financial Institution, if the Registered Financial Institution or Entrustor Financial Instruments Business Operator appropriately offers to a customer (limited to a juridical person; hereinafter the same applies in this paragraph) an opportunity to request the suspension of the provision to the Entrustor Financial Instruments Business Operator or Registered Financial Institution of undisclosed information on properties of said customer or any other special information (hereinafter referred to as the "Special Information Provision" in this paragraph), a written consent from such customer is deemed to have been obtained with regard to such Special Information Provision until such customer requests such suspension; provided, however, that this does not apply to cases where an Officer (in the case where an Officer is a juridical person, including executive members thereof) or employee engaged in the Financial Instruments Intermediary Service Operation of the Registered Financial Institution provides such information to

the Entrustor Financial Instruments Business Operator or receives such information from the Entrustor Financial Instruments Business Operator.

- (3) A "Currency-Related Market Derivatives Transaction" under item (xxi)-2 of paragraph (1) 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 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)).
- (4) A "Currency-Related Over-the-Counter Derivatives Transaction" under item (xxi)-2 of paragraph (1) 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 sub-item (a) of item (iii) of that paragraph), or transactions listed in item (iv) of that paragraph.
- (5) A "Currency-Related Foreign Market Derivatives Transaction" under item (xxi)-2 of paragraph (1) means a Foreign Market Derivatives Transaction that is similar to a Currency-Related Market Derivatives Transaction prescribed in paragraph (3).
- (6) The "specified Over-the-Counter Transactions of Options" as used in paragraph (1), item (xxi)-iv mean Over-the-Counter Transactions of Derivatives and transactions listed in Article 2, paragraph (22), item (iii) of the Act (limited to transactions where 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.

(Best Execution Policy, etc.)

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 Cabinet Order are as follows:

- (i) Share Certificates;
- (ii) bonds 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) Securities as specified in Article 2, paragraph (1), item (xiv) of the Act;
  - and
  - (ix) 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 method set forth respectively in the relevant item:
- (i) in cases where 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 item (i) of paragraph (5)) 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) in cases where 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 who 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 Where Separate Management is Ensured)

Article 125 The cases to be specified by the Cabinet Office Order as referred to in Article 40-3 of the Act are the cases where 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. (limited to the cases where 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 Structured 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 (limited to the cases where it is obvious from the holder's name that such deposit or saving comprises such money); and

- (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 (limited to the cases where it is obvious from the right holder's name that such money trust comprises such money).

(Persons Excluded from Definition of 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 who 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 who, 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 Transfer of Corporate Bonds, Shares, etc. (including the cases where 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 Juridical Person, etc. Under Control of such Specified Officer (such juridical person 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 who 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 whereby 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 or Foreign Investment Securities similar to the Investment Securities;
  - (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) Beneficiary Certificates of Securities in Trust (meaning the Beneficiary Certificates of Securities in Trust prescribed in Article 2-3, item (iii) of the Cabinet 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 sub-item (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 sub-item (a) through (c).
- (2) In cases where the total of the Subject Voting Rights held by the Specified Officer and those held by the Juridical Person, 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 Juridical Person, etc. (meaning a juridical person or any other organization; hereinafter the same applies in this Article), such other Juridical Person, etc. is deemed to be the Juridical Person, etc. Under Control of such Specified Officer, and the provisions of item (i) of the preceding paragraph and this paragraph apply.
- (3) The "Juridical Person, etc. Under Control" as used in item (i) of paragraph (1) and the preceding paragraph means the Juridical Person, 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 item (iii) of paragraph (1) means the Officer, etc. prescribed in Article 1-3-3, item (v) of the Cabinet Order.

(Exception to Limitation on Purchase and Sale, etc. 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) where 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 intermediary, brokerage or agency service in relation to purchasing, to be provided to a person (excluding a General Investor) who makes purchases from a General Investor;
  - (d) providing an intermediary, 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 intermediary, 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) where 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 (limited to the cases where 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) where 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) where the Financial Instruments Business Operator, etc. provides to a person implementing the Tender Offer prescribed in Article 27-2-2, paragraph (1) of the Act (limited to the cases where 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)).

(Sale, etc. 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), sub-item (f) of the Cabinet 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) (excluding the cases where the counterparty has neither acquired nor held in the past any Securities whose issues 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) (excluding the cases where 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), sub-item (d) of the Cabinet Order are as follows:
- (i) an intermediary, brokerage or agency service for the purchase of Securities conducted on a regular basis under a Contract for Cumulative Investment (excluding the cases where the counterparty has neither acquired nor held in the past any Securities whose issues were identical to such Securities);
  - (ii) an intermediary, 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 intermediary, brokerage or agency service for the purchase of the Specified Beneficiary Certificates of Bond Investment Trust (excluding the cases where 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);

(Method 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 the Case Where Disclosures Have Been Made (meaning the Case Where Disclosures Have Been Made prescribed in Article 4, paragraph (7) of the Act);
  - (iii) that the provisions of paragraphs (3), (5) and (6) of Article 4 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) in cases where, 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 method thereof (in cases where 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, sub-item (a) of the Copyright Act (Act No. 48 of 1970)) 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, in the cases where 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.

(Contract, etc. for 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 intermediary, brokerage or agency service of the Financial Instruments Business Operator who conducts such 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 (in cases where 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 (in cases where 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 intermediary, 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.

### **Subsection 2 Special Provisions Concerning 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 Transactions of Securities, etc.; and
- (iii) in cases where the Related Foreign Juridical Person, 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 Cabinet Order or the items of paragraph (2) of that Article; hereinafter the same applies in this item, Article 130, paragraph (1), item (ix), sub-item (a), and item (xv), sub-item (c) 2.) of the Financial Instruments Business Operator conducts a Public Offering or Private Placement of Securities, and where the amount pertaining to applications for the acquisition or purchase of the Securities made to such Related Foreign Juridical Person, etc. is likely to become less than the amount scheduled by such Related Foreign Juridical Person, etc., to advise, upon the request of such Related Foreign Juridical Person, etc., to acquire or purchase of such Securities.

(Persons Excluded from Definition of Person Closely Related to Financial Instruments Business Operator, etc.)

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 Cabinet 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 Structured Financial Institution;
- (iv) an insurance company;
- (v) a trust company; and



(vi) The Shoko Chukin Bank Limited.

(Exclusion from Application of Prohibition of Self-Dealing, etc.)

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 a 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 sub-item (a), Article 129, paragraph (1), item (ii), sub-item (a) 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), sub-items (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), sub-items (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, in the case where 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), sub-items (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 such 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 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 Application of 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), sub-items (a) to (c) of the Act;
3. that the transaction is to be conducted in the cases where 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 2. below) (with regard to a transaction to be conducted as an act listed in Article 2, paragraph (8), item (xv), sub-items (a) through (c) of the Act, in cases where 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), sub-items (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, in the case where any Right Holder refuses to consent to the act specified in Article 42-2, item (ii) of the Act, and where 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), sub-items (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 such act was conducted (including the fact that the contract pertaining to such right is cancelled).
    - (b) that the transaction falls under any of 1. through 3. of sub-item (b) of item (ii) of the preceding Article.
  - (iii) to make any other investment whose purpose is conducting a transaction approved by the Commissioner of 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 sub-item (b) of item (i) 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 other than those specified in sub-items (a) or (b), 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), item (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 sub-item (b), item (i) of paragraph (1) are conducted by the methods 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 sub-item (a), item (i) 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 sub-item (b), item (i) 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 sub-item (c), item (i) 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;
  - (iv) a transaction specified in item (ii) of the preceding paragraph: a

- transaction to be conducted on a Financial Instruments Market; and
- (v) a transaction specified in item (iii) of the preceding paragraph: a transaction to be conducted on a Foreign Financial Instruments Market.

(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 (in the case of a company with committees, with an audit committee member as prescribed in Article 400, paragraph (4) of the Companies Act; the same applies in Article 134, paragraph (1), item (vi), sub-item (a)) 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 where 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 Transactions of Securities, etc.;
- (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 a Type I Financial Instruments Business, Type II Financial Instruments Business or Registered Financial Instrument Business, and also excluding an investment to be made in cases where, 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) where, 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 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, or securities or certificates indicating Options, and the Trading of Bonds with Options);
- (ix) in case where 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 where the amount pertaining to applications for the acquisition or purchase of the Securities made to such person (in cases where 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 who 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 (in cases where 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 Juridical Person, 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 such immediately preceding two business years.
- (x) in case where 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 where a part of such authority is to be re-entrusted to a person specified by the Cabinet Order as referred to in that paragraph (limited to a case where measures to prevent such re-entrusted person from making any entrustment of the authority so re-entrusted have been taken));
- (xi) in case where 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) in case where a person has learned that an employee's pension fund 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), an act of not informing the employee's pension fund of that fact;
- (xiii) in case where an employee's pension fund violates the provisions of Article 30, paragraph (3) of the Cabinet Order for Employees' Pension Fund and orders to have the 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 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) in case where a Right Holder (excluding a Professional Investor; hereinafter the same applies in (a) 1. and item (i) of paragraph (3)) 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 item (i) of paragraph (3)), 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 who calculates the value once or more in six months (in cases where the Right Holder is an 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 who calculates the value.
- (b) to implement a fund audit pertaining the assets invested or paid by the person who 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 provision of the true audit report, etc. of the fund audit set forth in sub-item (b):
1. measures to ensure that the Trust Company, etc. receives provision of the audit report, etc. of the fund audit directly from the person who implements the fund audit;
  2. measures to ensure that the Trust Company, etc. receives provision of an audit report, etc. of the fund audit from the person who implements the fund audit via a person other than the Financial Instruments Business Operator or Parent Corporation, etc., Subsidiary Corporation, etc., or Related Foreign Juridical Person, etc. of the Financial Instruments Business Operator; and
  3. other measures to ensure that the Trust Company, etc. receives 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)) do not apply to the cases where, 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 (excluding the cases where, 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, where 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 sub-item (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 sub-items (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), sub-item (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 prescribed in Article 2-12-3, item (iv), sub-item (b) of the Cabinet Order.
- (4) The "Fund Audit" as used in paragraph (1), item (xv), sub-item (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 Service Agency (hereinafter referred to as "Association Rules" in this paragraph and the following paragraph); in cases of a Financial Instruments Business Operator who is not a member of the Financial Instruments Firms Association which specifies the Association Rules, rules specified by the Commissioner of the Financial Service 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 Service Agency of the content in advance.

- (6) The "audit report, etc." set forth in paragraph (1), item (xv), sub-item (c) means the documents (including the copy thereof and electromagnetic records) in which the person who 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 electromagnetic 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 the cases where 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 (in cases where the entrusted party is a Financial Instruments Business Operator who 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) in cases where the remuneration for the entrustment is to be disbursed from the Investment Property, the amount of such remuneration (in the cases where the amount of the remuneration has not been fixed in advance, the method of calculation thereof).

(Separate Management)

Article 132 (1) In cases where a Financial Instruments Business Operator, etc. manages Investment Property pursuant to the provisions of Article 42-4 of the Act, and where such Investment Property comprises money, it must manage such money in accordance with the methods specified in Article 125, item (ii), sub-items (a) through (c).

(2) In cases where a Financial Instruments Business Operator, etc. manages an Investment Property pursuant to the provisions of Article 42-4 of the Act, and where such Investment Property comprises Securities, etc. (meaning property other than money, such as Securities; hereinafter the same applies in this Article), it must manage 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 whereby 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 whereby 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, such 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. (in cases where the Financial Instruments Business Operator, etc. causes a foreign third party to take custody thereof, and where 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 where 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) 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 the sub-item (a) or (b) below, in accordance with the cases set forth respectively therein:

(a) in cases where 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 such documents as Securities, etc. and manage them in accordance with the categories of the Securities as listed in the foregoing items; and

(b) in cases other than the case specified in sub-item (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, in cases where the Securities, etc. are co-owned by the Financial Instruments Business Operator, etc. and Investment Property, and where 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 Application of Prohibition of Loan, etc. of Money or Securities in Relation to Investment Management Business)

Article 133 The cases to be specified by Cabinet Office Order as referred to in Article 16-13, item (v) of the Cabinet Order are the cases where 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 Report)

Article 134 (1) The following matters (in cases of matters listed in items (ix)

through (xi), limited to cases where Investment Properties pertain to the operation to implement acts listed in Article 2, paragraph (8), item (xii) of the Act based on a Discretionary Investment Contract) 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;
  - (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 o of the transactions; the same applies in sub-item (c)2. of the following item), the agreed volumes (in cases where there are no volumes, the number of transactions, or any other information equivalent the volumes; the same applies in sub-item (c)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 sub-item (c)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, and the trade name or name of the counterparty to the Acts of Financial Instruments Transactions;
  - (c) 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), sub-items (a) through (d), information set forth respectively in sub-items (a) through (d)).
- (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) in cases where, 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 a 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 such act in the Reporting Period of the relevant Investment Report;
  - (vi) in cases where, 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 Juridical Person, etc. or the Subsidiary Juridical Person, etc. of the Financial Instruments Business Operator, etc.
  - (vii) the proportion of the aggregate amount of the transaction pertaining to Acts of Financial Instruments Transactions conducted with the counterparties specified in sub-items (a) through (c) of the preceding item, to the aggregate amount of the transaction pertaining to Acts of Financial Instruments Transactions conducted during the Reporting Period of the relevant Investment Report; and
  - (viii) in cases where there is any counterparty to the Acts of Financial Instruments Transaction 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 of Financial Instruments Transaction conducted for the Investment Properties, the trade name or name of such counterparty, and the proportion of the aggregate transaction amount pertaining to the Act of Financial Instruments Transaction conducted for such counterparty, to the aggregate transaction amount pertaining to Acts of Financial Instruments Transaction 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) in cases where 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) In cases where 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 to cases where 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 where the Right Holder (limited to the counterparty of a Discretionary Investment Contract) is an employee's pension fund or National Pension Fund, the same applies in paragraph (5), item (iii)).
- (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) where it is expected that any person who lives together with a Right Holder will receive the Investment Report, and where the Right Holder has given consent prior to the Base Date that such Investment Report will not be delivered (excluding the cases where, prior to the Base Date, the Right Holder has requested the delivery of such Investment Report);
  - (ii) where 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 where 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 (limited to the cases where 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) where, 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 Electromagnetic Record storing such matters is to be delivered to such Right Holder.

(Exemption from Requirement of Notification of Investment Report)

Article 135 The cases to be specified by Cabinet Office Order as referred to in the proviso to Article 42-7, paragraph (3) of the Act are the cases where, pursuant to the provisions of Article 24, paragraph (1) of the Act as applied mutatis mutandis pursuant to paragraph (5) of that Article (including the cases where it is 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), sub-items (a) through (c) of the Act which pertains to the Investment Property held by the Right Holder thereof.

### **Subsection 3 Special Provisions on Securities, etc. Management Business**

(Method for Management in 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 whereby 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. (in cases where the Financial Instruments Business Operator, etc. causes a foreign third party to take custody thereof, and where 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 where 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) 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 sub-item (a) or (b), in accordance with the cases set forth respectively therein:
  - (a) in cases where there are documents evidencing the rights or any other document which are necessary upon the exercise of such rights: to regard such 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 sub-item (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, in cases where the Securities are co-owned by the Financial Instruments Business Operator, etc. and a Customer, and where 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 businesses to be specified by Cabinet Office Order as referred to in Article 43-2, paragraph (1), item (ii) of the Act as businesses incidental to the Securities-Related Business are the businesses incidental to the Financial Instruments Business, other than the following businesses:

- (i) a business to conduct any of the acts specified in Article 35, paragraph (1), items (i), or (x) through (xv) of the Act;
- (ii) a 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 Cabinet Order (limited to a transaction prescribed in the following Article); and
  - (c) a business specified in the foregoing item; and
- (iii) a 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 who 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 who falls under either Article 1-8-6, paragraph (1), item (ii), sub-item (a) or sub-item (b) of the Cabinet Order.

(Calculation of Amount of Customer Segregated Fund)

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 Fund)

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 under Article 161-2 of the Financial Instruments and Exchange Act and Deposits Related Thereto" (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 Gensaki Transaction (meaning a transaction specified in Article 110, paragraph (1), item (ii), sub-item (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 under Article 161-2 of the Financial Instruments and Exchange Act and Deposits Related Thereto" 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 Provisions on Procurement Transactions)

Article 140 (1) In cases where 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 who 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 where 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, in cases where 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 (in cases where 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 (in cases where 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 to the cases where 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 (in cases where 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 (in cases where 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 Amount of Customer Segregated Fund Pertaining to Over-the-Counter Derivatives Transaction etc. 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 item (ii) of that paragraph and Securities listed in item (iii) of that paragraph (limited to those concerning a Transaction Related to Subject Securities prescribed in item (ii) of that paragraph (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 Cabinet Order.

(Deduction from Amount of Customer Segregated Fund Pertaining to Over-the-Counter Derivatives Transaction etc. 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, in the case where the Financial Instruments Business Operator, etc. is conducting the Over-the-Counter Derivatives Transaction etc. Related to Subject Securities under a Basic Agreement (meaning a Basic Agreement prescribed in Article 2, paragraph (5) of the Act on Collective Clearing of Specified Financial Transaction Conducted by Financial Institutions, etc. (Act No. 108 of 1998); hereinafter the same applies in this paragraph and Article 143-2, paragraph (3)) in which a contract on Collective Clearing (meaning Collective Clearing prescribed in Article 2, paragraph (6) of that Act; the same applies in Article 143-2, paragraph (3)) was made with the customer, and where any Collective Clearing Event (meaning a Collective Clearing Event prescribed in Article 2, paragraph (4) of that Act; hereinafter the same applies in this paragraph and Article 143-2, paragraph (3)) 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 that Act; 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 to cause no hindrance to the protection of customers even if a Over-the-Counter Derivatives Transaction etc. Related to Subject Securities is settled under such Basic Agreement.

(Requirement for Customer Segregated Fund Trust)

Article 141 (1) In creating the trust specified in Article 43-2, paragraph (2) of the Act (hereinafter referred to as the "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 Customer Segregated Fund Trust (excluding the Customer Segregated Fund Trust pertaining to a 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), the 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 a 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, in the case where 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, in cases where 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; 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 a 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, in cases where 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; the same applies hereinafter) every day;
- (vii) that, in cases where 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 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 sub-items (a) through (c), in accordance with the categories of the cases set forth respectively therein:
  - (a) where the Customer Segregated Fund Trust is a money trust created with a financial institution engaged in a trust business, with a contractual agreement on the compensation of principal: the amount of the principal of such money trust;
  - (b) in cases where 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 who is the beneficiary of the principal of the Customer Segregated Fund Trust; or
  - (c) in cases other than those specified in sub-items (a) or (b): the market value as of the Reappraisal Base Date.
- (ix) that the cases where the cancellation of the Customer Segregated Fund Trust Agreement or any part thereof may be effected are as follows:
  - (a) where 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 where the Customer Segregated Fund Trust Agreement or any part thereof is to be cancelled within the amount equivalent to such exceeded amount;
- (b) where 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. (in cases where such amount exceeds the Remaining Customer Segregated Fund, such Remaining Customer Segregated Fund); or
  - (c) where 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, in cases where 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 Trust Agreement is exerted in whole with regard to all the customers, by an agent for a beneficiary (in cases where 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 (6)), when such agent deems it necessary;
  - (xii) that the value equivalent to the beneficial interest in principal in regard to each customer who 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 (in cases where such amount exceeds the Individual Amount of Customer Segregated Fund to be Refunded, such 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 item (ix) of paragraph (1) may be vested in the Financial Instruments Business Operator, etc. which is the settlor.
- (4) The "Remaining Customer Segregated Fund" as used in sub-item (b), item (ix) of paragraph (1) 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 sub-item (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 item (xi) of paragraph (1), 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 items (xii) and (xiii) of paragraph (1) is the amount obtained by realizing the trust property which is the principal under the Customer Segregated Fund Trust Agreement, or the amount equivalent thereto as calculated by the agent for beneficiary in accordance with a reasonable formula.

(Requirements for Customer Segregated Fund Pertaining to Over-the-Counter Derivatives Transaction etc. 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 a 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 the 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 such 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 Customer Segregated Fund Trusts, the same agents for beneficiaries should be appointed for such multiple Customer Segregated Fund Trusts;
- (iv) that where the Financial Instruments Business Operator, etc. comes to fall under the following conditions, only an agent for beneficiaries who is an Attorney-at-Law, etc. should exercise its authority (excluding cases where 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 juridical person, 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 said 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 juridical person, when it abolishes Financial Instruments Business, etc. at all business offices or offices established in Japan; the same applies in sub-item (d)) or dissolves (with regard to a Financial Instruments Business Operator, etc. which is a foreign juridical person, when it commences liquidation of

- business offices or offices established in Japan; the same applies in sub-item (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 an application for commencement of bankruptcy proceedings under the provisions of Article 490, paragraph (1) of the Act on Special Measures Concerning Reorganization Proceedings of Financial Institutions, etc. (Act No. 95 of 1996) 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 the cases where it is 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 the cases where it is 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), sub-items (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 (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 (where 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, in cases where 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 the cases where such 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, in cases where 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, in the case where 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) where 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 sub-item (a) or (b) of the preceding item should be vested in the settlor;
  - (xi) that, where the Financial Instruments Business Operator etc. comes to fall under any of sub-items (a) through (g) of item (iv), 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 who is an Attorney-at-Law, etc.;
  - (xii) that, where an agent for beneficiaries who 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, where the beneficial right of customers has been exercised collectively by an agent for beneficiaries who 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 such customer's 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 Trust pertaining to said customer to the Required Amount

of Customer Segregated Fund as of said date (in case where the amount so arrived at exceeds said Individual Amount of Customer Segregated Fund, such Individual Amount of Customer Segregated Fund); and  
(xv) that, where the Realized Amount of Principal on the day when the customer exercises such customer's 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) (where the Customer Segregated Fund Trust has principal protection features, the amount of principal).

(Calculation of Individual Amount of Customer Segregated Fund, etc.)

Article 141-3 The Financial Instruments Business Operator, etc. must calculate the Individual Amount of Customer Segregated Fund and the Required Amount of Customer Segregated Fund 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 paragraph (1) and (2) of Article 43-2 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 matters:

- (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, paragraph (1) and (2) of the Act;
- (iv) the matters related to an amendment to the Association Rules; and
  - (v) in addition to what is listed 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 who, 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 Cabinet Order);
  - (iii) a Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. of the Financial Instruments Business Operator;
  - (iv) a person who, 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.

(Separate Management of Money)

- Article 143 (1) In cases where 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 where 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):
- (i) Currency-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 Structured 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, where 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 who 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 sub-item (c)), depositing money as a security deposit for such Cover Deal with such Specified Business Operator, etc. or the party who operates such On-Exchange Financial Instruments Market); or
- (d) making a deposit with the Counterparty to Intermediary Services, etc. (limited to cases of, where a Financial Instruments Business Operator, etc. provides an intermediary, 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) 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 or those corresponding to the transaction listed in Article 116, paragraph (1), item (v), sub-item (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 juridical person who conducts a 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 juridical person 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.

(Segregated Customer Management Trust Requirements, etc.)

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 the 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) conducted by said 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 where the Financial Instruments Business Operator, etc. comes to fall under the following conditions, only an agent for beneficiaries who is an Attorney-at-Law, etc. should exercise its authority (excluding cases where 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 juridical person, 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 said 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 juridical person, when it abolishes Financial Instruments Business, etc. at all business offices or offices established in Japan; the same applies in sub-item (d)) or dissolves (with regard to a Financial Instruments Business Operator, etc. which is a foreign juridical person, when it commences liquidation of business offices or offices established in Japan; the same applies in sub-item (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 (vii) of that paragraph);
- (f) when the Prime Minister files an application for commencement of bankruptcy proceedings under the provisions of Article 490, paragraph (1) of the Act on Special Measures Concerning Reorganization Proceedings of Financial Institutions, etc. 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), sub-items (a)1. through (a)7. and Beneficiary Certificates of Investment Trusts listed in Article 65, item (ii), sub-items (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 methods listed in sub-items (b) through (e) of item (v) of that paragraph:
- (vi) that, in cases where 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. to be refunded to a customer, as calculated per such customer, where 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 (excluding the cases where 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, in cases where 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, in the case where 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) where 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 sub-item (a) or (b) of the preceding item should be vested in the settlor;
- (xi) that, where the Financial Instruments Business Operator etc., comes to fall under any of sub-items (a) through (g) of item (iv), 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 who is Attorney-at-Law, etc.;
- (xii) that, where an agent for beneficiaries who 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, where the beneficial right of customers have been exercised collectively by an agent for beneficiaries who 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 customer's 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 said customer to the Required Amount of Segregated Customer Management as of said date (in cases where the amount so arrived at exceeds said Individual Amount of Segregated Customer Management, such Individual Amount of Segregated Customer Management); and
- (xv) that, where the Realized Amount of Principal on the day when the customer exercises the customer's 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 the Currency-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. may be deducted.
- (3) If, for the purpose of calculating an Individual Amount of Segregated Customer Management prescribed in item (vi) of paragraph (1), in the case where the Financial Instruments Business Operator, etc. is conducting the Currency-Related Derivatives Transaction, etc. under a Basic Agreement in which a contract on Collective Clearing was made with the customer, and where 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.), the amount of such appraisal loss may be deducted to the extent that it is deemed to cause no hindrance to the protection of customers even if a Currency-Related Derivatives Transaction, etc. is settled under such Basic Agreement.

- (4) The Realized Amount of Principal under items (xiv) and (xv) of paragraph (1) means the amount that can be obtained by realizing the trust property pertaining to the Segregated Customer Management Trust (limited to the principal portion) (where the Segregated Customer Management Trust has principal protection features, the amount of principal).

(Calculation, etc. of Individual Amount of Segregated Customer Management, etc.)

Article 143-3 (1) In cases where a Financial Instruments Business Operator, etc. manages money by the method of Segregated Customer Management Trust, it must calculate Individual Amounts of Segregated Customer Management and the Required Amount of Segregated Customer Management every day.

- (2) In cases where a Financial Instruments Business Operator, etc. manages money in accordance with the methods specified in Article 143, paragraph (1), item (ii), sub-items (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, etc.)

Article 144 (1) In cases where 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 where 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 whereby 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. (in cases where the Financial Instruments Business Operator, etc. causes a foreign third party to take custody thereof, and where 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 where 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 sub-item (a) or (b), in accordance with the cases set forth respectively therein:
    - (a) in cases where 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 such 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 sub-item (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, in cases where the Securities, etc. are co-owned by the Financial Instruments Business Operator, etc. and a customer, and where 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 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.; 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 Structured 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 where 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, in cases where 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 Electromagnetic Means (excluding the methods specified in Article 56, paragraph (1), item (i), sub-item (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) in cases where Securities are to be furnished as security, and where the comprehensive written consent under the preceding paragraph is to be obtained: a written comprehensive consent to the furnishing of security stating the following matters:
- (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) the cases where 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 matters:
- (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) in cases where the Securities are to be loaned to any other party: a written consent to a loan stating the matters listed in sub-items (b) through (e) of the preceding item.

#### **Subsection 4 Preventive Measures against Adverse Effects, etc.**

(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 Transactions of Securities, etc. conducted by a customer based on advice pertaining to the Investment Advisory Business, or the Purchase and Sale or Other Transactions of Securities, etc. 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 Transactions 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, without explaining the reasons therefor to the solicited customer;
- (ii) in connection with an 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 Non-Disclosure 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 Non-Disclosure Information (hereinafter referred to as the "Issuer, etc."));
- (iii) in cases where the Financial Instruments Business Operator, etc. is the Lead Managing Underwriter (meaning a person who, 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 (in cases where the Wholesale Underwriting Contract is the contract listed in Article 15, item (iii) of the Cabinet 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) in cases where the Financial Instruments Business Operator, etc. conducts the Underwriting of Securities, etc., and where 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 who 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 Acceptance of Entrustment, etc. for 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 an act of the Acceptance, etc. of 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 is an Acceptance of Entrustment, etc. for the purchase and sale of Securities from any individual who 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 149-2, item (i), sub-item (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, in the case where 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 the 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 Contract for a Financial Instruments Transaction (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), 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);
- (ii) an act of an Officer or employee engaged in a Financial Instruments Business to receive from, or provide to, an Officer or employee engaged in a Financial Institution Agency Service Operation any Non-Disclosure Loan

Information, etc. of the customer which is the Issuer of the Securities (excluding an act conducted in the cases specified in the following sub-items):

- (a) cases where the Non-Disclosure Loan Information, etc. is to be provided with a prior written consent therefor from the customer;
- (b) the cases where it is deemed necessary that any Non-Disclosure Loan Information, etc. be received from an Officer or employee engaged in a Financial Institution Agency Service Operation, so as to ensure compliance with the laws and regulations applicable to the Financial Instruments Business; or
- (c) the cases where the Non-Disclosure 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 Business.

(Exemption from Prohibition Applicable to Registered Financial Institutions of Acceptance of Entrustment, etc. for 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 an act of the Acceptance of Entrustment, etc. of 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 the act is an Acceptance of Entrustment, etc. for the purchase and sale of Securities from any individual who 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); or
  - (b) that the act is an Acceptance of Entrustment, etc. for the purchase and sale of Securities from any individual who 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, in the case where 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 Businesses 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 Contract for Financial Instruments Transaction (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), 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;
- (ii) to conclude or solicit for conclusion of a Contract for Financial Instruments Transaction (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), 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) in addition to what is listed in the preceding two items, an act to conclude or solicit for the conclusion of a Contract for Financial Instruments Transaction, while unjustly taking advantage of one's dominant bargaining position;
  - (iv) in the case referred to in the following sub-items, an act to provide an intermediary service for the purchase and sale of Securities (in cases where the Entrustor Financial Instruments Business Operator who 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 pertaining to the case where Securities are to be sold within the period between the day when the Entrustor 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 sub-items is applicable:
    - (a) where any person who owes a debt to the party itself is to issue the Securities, and where it is aware of the circumstance where the proceeds from such Securities will be appropriated for payment of such debt;
    - (b) where the person whose major lender of the money is the party itself is to issue the Securities (limited to the cases where 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 (in the case where the Officer is a juridical person, including executive members thereof; hereinafter the same applies in this item) or employee engaged in a Financial Instruments Intermediary Service Operation to receive from, or provide to, an Officer or employee engaged in a Loan Business or Financial Institution Agency Service Operation any Non-Disclosure Loan Information, etc. of the customer which is the Issuer of the Securities (excluding an act conducted in the cases specified in the following sub-items):
    - (a) the cases where the Non-Disclosure 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) the cases where it is deemed necessary that any Non-Disclosure Loan Information, etc. be received from an Officer or employee engaged in a Loan Business or Financial Institution Agency Service Operation, so as to ensure compliance with the laws and regulations applicable to the Registered Financial Institution Business; or
- (c) the cases where the Non-Disclosure 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 Intermediary Service Operation.

Articles 151 and 152 deleted

(Restriction of Acts Involving Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. of Financial Instruments Business Operator)

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 Juridical Person, etc. or the Subsidiary Juridical Person, etc. of the Financial Instruments Business Operator under conditions which differ substantially from those for ordinary transactions;
- (ii) an act to conclude a Contract for Financial Instruments Transaction with a customer, knowing that the Financial Instruments Business Operator's Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 Contract for Financial Instruments Transaction with such Financial Instruments Business Operator;
- (iii) the following acts, in cases where 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 Juridical Person, etc. or Subsidiary Juridical Person, etc. of the Financial Instruments Business Operator, and where the Financial Instruments Business Operator or any of its Officers or employees is aware of the circumstance where the proceeds from such Securities (in cases where 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 or a Financial Instruments Intermediary Service Provider which accepts the Financial Instruments Intermediary Service Operation to conduct any of the following acts, without explaining to such Registered Financial Institution or Financial Instruments Intermediary Service Provider the aforementioned circumstance (excluding the cases where 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 pertaining to the case where 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 in the following sub-items) to be issued by the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 the cases where the share certificates issued by a stock company incorporated through a consolidation-type merger or share transfer (limited to the cases where all of the companies extinguished through such consolidation-type merger or companies which implemented such share transfer are stock companies, and where 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, where the period listed is less than six months, and where 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), and which satisfy any of the following requirements:

1. that, in cases where the Listing Date (meaning the day when such share certificates come to fall under the categories of share certificates listed

- on the Financial Instruments Exchange; the same applies in sub-item (a)) 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 sub-items (a) and (c) 3.), the issued share certificates of the Parent Juridical Person, etc. or the Subsidiary Juridical Person, 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 sub-item (a)) 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 sub-items (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; the same applies in sub-item (a)) 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 sub-item (a)), 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. in cases where 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 of the Parent Juridical Person, etc. or the Subsidiary Juridical Person, 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. in cases where 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 of the Parent Juridical Person, etc. or the Subsidiary Juridical Person, 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, where securities certificates that are acquired or underwritten by the exercise of the share option 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 sub-item (a) above) or corporate bond certificates (excluding corporate bond certificates with share options; the same applies in sub-item (c) below), which Issuer meets all of the following requirements:
1. with regard to corporate 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 sub-item (c)) 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 Transfer of Bonds, Shares, etc.; the same applies in 3) is 25 billion yen or more; and
  3. total face value 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 over five years before the issue date or total amount of Book-entry Company Bonds is 10 billion yen or more.
- (d) share certificates, etc. (meaning share certificates, share option certificates, or corporate bond certificates) on an 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; 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 bonds with share options; and interest rate in cases of bonds (excluding bonds with share options)) pertaining to the underwriting of which a Financial Instruments Business Operator who satisfies all of the following requirements is appropriately involved in the decision as a Managing Underwriter (meaning a Managing Underwriter prescribed in Article 147, item (iii)) (excluding those which fall under sub-items (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), sub-item (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 Juridical Person, etc. or a Subsidiary Juridical Person, etc. of the Lead Managing Underwriter or an issuer of such share certificates, etc. (it is referred to as the "Lead Managing Underwriter, etc." in sub-item (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 (4) of that Article; the same applies in 5) in the Lead Managing Underwriter, etc., or a Parent Juridical Person, etc. or a Subsidiary Juridical Person, 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 Juridical Person, etc. or a Subsidiary Juridical Person, 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 consist a majority of directors and executive officers (including board members, auditors and any other persons equivalent thereto; the same applies in sub-item (d)) of the Lead Managing Underwriter, etc., and directors and executive officers thereof with the authority of representation:
  - i. its Officers (in case where an Officer is a juridical person, including executive members thereof; 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. where itself or any person listed in sub-items 6.i. and 6.ii. holds voting rights in an other Company, etc. (meaning a Company, etc. prescribed in Article 15-16, paragraph (3) of the Cabinet Order) exceeding fifty percent of Voting Rights Held by All the Shareholders, etc. thereof, such other Company, etc. and its Officers; and
  - iv. persons who were formerly its Officers (limited to those for whom 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 sub-items 6.i. through 6.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 Juridical Person, etc. or Subsidiary Juridical Person, etc. has extended a loan or otherwise granted credit to such customer in relation to the purchase price of such Securities (in cases where 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 Juridical Person, etc. or Subsidiary Juridical Person, etc., within the period between the day when it becomes the Underwriter of such Securities (in cases where 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 in the following sub-items):
    - (a) to have the trust company or the financial institution engaged in the trust business, which is the Financial Instruments Business Operator's Parent Juridical Person, etc. or Subsidiary Juridical Person, etc., acquire the Securities, by means of the trust property under the money trust of which methods of investment are specified (excluding the cases where the settlor of such money trust falls under the category of the Financial Instruments Business Operator's Parent Juridical Person, etc. or

- Subsidiary Juridical Person, etc.);
- (b) to have the Financial Instruments Business Operator's Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. acquire the Securities, with a view to having such Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. receive orders for the purchase and sale of the Securities from a customer of the Financial Instruments Business or Registered Financial Institution Business (excluding the cases where the customer falls under the category of its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc.) and effect such purchase and sale wherein the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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, the cases where 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 a Type I Financial Instruments Business) receives from, or provides to, its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. any Non-Disclosure Information on Issuers, etc. (excluding any acts conducted in the cases specified in the following sub-items):
    - (a) where the Issuer, etc. has given a prior written consent on the provision of such Non-Disclosure Information by the Financial Instruments Business Operator or its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc.;
    - (b) where the Financial Instruments Business Operator makes an entrustment pertaining to a Financial Instruments Intermediary Service to its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc., and where it receives the information listed in Article 281, item (xii), sub-items (a) through (c) or provides the information listed in Article 123, paragraph (1), item (xviii), sub-items (a) through (c);



- (c) where the Financial Instruments Business Operator makes an entrustment pertaining to a Financial Instruments Intermediary Service Operation to its Parent Bank, etc. or Subsidiary Bank, etc., and where it receives the information specified in Article 123, paragraph (1), item (xxiv), sub-item (a) or (b) or provides the information listed in sub-items (a) through (c) of item (xviii) of that paragraph;
- (d) where 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 121-2, paragraph (3) of the Fisheries Cooperatives Act, and the Norinchukin Bank; the same applies hereinafter), and where 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) where 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 the cases where it is 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 11-11, paragraph (2) of the Fisheries Cooperatives Act;
- (f) where 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 (limited to the cases where the Financial Instruments Business Operator, as well as its Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 Non-Disclosure Information from the section in charge of the preparation of such Confirmation Report and Internal Control Report);
- (g) where the Financial Instruments Business Operator receives or provides

- any information necessary for the maintenance and management of an Electronic data processing system (limited to the cases where the Financial Instruments Business Operator, as well as its Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 Non-Disclosure Information from the section in charge of the maintenance and management of the Electronic data processing system);
- (h) where the Financial Instruments Business Operator receives or provides Non-Disclosure Information under the Laws and Regulations, etc.; and
  - (i) where the Financial Instruments Business Operator receives, or provides to its Person in Specified Relationship, information necessary for handling all or part of the Internal Management Affairs (limited to cases where measures have been precisely taken by such Financial Instruments Business Operator and the Person in Specified Relationship who 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 Non-Disclosure Information from the sections in charge of the Internal Management Affairs);
  - (viii) an act whereby a Financial Instruments Business Operator engaged in a Securities-Related Business (limited to such operator engaged in a Type I Financial Instruments Business) solicits for the conclusion of a Contract for Financial Instruments Transaction by utilizing the Non-Disclosure Information on customers acquired from its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. (limited to any information provided by the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 a Type I Financial Instruments Business) utilizes the Non-Disclosure Information on issuers, etc. acquired from its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. (limited to such information acquired in the cases under sub-items (g) and (i) of item (vii)) for any purpose other than handling affairs related to the maintenance and management of Electronic Data Processing Systems and the Internal Management Affairs;
  - (x) an act whereby a Financial Instruments Business Operator engaged in a Securities-Related Business (limited to such operator engaged in a Type I Financial Instruments Business) concludes or solicits for the conclusion of a Contract for Financial Instruments Transaction by unjustly taking advantage of a dominant bargaining position of its Parent Bank, etc. or

- Subsidiary Bank, etc.;
- (xi) in the case where the Financial Instruments Business Operator visits a customer with its Parent Bank, etc. or Subsidiary Bank, etc., and where such Financial Instruments Business Operator fails to inform the customer that it is a juridical person 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 juridical person as such Parent Bank, etc. or Subsidiary Bank, etc.;
- (xii) in cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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) in cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. of the Financial Instruments Business Operator conducts the Underwriting of Securities, etc., and where the amount pertaining to applications for the acquisition or purchase of the Securities made to such Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. (in cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. implements those listed in Article 2, paragraph (6), item (iii) of the Act, exercise of the share option by the person who acquired the share option prescribed in that item) is likely to be less than the amount that such Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. had scheduled, to advise to acquire or purchase of such Securities (in cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 Juridical Person, etc. or Subsidiary Juridical Person, etc.;
- (xiv) 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) Where the Financial Instruments Business Operator, or its Parent Juridical

Person, etc. or Subsidiary Juridical Person, etc. under items (vii) and (viii) of the preceding paragraph appropriately offers to an issuer, etc. (limited to a juridical person; hereinafter the same applies in this paragraph) an opportunity to request the suspension of the provision to said Parent Juridical Person, etc. or Subsidiary Juridical Person, etc., or Financial Instruments Business Operator of non-disclosure information concerning said issuer, etc. (hereinafter referred to as the "Non-Disclosure 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 Affairs" under sub-item (i) of item (vii) and item (ix) of paragraph (1) mean 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; and
- (vi) affairs related to tax.

(4) A "Person in Specified Relationship" under sub-item (i), item (vii) of paragraph (1) 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 (3) of the Act; hereinafter the same applies in this paragraph);
- (ii) a company that is the Parent Juridical Person, 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 Juridical Person, etc. or a Subsidiary Juridical Person, 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's Parent Juridical Person, etc. or Subsidiary Juridical Person, etc.)

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) in cases where 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 Contract for Financial Instruments Transaction with such Registered Financial Institution's Parent Juridical Person, etc. or Subsidiary Juridical Person, etc., an act to conduct a Financial Instruments Intermediary Service Operation for such customer, notwithstanding such circumstance;
- (ii) an act to conclude a Contract for Financial Instruments Transaction with a customer, knowing that the Registered Financial Institution's Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 Contract for Financial Instruments Transaction with such Registered Financial Institution;
- (iii) an act of providing the customer with the Financial Instruments Intermediary Service Operation pertaining to Securities within the period between the day when the Registered Financial Institution's Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 (in cases where

the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 (in the case where the Officer is a juridical person, including executive members thereof; hereinafter the same applies in this item and the following item) or employee of the Registered Financial Institution who is engaged in a Financial Instruments Intermediary Service Operation provides Non-Disclosure Information on the Issuers, etc. (limited to information on ordering trends in the customer's Purchase and Sale or Other Transactions of Securities, etc. and any other special information) to its Parent Juridical Person, 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 sub-item (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 sub-item (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 sub-item (a) of that item); hereinafter the same applies in this item) or to its Subsidiary Juridical Person, etc. (excluding a company specified in Article 16-2, paragraph (1), item (xi) of the Banking Act (limited to a company engaged in the Dependent Business specified in item (i) of paragraph (2) of that Article), 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 Dependent Business specified in item (i) of paragraph (4) of that Article), a company specified in Article 54-23, paragraph (1), item (x) of the Shinkin Bank Act (limited to a company engaged in the Dependent Business specified in item (i) of paragraph (2) of that Article), a company specified in Article 58-5, paragraph (1), item (vi) of the Labor Bank Act (limited to a company engaged in the Dependent Business specified in item (i) of paragraph (2) of that Article), 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 Dependent Business specified in item (i) of paragraph (2) of that Article), a company specified in Article 106, paragraph (1), item (xii) of the Insurance Business Act (limited to a company engaged in the Dependent Business specified in item (i) of paragraph (2) of that Article), a company specified in Article 72, paragraph (1), item (viii) of the Norinchukin Bank Act (limited to a company

engaged in the Dependent Business specified in item (i) of paragraph (2) of that Article), a company specified in Article 11-47, paragraph (1), item (v) of the Agricultural Co-operatives Act (limited to a company engaged in the Dependent Business specified in item (i) of paragraph (2) of that Article), and a company specified in Article 87-3, paragraph (1), item (v) of the Fishery Cooperatives Act (limited to a company engaged in the Dependent Business specified in item (i) of paragraph (2) of that Article); hereinafter the same applies in this item), or to receive from its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. any Non-Disclosure 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 in the following sub-items):

- (a) where the Issuer, etc. has given its prior written consent to the provision of Non-Disclosure Information by the Registered Financial Institution, or by the Registered Financial Institution's Parent Juridical Person, etc. or Subsidiary Juridical Person, etc.;
- (b) where the Registered Financial Institution makes an entrustment pertaining to a Financial Instruments Intermediary Service to its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc., and the information listed in Article 281, item (xii), sub-items (a) through (c) is received or where the information listed in Article 123, paragraph (1), item (xviii), sub-item (a) or (b) is to be provided;
- (c) where the Registered Financial Institution's Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. is an Entrustor Financial Instruments Business Operator, and where the information specified in Article 123, paragraph (1), item (xviii), sub-items (a) through (c) is to be received or where the information specified in sub-item (a) or (b) of item (xxiv) of that paragraph is to be provided;
- (d) where the Registered Financial Institution conducts a Financial Institution Agency Service as entrusted by a Principal Financial Institution which is its Parent Juridical Person, etc. or Subsidiary Juridical Person, etc., and where the information specified in 1. or 2. below is to be received, or where 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 Juridical Person, etc. or Subsidiary Juridical Person, 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 Juridical Person, etc. or Subsidiary Juridical Person, 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) where 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 the cases where it is 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 11-11, paragraph (2) of the Fisheries Cooperatives Act;

- (f) where 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 (limited to the cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. which receives such information from the Officer or employee has taken secure measures to prevent the leaking of the Non-Disclosure Information from the section in charge of the preparation of such Confirmation Report and Internal Control Report);
- (g) where any information necessary for the maintenance and management of an Electronic data processing system is to be provided (limited to the cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. which receives such information from the Officer or employee have taken secure measures to prevent the leaking of the Non-Disclosure Information from the section in charge of the maintenance and management of the Electronic data processing system);
- (h) where the Non-Disclosure Information is to be received or provided under the Laws and Regulations, etc.;
- (i) where information necessary for handling all or part of the Internal Management Affairs (meaning the Internal Management Affairs prescribed in paragraph (3) of the preceding Article; hereinafter the same applies in sub-item (i)) is to be provided to a Person in Specified Relationship (meaning, where the Registered Financial Institution is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of a Financial Instruments Business Operator engaged in Securities-Related Business (limited to such operator engaged in a Type I Financial Instruments Business), or where such Financial Instruments Business Operator is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of such Registered Financial Institution, such Financial Instruments Business Operator, and a person listed in the respective items of paragraph (4) of the preceding Article with regard to such Financial Instruments Business Operator who is the Parent Juridical Person, etc. or a Subsidiary Juridical Person, etc. of such Registered Financial Institution; hereinafter the same applies in sub-item (i)) (limited to cases where measures have been precisely taken by the Person in Specified Relationship who receives such information from such Officer or employee, in order to prevent the leaking of the Non-Disclosure Information from the sections in charge of the Internal Management Affairs); and
- (j) where information necessary for the Registered Financial Institution or the 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), sub-item (d); hereinafter the same applies in sub-item (j)) is to be provided to said Parent Juridical Bank, etc. or Subsidiary Bank, etc. (limited to cases where measures have been precisely taken by the Parent Bank, etc. or Subsidiary Bank, etc. who receives such information from such Officer or employee, in order to prevent the leaking of the Non-Disclosure Information from the sections in charge of affairs related to the compliance with said Applicable Provisions);

- (v) an act whereby an Officer or employee engaged in Financial Instruments Intermediary Service Operation of the Registered Financial Institution solicits for the conclusion of a Contract for Financial Instruments Transaction by utilizing the Non-Disclosure Information on customers acquired from the Registered Financial Institution's Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. (limited to any information provided by the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. without obtaining the customer's written consent);
- (vi) in cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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) in cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. of the Registered Financial Institution conducts the Underwriting of Securities, etc., and where the amount pertaining to applications for the acquisition or purchase of the Securities (in cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 who acquired the share option) made to such Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. is likely to be less than the amount that such Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. had scheduled, to advise to acquire or purchase such Securities (in cases where the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 Juridical Person, etc. or Subsidiary Juridical Person, etc.;

(viii) 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.

(Method 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 such Issuer, etc. by Electromagnetic Means, in lieu of the written consent of the Issuer, etc. as prescribed in Article 153, paragraph (1), item (vii), sub-item (a) and Article 154, item (iv), sub-item (a). In this case, such Financial Instruments Business Operator, etc. is deemed to have obtained the written consent from such Issuer, etc.

(2) In cases where 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 Electromagnetic Means used by such Financial Instruments Business Operator, etc. and obtain the approval from such Issuer, etc. in writing or by Electromagnetic Means.

(i) the methods to be used by the Financial Instruments Business Operator, etc., from among the methods specified in the items of Article 56, paragraph (1); and

(ii) the format for recording information into files.

(3) In the cases where the Issuer, etc. has advised in writing or by Electromagnetic Means that it refuses to give its consent by Electromagnetic 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 Electromagnetic Means; provided, however, that this does not apply to the cases where such Issuer, etc. has newly given its approval under that paragraph.

### **Subsection 5 Miscellaneous Provisions**

Article 156 The cases to be specified by Cabinet Office Order as referred to in the proviso to Article 45 of the Act are the cases specified in the following items, with regard to the application of the provisions set forth respectively therein:

- (i) Article 37-4: the cases where 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: the cases where 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: the cases where 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 who 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: the cases where 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 a 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 the cases where it is 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), sub-item (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 in Safe Custody;
- (xii) record on the results of the Audit of Separate Management;
- (xiii) the trading products ledger;
- (xiv) the Gensaki Transactions ledger;
- (xv) in cases where the Financial Instruments Business Operator is engaged in a Proprietary Trading System Operation, transaction records for thereto;
- (xvi) in cases where 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) in cases where any Contract for Financial Instruments Transaction 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 intermediary services for the conclusion

of an Investment Advisory Contract or a Discretionary Investment Contract.

(xvii) in cases where 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 (in cases where 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 (22) of said Article similar to the Investment Trust Managed Under Instructions from the Settlor as prescribed in paragraph (1) of that Article; the same applies in sub-item (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));
- (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.

(2) The books and documents specified in item (i), item (ii) and item (xvi), sub-item (c) 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), sub-item (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), item (xvi) (excluding sub-item (c) of that item) and item (xvii) (excluding sub-item (d) of that item) 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), sub-item (a) and (xvii), sub-item (a) of that paragraph, from the day of the termination of the business pertaining to the contract or any other juridical act).

(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 (excluding the acts pertaining to an intermediary or agency service, or pertaining to an act listed in item (viii) of that paragraph (limited to such act conducted by specifying a period of offer for sales or purchase of Securities pertaining to said act)), must be stated in an order form set forth in Article 157, paragraph (1), item (iii):

(i) information as to whether the transaction 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 sub-items (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 Gensaki Transaction: 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 Gensaki Transaction to the purchaser; the same applies hereinafter) or an 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 Gensaki Transaction; the same applies hereinafter);

3. information as to whether it is a Gensaki Transaction based on an entrustment by customer or a Gensaki Transaction 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), item (i) and (ii) of the Act (including the Foreign Market Derivatives Transactions similar thereto) and a transaction specified in Article 2, paragraph (22), item (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), item (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), item (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), 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), sub-item (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), sub-item (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 sub-items (a) to (d)

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, when 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), item (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 (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 sub-item (d) of item (xi)) occurs, the customer becomes a party paying money, or a party receiving money.
- (vi) volumes of order received (in cases where there is no volume, the number of orders received or any other particular equivalent to volume; the same applies in item (iii) of paragraph (3));
- (vii) agreed volume (in cases where there is no volume, the number of agreed orders or any other particular equivalent to volume; the same applies in item (iii) of paragraph (3));
- (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), item (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), 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 to the cases where it is difficult to prepare such forms immediately upon receipt of orders, such as the case where orders for two or more Securities of different issues were received at the same time.
  - (ii) in cases where the transaction did not come into effect, that an order form contains such fact;
  - (iii) in cases where an order form is to be prepared by means of an Electromagnetic Record, such record is prepared in accordance with the following, in addition to what is listed 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 Gensaki Transactions 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 Operation are preserved in a distinctive manner.
  - (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 the case where any 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 the case where any 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 items (iv) and (xi) of paragraph (1) which pertain 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 pertain to a Gensaki Transaction: a Transaction for Starting and an 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 pertain 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 item (ii) of paragraph (1): in cases where the customer is the one to whom delivery of Document for Delivery Upon Conclusion of Contract is not required pursuant to the provisions of Article 110, paragraph (1), item (v) or (vi), and where 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 item (ii) of paragraph (1), 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 sub-items (d)2., (e)3. and (g)2. of item (iii) of paragraph (1): 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 Electromagnetic Record pursuant to the provisions of item (iii) of the preceding paragraph: in cases where such information prepared by means of an Electromagnetic 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 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), item (viii) and (ix) of the Act (excluding an act pertaining to an

intermediary or agency service):

- (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 (in cases where 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 (limited to the cases where 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 Gensaki Transaction, the following matters:
  - (a) the fact that the transaction falls under the category of a Gensaki Transaction;
  - (b) information as to whether it is a Transaction for Starting or an Transaction for Ending;
  - (c) information as to whether it is a Gensaki Transaction based on an entrustment by a customer a Gensaki Transaction on dealer basis;
- (x) with regard to the transactions specified in Article 2, paragraph (21), item (i) and (ii), and Article 2, paragraph (22), item (i) and (ii) of the Act, the following matters:
  - (a) information as to whether the transaction 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), item (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), item (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), item (iii) and (iv) of the Act, and the Trading of Bonds with Options, the following matters:
  - (a) information as to whether the transaction itself is dealing or it is a

- transaction based on entrustment by 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), item (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), item (iv) and Article 2, paragraph (22), item (v) of the Act, the following matters:
  - (a) information as to whether the transaction 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 transaction 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 method 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 sale and purchase 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 sale and purchase 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 pertain 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 establishes such 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 Operation 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 Operation;
  - (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.
- (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 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 (in case where 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 items (ii) and (viii) of paragraph (1): in case of a customer or counterparty to whom delivery of Document for Delivery Upon Conclusion of Contract is not required pursuant to the provisions of Article 110, paragraph (1), item (v) or (vi), and where 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 item (ii) of paragraph (1) 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.

(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 Brokerage for Clearing of Securities, etc.)

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 (in cases where 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 such act conducted by specifying a period of offer for purchase or sales of Securities pertaining to said act) and the act specified in Article 1-12 of the Cabinet 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 (in cases where there is no volume, the number of orders received or any other particular equivalent to volume; the same applies in item (i) of paragraph (3)), the unit price and the amount of order received;

(v) the agreed volume (in cases where there is no volume, the number of agreed orders or any other particular equivalent to volume; the same applies in item (i) of paragraph (3)), 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, in cases where 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 Electromagnetic Record, it is, in addition to what is provided listed 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 the items (iv) through (vii) of paragraph (1) 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 Electromagnetic Record pursuant to the provisions of item (iii) of the preceding paragraph: in cases where such information prepared by means of an Electromagnetic 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 (in cases where there is no volume, the number of orders received or any other information equivalent to volume; the same applies in item (i) of paragraph (3)), the unit price of order received, and the amount of order received;
- (v) the agreed volume (in cases where there is no volume, the number of agreed orders or any other information equivalent to volume; the same applies in item (i) of paragraph (3)), 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, in the case where 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 Electromagnetic Record, such record is, in addition to what is listed 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 the items (iv) through (vii) of paragraph (1) 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 Electromagnetic Record pursuant to the provisions of item (iii) of the preceding paragraph: in cases where such information prepared by means of an Electromagnetic 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's Ledger)

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-item (b), (c), (d)2., (d)3., (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 (in cases where 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 (in cases where 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 an Transaction for Ending;
  - (h) in the case of a Gensaki Transaction, 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, in cases where 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 sub-item (h), item (i) of paragraph (1), or the unit price specified in sub-item (d), item (ii) of that paragraph: in cases where 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 where, 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 securities or certificates specified in the items of Article 2, paragraph (1) of the Act 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 Transfer of Corporate Bonds, Shares, etc. 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 securities or certificates;
  - (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) in cases where the matters listed in the items of the foregoing paragraph were entered into a form, and where 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 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 securities or certificates specified in the items of Article 2, paragraph (1) of the Act which were deposited by the customer as the act specified in Article 2, paragraph (8), item (xvi) of the Act:

- (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 securities or certificates;
  - (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 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 Ledger)

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 (limited to the cases where 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 (in cases where 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; and



- (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), item (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 (in cases where 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;
  - (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), item (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 Article 2, paragraph (22), item (i) and (ii) of the Act; 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 (in cases where 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) 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;
- (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;
- (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 sub-item (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 (excluding the cases where 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 Gensaki Transaction is not included, and such information is stated in the ledger on Gensaki Transactions 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 sub-item (a), item (i) of paragraph (1) 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 sub-item (a) of that item;
  - (iii) the matters specified in sub-item (d) of item (i), sub-item (g) of item (ii), sub-item (e) of item (iii), sub-item (e) of item (iv), sub-item (c) of item (v) and sub-item (d) of item (vi) of paragraph (1): in cases where the counterparty is the one to whom delivery of Document for Delivery Upon Conclusion of Contract is exempted pursuant to the provisions of Article 110, paragraph (1), item (v) and (vi), and where 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 item (iii) of paragraph (1): in cases where 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 item (iii) of paragraph (1) into such transaction diary, in lieu of the trading products ledger;
  - (v) the matters specified in sub-item (i), item (iii) of paragraph (1); the matters specified in sub-items (h) and (i), item (iv) of that paragraph; the matters

specified in sub-item (e), item (vi) of that paragraph which are equivalent to the matters specified in sub-item (i), item (iii) of that paragraph; and the matters specified in sub-item (e), item (vi) of that paragraph which are equivalent to the matters specified in sub-items (h) and (i) of item (iv) 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 Gensaki Transactions)

Article 168 (1) The following matters must be contained in a ledger on Gensaki Transactions as referred to in Article 157, paragraph (1), item (xiv), in connection with the Trading Account Securities which pertain to Gensaki Transactions:

- (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 Gensaki Transactions set forth in the preceding paragraph, the progress of Gensaki Transactions must be specified respectively for each transaction.

(3) Notwithstanding the provisions of the preceding two paragraphs, a description of the matters specified in items (viii) and (ix) of paragraph (1) may be 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 Intermediary Service 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 intermediary service for the conclusion of an Investment Advisory Contract or a Discretionary Investment Contract as referred to in Article 157, paragraph (1), item (xvi), sub-item (d), in connection with the act specified in Article 2, paragraph (8), item (xiii) of the Act:

- (i) the date when the agency or intermediary 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 agency or intermediary services.

(Investment Statements)

Article 170 (1) The following matters relating to an investment (including an investment by a person who 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), sub-item (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 sub-items (a) through (d) 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 when 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), item (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 (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 (in cases where 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) in cases where 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.

(Order Placement Forms)

Article 171 (1) In an order placement form referred to in Article 157, paragraph (1), item (xvii), sub-item (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 (in cases where there is no volume, the number of orders placed or any other information equivalent to volumes);
- (vi) agreed volumes (in cases where 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 (in cases where 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) in cases where 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, in cases where 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, in cases where 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) in cases where an order placement form is to be prepared by means of an Electromagnetic Record, such records are prepared in accordance with the following, in addition to what is listed 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 who keeps custody of such Investment Property or Foreign Investment Property: the statement of those matters may 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: in cases where 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: in cases where 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 Electromagnetic Record pursuant to the provisions of item (v) of the preceding paragraph: in cases where such information prepared by means of an Electromagnetic 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).

#### (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 Financial Services Agency or Other Competent Official the reports listed in the following items (in cases where the Financial Instruments Business Operator is a foreign juridical person, 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 (in cases where the Financial Instruments Business Operator is a foreign juridical person, within four months after the end of the period from April 1 of each year and March 31 of the following year; the same applies in the following items and the following Article); 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 Document)

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 (viii) 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), sub-item (b), item (ii), sub-item (b), item (iii), sub-item (b) or item (iv), sub-item (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 profit for the current year or the 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 juridical person, 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.
- (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) in cases where the document specified in sub-item (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) in cases where an audit certification has been implemented by a certified public accountant or an auditing firm with regard to the documents specified in sub-item (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 or Securities to be managed pursuant to the provisions of Article 43-2 or 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 Methods 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 who prepares the explanatory documents set forth in Article 57-4 of the Act pertaining to said 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.

(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 sub-item (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), 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), 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) 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 sub-item (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 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 sub-item (f) 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 sub-items (h) of this item and the sub-items (g) and (h) 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 sub-items (h) of this item and the sub-items (g) and (h) 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.
- (ii) the amount obtained by deducting the amount specified in sub-item (i) below from the total of the amounts specified in the following sub-items (a) through (h):
  - (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), item (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 of the Financial Instruments Transaction Liability Reserve which has already been set aside (in cases where 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 where the Financial Instruments Transaction Liability Reserve may be used as set forth in Article 46-5, paragraph (2) of the Act are the case where the Financial Instruments Business Operator withdraws the amount pertaining to the portion in excess of the total of the amounts listed in sub-items (a) through (h) of item (ii) 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 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 sub-item (a) of item (vii) and Article 177, paragraph (1), item (i)) to be inserted in the section of net assets of the balance sheet, in cases where 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 sub-item (d) below are the amount equivalent to 50 percent of the Amount of Basic Items (referred to as the "Threshold Amount" in sub-item (e)); and the ceiling of the amount specified in sub-item (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, in cases where 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 sub-item (d)).
- (2) The "Long-Term Subordinated Debt" as used in sub-items (d) and (e) of item (vii) 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) in the case where 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 Financial Services Agency or Other Competent Official; and
  - (iv) that there are special provisions setting forth that no interest payment is made in cases where 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 sub-items (e) of item (vii) of paragraph (1) 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) in the case where 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 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 in cases where 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) In cases where 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) where the lender in the Subordinated Borrowing is the Subsidiary Company, etc.: the amount of such Subordinated Borrowing;
  - (ii) where 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) where 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 (in cases where 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 item (iii) of paragraph (2) or item (iii) of paragraph (3) must submit a written application for approval stating the following matters to the Commissioner of 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. (in case where 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 (in case where 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) In case where the Commissioner of Financial Services Agency or Other Competent Official intends to grant an approval under item (iii) of paragraph (2) or item (iii) of paragraph (3), 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 items (i) and (ii) of paragraph (4) 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, paragraph (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) In addition to 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, etc. 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, deposits pertaining to those specified in Article 176, paragraph (1), item (vii), sub-item (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 Structured Financial Institution, or a Financial Institution listed in any of the items of Article 1-9 of the Cabinet Order; the same applies in sub-item (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 Transfer of Corporate Bonds, Shares, etc. 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 sub-item (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 (limited to the cases where the Financial Instruments Business Operator accepts the means of procuring capital implemented by such other company and where such commercial papers or corporate bond certificates are held by the Financial Instruments Business Operator intentionally); and
  - (c) the Securities or bonds with share options listed in Article 2, paragraph (1), items (vi) to (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 sub-items (a) and (b) of item (i), 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 Service 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) In cases where 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 item (i) of paragraph (1) must be calculated.
- (4) The advance payments of the consumption tax related to a purchase where 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 sub-item (d), item (iii) of paragraph (1).
- (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 sub-item (c), item (iii) of paragraph (1): 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 sub-item (a), item (iv) of paragraph (1): 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 item (v) of paragraph (1): the appraisal value of the collateral money or other assets deposited by such third party.
- (6) The "Associated Company" referred to in sub-item (c), item (iii) and sub-item (a), item (iv) of paragraph (1) 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, paragraph (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 sub-item (c) of item (iii) and sub-item (a) of item (iv) of paragraph (1) 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) In addition to 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) where the Capital Adequacy Ratio falls below 140 percent; or

(ii) where 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 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 item (i) of paragraph (1) 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 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) where 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) where 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 item (ii) of paragraph (1) must, pursuant to the provisions of Article 46-6, paragraph (1) of the Act, notify to that effect to the Commissioner of 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) In cases where 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.

(2) In cases where the amount of Subordinated Debt (meaning the Subordinated Debt set forth in Article 176, paragraph (1), item (vii), sub-item (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 a 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), item (i) and (ii) (excluding sub-item (c) of that item);

(ii) in cases where the Financial Instruments Business Operator is engaged in a Type II Financial Instruments Business, the following books and



- documents:
- (a) the books and documents listed in Article 157, paragraph (1), items (iii) through (ix); and
  - (b) a record on the status of the separate management pertaining to the Act of Management of Specified Securities, etc.
- (iii) in cases where 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): and
- (iv) in cases where the Financial Instruments Business Operator is engaged in an Investment Management Business, the books and documents specified in Article 157, paragraph (1), item (xvii).
- (2) Notwithstanding the provisions of item (ii) of the preceding paragraph, a person engaged in a Type II Financial Instruments Business that does not have any business office or other office to carry out a Financial Instruments Business in Japan (limited to a juridical person incorporated under the laws and regulations of a foreign state or an individual domiciled in a foreign state, 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; 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 sub-item (a) of that item (such document is hereinafter referred to as the "Foreign Books and Documents" in this paragraph; and in cases where 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 sub-item (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 items (i) and (iii) of paragraph (1) (limited to the books and documents specified in Article 157, paragraph (1), item (xvi), sub-item (c)) must be kept for five years from the day of the preparation thereof (in the case of the book specified in item (i) of paragraph (1) (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 item (ii) of paragraph (1) (limited to those specified in items (iii) through (iii)-4 of paragraph (1) of that Article), the Foreign Books and Documents similar thereto, and the books and documents specified in item (iv) of paragraph (1)

(limited to those specified in Article 157, paragraph (1), item (xvii), sub-item (d)) must be kept for seven years from the day of the preparation thereof; and the books and documents specified in item (ii) of paragraph (1) (excluding those specified in items (iii) through (iii)-4 of paragraph (1) of that Article), the Foreign Books and Documents similar thereto, and the books and documents specified in item (iii) of paragraph (1) (excluding those specified in Article 157, paragraph (1), item (xvi), sub-item (c)) and item (iv) of paragraph (1) (excluding those specified in Article 157, paragraph (1), item (xvii), sub-item (d)) 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), sub-item (a) and Article 157, paragraph (1), item (xvii), sub-item (a), from the day of the termination of the business under the contract or any other juridical act).

(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.

(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), item (i) and (ii) (excluding sub-item (c) of that item);
  - (ii) with regard to a Registered Financial Institution Business other than a Financial Instruments Intermediary Service Operation, an 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) and (xiv);
  - (iii) with regard to a Financial Instruments Intermediary Service Operation, 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).
- (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), sub-item (c)) 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 items (iii), sub-item (a) and (v) of the preceding paragraph (limited to those specified in Article 157, paragraph (1), item (xvii), sub-item (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), sub-item (b) and, item (iv) of the preceding paragraph (excluding those specified in Article 157, paragraph (1), item (xvi), sub-item (c)) and item (v) of the preceding paragraph (excluding those specified in Article 157, paragraph (1), item (xvii), sub-item (d)) 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), sub-item (a) and item (xvii), sub-item (a), from the day of the termination of the business under the contract or any other juridical act).

(Subsidiary Book on Financial Instruments Intermediary Service)

Article 185 (1) The following matters must be stated in a subsidiary book on the financial instruments intermediary service set forth in Article 184, paragraph (1), item (iii), sub-item (a):

- (i) information as to whether the Entrustor Financial Instruments Business Operator's transaction 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 (in cases where there is no volume, the number of transactions or any other information equivalent to volume; the same applies in item (i) of paragraph (3));
- (vii) the agreed volumes (in cases where there is no volume, the number of transactions or any other information equivalent to volume; the same applies in item (i) of paragraph (3));
- (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, in cases where the Registered Financial Institution has two or more Entrustor Financial Instruments Business Operators, such book is prepared for each of such Entrustor 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) in cases where a subsidiary book on a financial instruments intermediary service is to be prepared by means of an Electromagnetic Record, such records are prepared in accordance with the following, in addition to what is listed 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 Entrustor 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 Entrustor 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 item (iii) of paragraph (1) (limited to the matters specified in Article 158, paragraph (1), item (iii), sub-items (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 Electromagnetic Record pursuant to the provisions of item (vi) of the preceding paragraph: in cases where such information prepared by means of an Electromagnetic 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 Description of Custody Related to Financial Instruments  
Intermediary Service)

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), sub-item (b), the following matters in relation to the money and Securities

pertaining to the Financial Instruments Intermediary Service Operation 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 Entrustor 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 Entrustor Financial Instruments Business Operator is an Ordering Member, etc. need not prepare such book; provided, however, that in cases where 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) in cases where 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) in cases where 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 Report)

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 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 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) and the transaction specified in item (ii) of that paragraph (including Foreign Market Derivatives Transactions similar thereto; hereinafter the same applies in this Article), 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), 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 sub-item (c) 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 sub-item (c) 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 sub-items (e) of this item and the sub-items (d) and (e) 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 sub-items (e) of this item and sub-items (d) and (e) of the following item); and

(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.

(ii) the amount obtained by deducting the amount specified in sub-item (f) below from the total of the amount specified in the following sub-items (a) through (e):



- (a) the amount equivalent to 0.0064 in 10,000 of the aggregate contract amount for the transactions specified in Article 2, paragraph (21), item (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 of the Financial Instruments Transaction Liability Reserve which already has been set aside (in cases where 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 where the Financial Instruments Transaction Liability Reserve may be used as set forth in Article 48-3, paragraph (2) of the Act are the case where the Registered Financial Institution withdraws the amount pertaining to the portion in excess of the total of the amounts listed in sub-items (a) through (e) of item (ii) 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 Financial Services Agency or Other Competent Official.

#### **Subsection 4 Special Provisions for Foreign Juridical Persons, etc.**

(Procedures for Obtaining Approval on Period of Public Inspection of Explanatory Documents)

- Article 190 (1) In cases where any Financial Instruments Business Operator which is a foreign juridical person or an individual domiciled in a foreign state (hereinafter referred to as the "Financial Instruments Business Operator which is Foreign Juridical Person, etc." in this Article) intends to obtain an approval under the proviso to Article 16-17 of the Cabinet Order, it must submit to the Commissioner of Financial Services Agency or Other Competent Official a written application for approval stating the following matters:
- (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 (meaning the business year prescribed in the proviso to Article 16-17 of the Cabinet Order; hereinafter the same applies in this Article) 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 Juridical Person, etc. 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 legal opinion letter 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 legal opinion letter.
- (3) In cases where the application for approval set forth in paragraph (1) was filed, and where it is found impossible for a Financial Instruments Business Operator which is a Foreign Juridical Person, 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 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 (in cases where such day falls within four months from the commencement of the business year (in cases where 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 item (v) of paragraph (1) 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 Juridical Person, etc. set forth in that paragraph submits to the Commissioner of Financial Services Agency or Other Competent Official the documents stating the following matters within four months after the end of each business year; provided, however, that with regard to the matters specified in item (ii), if the substance of such matters is identical to that stated in the documents already submitted within five years prior to the submission of such document, the statement of such matters may be omitted:
- (i) that the reasons for application for which approval was sought have not been extinguished or changed in the relevant business year; and
  - (ii) the legal opinion letter prepared by a law expert referring to the matters specified in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Procedures for Obtaining Approval on Time Limit for Submission of Business Report)

Article 191 (1) In cases where any Financial Instruments Business Operator which is a foreign juridical person or an individual domiciled in a foreign state, or a Registered Financial Institution which is a foreign juridical person

(hereinafter referred to as the "Financial Instruments Business Operator, etc. which is Foreign Juridical Person, etc." in this Article) intends to obtain an approval under the proviso to Article 16-18 of the Cabinet Order, it must submit to the Commissioner of Financial Services Agency or Other Competent Official a written application for approval stating the following matters:

- (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 (meaning the business year prescribed in the proviso to Article 16-18 of the Cabinet Order; hereinafter the same applies in this Article) 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 Juridical Person, etc. 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 legal opinion letter 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 legal opinion letter.

(3) In cases where the application for approval set forth in paragraph (1) was filed, and where it is found impossible for a Financial Instruments Business Operator, etc. which is Foreign Juridical Person, 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 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 (in cases where such day falls within three months from the commencement of the business year (in cases where 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 paragraph (1) 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 Juridical Person, etc. as set forth in that paragraph submits to the Commissioner of Financial Services Agency or Other Competent Official the documents stating the following matters within three months after the end of each business year; provided, however, that with regard to the matters specified in item (ii), if the substance of such matters is identical to that stated in the documents already submitted within five years prior to the submission of such document, the statement of such matters may be omitted:
- (i) that the reasons for application for which approval was sought have not been extinguished or changed in the relevant business year; and
  - (ii) the legal opinion letter prepared by a law expert referring to the matters specified in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Procedures for Obtaining Approval on Time Limit for Submission of Other Documents, etc.)

Article 192 (1) In case where a Financial Instruments Business Operator (limited to a foreign juridical person 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 Cabinet Order, it must submit to the Commissioner of Financial Services Agency or Other Competent Official a written application for approval stating the following matters:

- (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 legal opinion letter 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 legal opinion letter.

- (3) In cases where the application for approval set forth in paragraph (1) has been filed, and where it is found 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 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 (in cases where such day falls within three months after the commencement of the business year (in cases where 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 item (v) of paragraph (1) 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 Financial Services Agency or Other Competent Official the documents stating the following matters within three months after the end of each business year; provided, however, that with regard to the matters specified in item (ii), if the substance of such matters is identical to that stated in the documents already submitted within five years prior to the submission of such document, the statement of such matters may be omitted:
- (i) that the reasons for application for which approval was sought have not been extinguished or changed in the relevant business year; and
  - (ii) the legal opinion letter prepared by a law expert referring to the matters specified in the preceding item, as well as the copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Special Provisions 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 in cases where the provisions of Article 46-6, paragraph (1) of the Act are to be applied by replacing certain terms pursuant to Article 49-2, paragraph (3) of the Act, 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 sub-item (a), item (vii) 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, etc. of Other Documents, etc.)

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 by replacing certain terms pursuant to Article 49-2, paragraph (1) of the Act; provided, however, that in cases where 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 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 Cabinet Order from the end of each business year.

(Reserve for Loss)

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 period between April 1 of each year and March 31 of the following 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 sub-items (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 sub-item (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**

(Juridical Person Required to File Notification of Acquisition, etc. of Majority of Voting Rights)

Article 198 (1) The juridical persons 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 juridical person holding the majority



of the voting rights in a bank, Cooperative Structured Financial Institution, financial institution listed in the items of Article 1-9 of the Cabinet Order or Financial Instruments Business Operator (limited to an operator engaged in a Securities-Related Business), or the majority of voting rights in a juridical person 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 juridical person solely engaged in a business related to business execution of the Financial Instruments Business Operator.

(2) For the purpose of item (i) of the preceding paragraph, a juridical person holding the majority of the voting rights in a foreign Holding Company is also deemed to be a foreign Holding Company.

(Case Where Financial Instruments Business Operator is Required to File Notification on Suspension of Business, etc.)

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), 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), sub-item (b) of that item, item (iii) of that paragraph (excluding the part pertaining to Major Employees) or item (iv) of that paragraph;

(ii) where the Financial Instruments Business Operator becomes aware that any of its Officers or Major Employees has come to fall under Article 29-4, paragraph (1), item (ii), sub-items (a) through (g) of the Act;

(iii) where another juridical person or organization has come to fall under the category of the Parent Juridical Person, etc. or the Subsidiary Juridical person, etc.; or where such other juridical person or organization no longer falls under such category;

(iv) where another juridical person or organization has come to fall under the category of Holding Company; or where such other juridical person or organization no longer falls under such category;

(v) where 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 juridical person, including cases where 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 such state);

- (vi) where the Financial Instruments Business Operator has effected any change to its articles of incorporation;
- (vii) where the Financial Instruments Business Operator has become aware that any of its officers or employees (in the case where the officer or employee is a juridical person, 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), sub-items (e) and (f)) (the above does not include the cases where the Problematic Conduct, etc. falls under the act specified in Article 118, item (i), sub-items (a) through (d) or Article 118, item (ii), sub-item (a) or (b), or the act specified in sub-item (c) of that item (excluding the act in breach of laws and regulations), and where such act was caused through negligence; the same applies in the following item);
- (viii) where the details of the Problematic Conduct, etc. set forth in the preceding item were revealed;
- (ix) where 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 operation or the status of its property), or where such action or conciliation has been concluded;
- (x) where the Financial Instruments Business Operator is a foreign juridical person or an individual domiciled in a foreign state, and where 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 (excluding the case where such Financial Instruments Business Operator falls under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act);
- (xi) in cases where the Financial Instruments Business Operator is engaged in a Type I Financial Instruments Business or an Investment Management Business, the following cases:
  - (a) where the Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (v), sub-item (a) or (b) of the Act;
  - (b) where the Net Assets of the Financial Instruments Business Operator has become less than the amount of the stated capital (excluding the case falling under sub-item (a));
  - (c) where the Financial Instruments Business Operator has become aware

- that any of its Major Shareholders has come to fall under any of Article 29-4, paragraph (1), item (v), sub-item (d), 1 or 2 or sub-item (e), 1 through 3 of the Act (in the case of a foreign juridical person, where the Financial Instruments Business Operator has become aware that any person equivalent to the Major Shareholder has come to fall under the person for whom the confirmation set forth in sub-item (f) of that item is not implemented);
- (d) where 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 where the Financial Instruments Business Operator has become aware that such action or conciliation has been concluded;
- (e) where 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. (excluding the cases where the Problematic Conduct, etc. falls under the act specified in Article 118, item (i), sub-items (a) through (d) or Article 118, item (ii), sub-item (a) or (b), or in sub-item (c) of that item (excluding the act in breach of laws and regulations), and where such act was caused through negligence; the same applies in sub-item (f));
- (f) where the details of the Problematic Conduct, etc. set forth in sub-item (e) were revealed;
- (g) where the Financial Instruments Business Operator has entrusted a Financial Instruments Intermediary Service Provider to conduct a business related to the acts listed in the items of Article 2, paragraph (11) of the Act, or where it has ceased such entrustment; and
- (h) where the Financial Instruments Business Operator has established or abolished its representative office in a foreign state.
- (xii) in cases where the Financial Instruments Business Operator is engaged in a Type I Financial Instruments Business, the following cases:
- (a) where the Financial Instruments Business Operator has made a Subordinated Borrowing or has issued Subordinated Corporate Bonds; and
- (b) where the Financial Instruments Business Operator has made an accelerated payment of the Subordinated Borrowing, or where 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 sub-item (a) or (b), excluding cases corresponding to item (vii) or (viii)):
- (a) in cases where a Special Financial Instruments Business Operator has become aware that any Officer or Employee of the Special Financial Instruments Business Operator or its Subsidiary Juridical Person, etc. (meaning the Subsidiary Juridical Person, 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 Juridical Person, etc.; hereinafter referred to as "Problematic Conduct, etc." in this item) laws and regulations, etc. (including foreign laws and regulations, etc.) (excluding cases where Problematic Conduct, etc. is the act listed in Article 118, item (i), sub-items (a) through (d) or item (ii), sub-item (a) or (b), or the act listed in sub-item (c) of that item (excluding and act in breach of laws and regulations) that are caused due to negligence and cases where it is stipulated that the Subsidiary Juridical Person, 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 sub-item (b));
  - (b) in cases where the details of the Problematic Conduct, etc. set forth in sub-item (a) are found out;
  - (c) in cases where a Special Financial Instruments Business Operator has become aware that the Subsidiary Juridical Person, etc. has borrowed Subordinated Borrowing or has issued Subordinated Corporate Bonds (excluding cases where the Subsidiary Juridical Person, 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 sub-item (d)); and
  - (d) in cases where a Special Financial Instruments Business Operator has become aware that the Subsidiary Juridical Person, etc. has made an accelerated payment of the Subordinated Borrowing or that it has made an accelerated redemption of Subordinated Corporate Bonds (including cases where 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).

(Case Where Registered Financial Institution is Required to File Notification on Suspension of Business, etc.)

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) where 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 item (ii) of that paragraph;
- (ii) where 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 (in the case of a foreign juridical person, including the cases where 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 such state);
- (iii) where the Registered Financial Institution has effected any change to its articles of incorporation;
- (iv) where another juridical person or organization has come to fall under the category of the Parent Juridical Person, etc. or the Subsidiary Juridical person, etc.; or where such other juridical person or organization no longer falls under such category;
- (v) where another juridical person or organization has come to fall under the category of Holding Company; or where such other juridical person or organization no longer falls under such category;
- (vi) where 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 the cases where the Problematic Conduct, etc. falls under the act specified in Article 118, item (i), sub-items (a) through (d) or Article 118, item (ii), sub-item (a) or (b), or in sub-item (c) of that item (excluding the act in breach of laws and regulations), and where such act was caused through negligence; the same applies in the following item);
- (vii) where the details of the Problematic Conduct, etc. set forth in the

- preceding item were revealed;
- (viii) where the Registered Financial Institution has become a party to any action or conciliation in connection with its Registered Financial Institution Business, or where such action or conciliation has been concluded;
  - (ix) where the Registered Financial Institution has become aware that a Financial Instruments Intermediary Service Provider whose Entrusting Financial Instruments Business Operator is itself has become a party to any action or conciliation (limited to an action or conciliation relevant to a Financial Instruments Intermediary Service), or where it has become aware that such action or conciliation has been concluded;
  - (x) where 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 where it has ceased such entrustment.

(Matters to be Stated in Written Notification)

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 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 the discontinued business; and
  - (b) the date of and reasons for the discontinuance.
- (iii) the case falling under Article 50, paragraph (1), item (iii) of the Act: the matters listed in the sub-items (a) through (c), in accordance with the categories of the cases respectively set forth therein:
  - (a) in the case of a merger with another juridical person, 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 merger;
  - (b) in the case of the succession of all or part of the business of any other juridical person 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 acceptance of the transfer of all or part of the business from any other juridical person, the following matters:
1. the trade name or name of the transferor;
  2. the date of and reasons for the acceptance of transfer; and
  3. the contents of the business transferred.
- (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 sub-items (a) and (b), in accordance with the categories of the cases respectively set forth therein:
- (a) in the case where, 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 sub-item (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) in cases where 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 discontinuance;
    2. the date of and reasons for the merger, dissolution or discontinuance; and
    3. in the case of a merger, the other party thereto and methods 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 juridical person or other organization;
  - (b) the number of voting rights to be held by other juridical person 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 juridical person 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 sub-items (a) through (d), in accordance with the category of cases set forth respectively therein:
- (a) in cases where the Financial Instruments 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 where 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), 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)) 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;
  2. the date of the Registration, etc.;
  3. the date of rescission of the Registration, etc. and the reasons therefor; and
  4. the details of the business for which the Registration, etc. was rescinded.
- (b) in cases where the Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (i), sub-item (b) of the Act, or where 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) in cases where the Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (iii) of the Act (excluding the part pertaining to Major Employees), the following matters:
1. the name of the person who has come to fall under that provision;
  2. in cases where the person has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, the day when such person became



- subject to the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
3. in cases where the person has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the day when such person became subject to the order for the commencement of bankruptcy proceedings;
  4. in cases where the person has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act, the day when the punishment became final and binding, and the type of punishment;
  5. in cases where the person has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, the date of rescission and the reasons therefor; and
  6. in cases where the person has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) of the Act, the date when a dismissal or removal was ordered and the reasons therefor.
- (d) in cases where any Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (iv) 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 Cabinet Order, and the reason therefor;
- (ix) the cases falling under Article 199, item (ii): the following matters:
- (a) the name of the Officer or Major Employees who has come to fall under any of Article 29-4, paragraph (1), item (ii), sub-items (a) through (g) of the Act;
  - (b) in cases where the Officer or Major Employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, the date when the Officer or Major Employee became subject to an ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
  - (c) in cases where the Officer or Major Employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the day when the Officer or Major Employee became subject to the order for the commencement of bankruptcy proceedings;
  - (d) in cases where the Officer or Major Employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act, the day when the punishment became final and binding, and the type of punishment;
  - (e) in cases where 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 and the reasons therefor;
  - (f) in cases where the Officer or Major Employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) 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 Juridical Person, etc. or Subsidiary Juridical Person, etc. which has come to fall under such category, or which no longer falls under such category; and
    - (b) the day when another juridical person or organization came to fall under the category of the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 juridical person 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), sub-item (e), or item (xiii), sub-item (a), or Article 200, item (vi): the following matters:
    - (a) the name of the business office or any other office where the Problematic Conduct, etc. (meaning the Problematic Conduct, etc. prescribed in Article 199, item (vii), item (xiii), sub-item (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 such Problematic Conduct, etc. had taken place);
    - (b) the name and position of the officer or employee who caused the Problematic Conduct, etc., or the name and position of the Financial

- Instruments Intermediary Service Provider or its officers or employees who 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), sub-item (f), item (xiii), sub-item (b), or Article 200, item (vii): the following matters:
- (a) the name of the business office or any other office where 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 such Problematic Conduct, etc. had taken place);
- (b) the name and position of the officer or employee who caused the Problematic Conduct, etc., or the name and position of the Financial Instruments Intermediary Service Provider or its officer or employee who caused the Problematic Conduct, etc.; and
- (c) the details of the Problematic Conduct, etc.; and
- (d) in cases where 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 sub-items (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) in cases where 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), sub-item (a): the following matters:
- (a) in the cases falling under Article 29-4, paragraph (1), item (v), sub-item (a) of the Act, the day when the Financial Instruments Business Operator, etc. ceased to be the stock company prescribed in sub-item (a) of that item,

- and the reasons therefor; and
- (b) in the cases falling under Article 29-4, paragraph (1), item (v), sub-item (a) of the Act, the day when the Net Assets became less than the amount specified in Article 15-9, paragraph (1) of the Cabinet Order, and the reasons therefor.
  - (xix) the cases falling under Article 199, item (xi), sub-item (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), sub-item (c): the matters specified in sub-items (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:
    - (a) in cases where the Financial Instruments Business Operator, etc. has become aware that any of its Major Shareholders has come to fall under Article 29-4, paragraph (1), item (v), sub-item (d) of the Act, the following matters:
      1. the name of the Major Shareholder which has come to fall under such provision;
      2. in cases where the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, the day when such Major Shareholder became subject to the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the day when any procedure similar thereto under the laws and regulations of a foreign state similar was conducted;
      3. in cases where the Major Shareholder, or a statutory agent of the adult ward, a statutory agent of the person under curatorship or a statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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. in cases where the Major Shareholder, or a statutory agent of the adult ward, a statutory agent of the person under curatorship or a statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act, the day when the punishment became final and binding, and the type of punishment;
      5. in cases where the Major Shareholder, or a statutory agent of the adult ward, a statutory agent of the person under curatorship or a statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, the date of

- rescission and the reasons therefor; and
6. in cases where the Major Shareholder, or a statutory agent of the adult ward, a statutory agent of the person under curatorship or a statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) of the Act, the day when dismissal or removal was ordered and the reasons therefor.
- (b) in cases where the Financial Instruments Business Operator has become aware that any of its Major Shareholders has come to fall under Article 29-4, paragraph (1), item (v), sub-item (e) of the Act, the following matters:
1. the trade name or name of the Major Shareholder which has come to fall under such provision;
  2. in cases where 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 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;
  3. in cases where the Major Shareholder falls under Article 29-4, paragraph (1), item (i), sub-item (b) 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;
  4. in cases where the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (v), sub-item (e)3. of the Act, the name of the Officer representing the juridical person which has come to fall under any of sub-items (a) to (g) of item (ii) of that paragraph;
  5. in cases where the Officer representing the juridical person which is the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, the day when the Officer became subject to an ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
  6. in cases where the Officer representing the juridical person which is the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the day when the Officer became subject to an order for the commencement of bankruptcy proceedings;
  7. in cases where the Officer representing the juridical person which is the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act, the day when the punishment became final and binding, and the type of punishment;
  8. in cases where the Officer representing the juridical person 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 and the

- reasons therefor; and
9. in cases where the Officer representing the juridical person which is the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) of the Act, the date when the dismissal or removal was ordered, and the reasons therefor;
- (c) in cases where the Financial Instruments Business Operator has become aware that any of the persons equivalent to its Major Shareholders pertaining to a foreign juridical person has come to fall under Article 29-4, paragraph (1), item (v), sub-item (f) of the Act, the following matters:
1. the trade name or name of the person equivalent to the Major Shareholder who 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), sub-item (d) or Article 200, item (ix): the matters specified in sub-items (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:
- (a) in cases where 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) in cases where 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), sub-item (g) or Article 200, item (x): the matters specified in sub-items (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:
- (a) in cases where 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) in cases where 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), sub-item (h): the matters specified in sub-items (a) and (b) below, in accordance with the categories of the cases set forth respectively therein:
- (a) in cases where 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) in cases where 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), sub-item (a) or item (xiii), sub-item (c): the matters specified in sub-items (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:
- (a) in cases where the Financial Instruments Business Operator has made any Subordinated Borrowing or where it has become aware that the Subsidiary Juridical Person, 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) in cases where the Financial Instruments Business Operator has issued any Subordinated Bond or where it has become aware that the Subsidiary Juridical Person, etc. has borrowed Subordinated Bond, the following

matters:

1. the methods 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), sub-item (b) or item (xiii), sub-item (d): the following matters:
- (a) the amount and date of the payment or redemption; and
  - (b) the outstanding balance after the payment or redemption.

(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 (limited to the case where 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 sub-items (a) through (c) below, in accordance with the categories of the documents respectively set forth therein:
  - (a) in cases where the Financial Instruments Business Operator, etc. has merged with another juridical person, 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 (in cases where the Notifier is a person engaged in a Type I Financial Instruments Business, the Net Assets and the Capital Adequacy Ratio; the same applies in sub-item (b)3. and sub-item (c)3.); and
    4. the document stating the method of treatment of customers' accounts.
  - (b) in cases where the Financial Instruments Business Operator, etc. has



- succeeded to all or part of any other juridical person'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) in cases where the Financial Instruments Business Operator, etc. has accepted the transfer of all or part of any other juridical person's business, the following documents:
1. a document stating the contents of the business transfer contract and the procedures for the acceptance of the business transfer;
  2. the latest balance sheets of the parties; and
  3. a document specifying the Net Assets after the acceptance of the transferred business.
- (iv) in a case falling under Article 50, paragraph (1), item (v) of the Act (limited to a case where 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 discontinuance, a document stating the methods 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 juridical person or any other organization holding the voting rights; and
  - (b) a document stating the total number of voting rights held by any juridical person 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 sub-items (a) through (d) below, in accordance with the categories of the cases set forth respectively therein:
- (a) in cases where any Financial Instruments 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 laws and regulations equivalent to the Act), or where 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), the following documents:

1. a copy of the written order for the rescission 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 cases where any Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (i), sub-item (b) of the Act, or where 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) in cases where any Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (iii) of the Act, the following documents:
1. in cases where the Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the document stating the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
  2. in cases where the Financial Instruments Business Operator 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;
  3. in cases where the Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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;
  4. in cases where the Financial Instruments Business Operator has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, and where a rescission was effected in a foreign state, a copy of the written order for rescission 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 and the Japanese translation thereof.
- (d) in cases where the Financial Instruments Business Operator has come to

- fall under Article 29-4, paragraph (1), item (iv) of the Act, a certificate of registered matters or any other document in lieu thereof.
- (viii) the cases falling under Article 199, item (ii): the following documents:
- (a) in cases where any Officer or Major Employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the document stating the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
  - (b) in cases where any 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 the order for the commencement of bankruptcy proceedings, or the document stating the details of the order for the commencement of bankruptcy proceedings;
  - (c) in cases where any Officer or Major Employee has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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;
  - (d) in cases where any 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 where a rescission 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 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 Juridical Person, etc. or Subsidiary Juridical Person, 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 Juridical Person, etc. or Subsidiary Juridical Person, 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), sub-item (a) (limited to the cases where the Net Assets has become less than the amount specified in Article 15-9, paragraph (1) of the Cabinet 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 Cabinet Order, and the document specifying the calculated Net Assets as of that day;
  - (xv) the cases falling under Article 199, item (xi), sub-item (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), sub-item (c): the matters specified in sub-items (a) and (b) below, in accordance with the categories of the cases respectively set forth therein:
    - (a) in cases where the Financial Instruments Business Operator has become aware that any of its Major Shareholders has come to fall under Article 29-4, paragraph (1), item (v), sub-item (d) of the Act, the following documents:
      1. in cases where the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the document stating the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
      2. in cases where the Major Shareholder, or the statutory agent of the adult ward, the statutory agent of the person under curatorship or the statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state 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;
      3. in cases where the Major Shareholder, or the statutory agent of the adult ward, the statutory agent of the person under curatorship or the statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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;

4. in cases where the Major Shareholder, or the statutory agent of the adult ward, the statutory agent of the person under curatorship or the statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state 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;
  5. in cases where the Major Shareholder, or the statutory agent of the adult ward, the statutory agent of the person under curatorship or the statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has had the registration, etc. rescinded 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., as well as the Japanese translation thereof;
- (b) in cases where the Financial Instruments Business Operator has become aware that any of its Major Shareholders has come to fall under Article 29-4, paragraph (1), item (v), sub-item (e) of the Act, the following documents:
1. in cases where 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 a document in lieu thereof;
  2. in cases where the Major Shareholder falls under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act or where the Officer representing the juridical person which is a Major Shareholder falls under sub-item (d) or (e) of item (ii) of that paragraph, and where the Registration, etc. was rescinded in a foreign state, a copy of the laws and regulations of a foreign state which served as the basis of the rescission and the Japanese translation thereof;
  3. in cases where the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (i), sub-item (b) 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. in cases where any Officer representing a juridical person which is a Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the document stating the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
  5. in cases where any Officer representing the juridical person 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; and

6. in cases where any Officer representing a juridical person which is a Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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.
- (xvii) the cases falling under Article 199, item (xi), sub-item (g) or Article 200, item (x) (limited to the cases where 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), sub-item (a) or item (xiii), sub-item (c): the following cases:
  - (a) in cases where the Financial Instruments Business Operator has made any Subordinated Borrowing or where it has become aware that the Subsidiary Juridical Person, etc. has borrowed Subordinated Borrowing, a copy of the contract therefor; and
  - (b) in cases where the Financial Instruments Business Operator has issued any Subordinated Corporate Bonds or where it has become aware that the Subsidiary Juridical Person, etc. has borrowed Subordinated Bonds, a copy of the Prospectus therefor or any other document equivalent thereto;

(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 Discontinuance of Business, etc.)

- Article 204 (1) A person who intends to file a notification pursuant to the provisions of Article 50-2, paragraph (1) of the Act must submit to the Commissioner of 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 discontinuance;
- (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 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.
- (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 juridical person 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.

(Public Notice, etc. on Discontinuance 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 (in cases where the Financial Instruments Business Operator, etc. is a juridical person, by the method of giving public notice for such juridical person (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 Unidentifiable)

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 Disposition)

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 Concerning Special Financial Instruments Business Operators, etc.**

### **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 it is 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 Cabinet 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 Cabinet Order, a written application for approval stating the following matters 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 Cabinet 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 Cabinet 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) in cases where 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 legal opinion letter 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 legal opinion letter; and
  - (iii) in cases where 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) In cases where 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 Cabinet 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 Service 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 Juridical Persons, etc.)

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 matters:

- (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 When It Comes 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 Cabinet Order; and the provisions of Article 208-3, paragraphs (2) through (4) apply mutatis mutandis to cases where 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 Cabinet Order, respectively. In this case, the phrase "the same.)" as used in Article 208-3, paragraph (2), item (v) is deemed to be replaced with "the same.); hereinafter the day when it comes to have a Parent Company"; 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 who 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 Service Agency.

(Documents, etc. Stating the Business and Financial Status of the Parent Company and Its Subsidiary Juridical Person, etc.)

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 Cabinet 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 Cabinet Order, it must submit to the Commissioner of the Financial Service Agency a written application for approval stating the following matters:

- (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 Cabinet 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 Cabinet 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) in cases where 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 legal opinion letter 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 legal opinion letter; and
  - (iii) in cases where 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) In cases where 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 Cabinet 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 Service Agency is to grant the approval set forth in the proviso to Article 17-2-3, paragraph (3) of the Cabinet Order with regard to the documents pertaining to the quarter for the period from the quarter containing the day when the application is made (in cases where the day is within three months (in cases where 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 Service Agency is to grant the approval set forth in the proviso to Article 17-2-3, paragraph (3) of the Cabinet Order on the condition that the Special Financial Instruments Business Operator set forth in the preceding paragraph submits to the Commissioner of the Financial Service Agency the document stating the following matters (with regard to the matters listed in item (ii), limited to cases where 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 with regard to the matters listed in item (ii),

in cases where they are the same content as the matters stated in the documents submitted within five years before submission of said documents, the matters may not be stated:

- (i) the fact that the reason for application pertaining to the approval has not ceased or changed during the quarter; and
- (ii) the legal opinion letter prepared by a law expert related to the matters listed in the preceding item and a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Business Report)

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 the 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 Juridical Persons, etc. (excluding Subsidiary Juridical Person, 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 Juridical Persons, etc.; and
  - (c) the following matters related to the Special Financial Instruments Business Operator and its Subsidiary Juridical Persons, 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 Juridical Person, etc. held by the Special Financial Service Agency, to the

- number of voting rights of total shareholders, etc. of the Subsidiary Juridical Person, etc.; and
6. the percentage of the voting rights of a Subsidiary Juridical Person, etc. held by the Special Financial Service Agency and its Subsidiary Juridical Person, etc. other than said Subsidiary Juridical Person, etc., to the number of voting rights of total shareholders, etc. of said Subsidiary Juridical Person, etc.
- (ii) the following matters related to the business status of the Special Financial Service Agency and its Subsidiary Juridical Persons, 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 sub-item (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 profit for the current year or the loss for the current year;
    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 sub-item (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 Juridical Person, 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) in cases where the Special Financial Service Agency and its Subsidiary Juridical Person, etc. (meaning the Subsidiary Juridical Person, etc. prescribed in Article 15-16-2, paragraph (2) of the Cabinet 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 sub-item (c)) (excluding cases where 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) in cases where the document specified in sub-item (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) in cases where an audit certification has been provided by a certified public accountant or an auditing firm with regard to the documents specified in sub-item (a) pursuant to the provisions of Article 193-2 of the Act, to that effect; and
- (f) Soundness of Management (meaning the Soundness of Management prescribed in Article 57-5, paragraph (2) of the Act, and excluding those pertaining to the consolidated Capital Adequacy Ratio).

(Submission of Documents Stating the Soundness 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 Service Agency within fifty days after the end of every quarter.

(Public Inspection of Documents Stating the Soundness 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 Category of Parent Company, etc.)

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 Method 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, to the number of voting rights of total shareholders, etc. of the Subject Special Financial Instruments Business Operator; and
- (iii) the percentage of the voting rights of a Subject Special Financial Instruments Business Operator held by the Designated Parent Company and its Subsidiary Juridical Person, etc. other than said Subject Special Financial Instruments Business Operator, to the number of voting rights of total shareholders, etc. of said 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 business execution system, such as its personnel structure and the organizational structure pertaining to the business;
- (ii) the resumes of the Officers (in cases where any of the Officers is a juridical person, the document containing the background of said Officer);
- (iii) the extracts of the certificates of residence of the Officers (in cases where any of the Officers is a juridical person, the certificate of registered matters of said Officer), or any other document in lieu thereof;
- (iv) the certificates issued by a public agency evidencing that none of the Officers falls under Article 29-4, paragraph (1), item (ii), sub-items (a) and (b) of the Act, or any other document in lieu thereof;
- (v) documents in which the Officer pledges that the Officer does not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (c) through (g) of the Act; and
- (vi) the documents stating the following matters as the status of Subsidiary Juridical Persons, 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 Juridical Person, etc. held by the Designated Parent Company, to the number of voting rights of total shareholders, etc. of the Subsidiary Juridical Person, etc.; and
  - (f) the percentage of the voting rights of a Subsidiary Juridical Person, etc. held by the Designated Parent Company and its Subsidiary Juridical Person, etc. other than said Subsidiary Juridical Person, etc., to the number of voting rights of total shareholders, etc. of said Subsidiary Juridical person, etc.

(Electromagnetic Records)

Article 208-21 (1) The Electromagnetic Records provided for by Cabinet Office Order as prescribed in Article 57-13, paragraph (3) of the Act are a 90mm flexible disk cartridge which complies with the JIS X6223.

(2) Entry onto the Electromagnetic Record set forth the preceding paragraph must be completed in accordance with the following methods:

- (i) with regard to the track format, the method designated by JIS X6225; and
  - (ii) with regard to volume and file configuration, the method designated by JIS X0605
- (3) With regard to the Electromagnetic Record set forth in paragraph (1), a document containing the following matters must be affixed to the label area specified by JIS X6223:
- (i) the trade name or name of the Designated Parent Company; and
  - (ii) Notification Date.

(Notification of Change)

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 Service 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) in cases where 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) in cases where 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 business execution system, such as its personnel structure 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 who newly becomes an Officer:
    1. the resumes of the Officers (in cases where any of the Officers is a juridical person, a document containing the background of said Officer);
    2. the extracts of certificates of residence of the Officers (in cases where any of the Officers is a juridical person, the certificate of registered matters of said Officer), or any other document in lieu thereof;
    3. the certificates issued by a public agency evidencing that the person does not fall under Article 29-4, paragraph (1), item (ii), sub-items (a) and (b) of the Act, or any other document in lieu thereof; and
    4. documents in which the Officer pledges that the Officer does not fall

under any of Article 29-4, paragraph (1), item (ii), sub-items (c) through (g) of the Act.

(iii) in cases where 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 Report)

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, etc. for Obtaining Approval of Time Limit for Submission of Business Report)

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 by replacing terms by the provisions of Article 17-2-12, paragraph (2) of the Cabinet Order, it must submit a written application for approval stating the following matters to the Commissioner of the Financial Service 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) in cases where 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 legal opinion letter 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 legal opinion letter; and
- (iv) in cases where 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) In cases where 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 Service Agency is to grant the approval set forth in Article 57-15, paragraph (1) of the Act as applied by replacing terms by the provisions of Article 17-2-12, paragraph (2) of the Cabinet Order 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 (in cases where the day is within three months (in cases where 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 Service Agency is to grant the approval set forth in Article 57-15, paragraph (1) of the Act as applied by replacing terms pursuant to the proviso to Article 17-2-12, paragraph (2) of the Cabinet Order on the condition that the Highest Designated Parent Company set forth in the preceding paragraph submits to the Commissioner of the Financial Service Agency a document stating the following matters (with regard to the matters listed in item (ii), limited to cases where 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 with regard to the matters listed in item (ii), in cases where they are the same content as the matters stated in the documents submitted within five years before submission of said documents, the matters may not be stated:
- (i) the fact that the reason for application pertaining to the approval has not ceased or changed during the business year; and
- (ii) the legal opinion letter prepared by a law expert related to the matters listed in the preceding item and a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Report on Status of Business or Properties)

Article 208-25 (1) The Highest Designated Parent Company must submit to the Commissioner of the Financial Service 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 (in cases where 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 Service 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 matters to the Commissioner of the Financial Service 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) in cases where 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 legal opinion letter 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 legal opinion letter; and
- (iv) in cases where 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) In cases where 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 Service 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 (in cases where the day is within three months (in cases where 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 Service 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 Service Agency a document stating the following matters (with regard to the matters listed in item (ii), limited to cases where 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 with regard to the matters listed in item (ii), in cases where they are the same content as the matters stated in the documents submitted within five years before submission of said documents, the matters may not be stated:

- (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) the legal opinion letter prepared by a law expert related to the matters listed in the preceding item and a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(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 Juridical Persons, etc. of the Highest Designated Parent Company (excluding a Subsidiary Juridical Person, 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 sub-item (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. to the voting rights of total 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 Juridical Person, etc.:
  - (a) content of major business and structure of organization of the Highest Designated Parent Company and its Subsidiary Juridical Persons, etc.; and
  - (b) the following matters related to the Highest Designated Parent Company and its Subsidiary Juridical Persons, 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 Juridical Person, etc. held by the Highest Designated Parent Company, to the number of voting rights of total shareholders, etc. of the Subsidiary Juridical Person, etc.; and
    - 6. the percentage of the voting rights of a Subsidiary Juridical Person, etc. held by the Highest Designated Parent Company and its Subsidiary Juridical Person, etc. other than said Subsidiary Juridical Person, etc., to the number of voting rights of total shareholders, etc. of said Subsidiary Juridical person, etc.
- (iii) the following matters related to the business status of the Highest Designated Parent Company and its Subsidiary Juridical Person, 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 sub-item (c) of the following item);
    - 2. the ordinary profit or ordinary losses;
    - 3. the profit for the current year or the losses for the current year;
    - 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 sub-item (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 Juridical Person, 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) in cases where the Highest Designated Parent Company and its Subsidiary Juridical Person, etc. (meaning the Subsidiary Juridical Person, etc. prescribed in Article 15-16-2, paragraph (2) of the Cabinet 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 sub-item (c)) (excluding cases where 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) in cases where the document specified in sub-item (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) in cases where an audit certification has been provided by a certified public accountant or an auditing firm with regard to the documents specified in sub-item (a) pursuant to the provisions of Article 193-2 of the Act, to that effect; and
- (f) Soundness of Management (meaning the Soundness 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 Juridical Person, 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 Service Agency as those that have critical impact on the business management and properties status of the Highest Designated Parent Company and its Subsidiary Juridical Person, etc.

(Procedures, etc. 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 Cabinet Order, it must submit a written application for approval stating the following matters to the Commissioner of Financial Service 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) in case where 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 legal opinion letter 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 legal opinion letter; and
- (iv) in cases where 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) In cases where 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 Service Agency is to grant the approval set forth in the proviso to Article 17-2-12, paragraph (2) of the Cabinet 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 (in cases where the day is within four months (in cases where 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 Service Agency is to grant the approval set forth in the proviso to Article 17-2-10, paragraph (2) of the Cabinet Order on the condition that the Highest Designated Parent Company set forth in the preceding paragraph submits to the Commissioner of the Financial Service Agency the document stating the following matters (with regard to the matters listed in item (ii), limited to cases where 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 with regard to the matters listed in item (ii), in cases where they are the same content as the matters stated in the documents submitted within five years before submission of said documents, the matters may not be stated:
- (i) the fact that the reason for application pertaining to the approval has not ceased or changed during the business year; and
  - (ii) the legal opinion letter prepared by a law expert related to the matters listed in the preceding item and a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Submission of Documents Stating the Soundness 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 Service Agency, the document to be stated in accordance with those specified by the Commissioner of the Financial Service Agency; the same applies in this Subsection) must be submitted to the Commissioner of the Financial Service Agency within 110 days after the end of every quarter of the Highest Designated Parent Company (in cases where it is

found that a Highest Designated Parent Company, which is a Foreign Company, cannot submit the documents stating the Soundness of Management (meaning the Soundness 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 Service 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 matters to the Commissioner of the Financial Service Agency:
  - (i) the trade name or name;
  - (ii) the period for the submission of the documents stating the Soundness 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 Soundness 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) in cases where 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 legal opinion letter 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 legal opinion letter; and
  - (iv) in cases where 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) In cases where 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 Soundness 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 Service 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 Service 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 Service Agency a document stating the following matters (with regard to the matters listed in item (ii), limited to cases where 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 with regard to the matters listed in item (ii), in cases where they have the same content as the matters stated in the documents submitted within five years before submission of said documents, the matters may not be stated:

- (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) the legal opinion letter prepared by a law expert related to the matters listed in the preceding item and a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Procedures, etc. for Obtaining Approval of Time Limit for the Public Inspection of Documents Stating the Soundness 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 Cabinet Order, it must submit a written application for approval stating the following matters to the Commissioner of the Financial Service Agency:

- (i) the trade name or name;
  - (ii) the period for the public inspection of the documents stating the Soundness 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 Soundness 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) in cases where 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 legal opinion letter 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 legal opinion letter; and
  - (iv) in cases where 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) In cases where 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 Soundness 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 Service Agency is to grant the approval set forth in the proviso to Article 17-2-11, paragraph (3) of the Cabinet 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 (in cases where the day is within two months (in cases where 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 Service Agency is to grant approval set forth in the proviso to Article 17-2-11, paragraph (3) of the Cabinet Order on the condition that the Highest Designated Parent Company set forth in the preceding paragraph submits to the Commissioner of the Financial Service Agency the document stating the following matters (with regard to the matters listed in item (ii), limited to cases where 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 with regard to the matters listed in item (ii), in cases where they are the same content as the matters stated in the documents submitted within five years before submission of said documents, the matters may not be stated:

- (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) the legal opinion letter prepared by a law expert related to the matters listed in the preceding item and a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Public Inspection of Documents Stating the Soundness 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 Merger, etc.)

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 Finance Service agency in accordance with the categories listed in that items:

- (i) in cases where 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) in cases where 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) in cases where it corresponds to item (i) of the following Article: the matters specified in sub-items (a) and (b) below in accordance with the category of cases listed in sub-items (a) and (b):
  - (a) in cases where it comes to correspond to 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): 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;
  - 2. date of the registration etc.;
  - 3. date when the registration, etc. is cancelled and the reason; and
  - 4. content of the business for which the registration, etc. is cancelled.
- (b) in cases where it corresponds to Article 29-4, paragraph (1), item (i), sub-item (b) 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) in cases where it corresponds to item (ii) of the following Article: the following matters:
- (a) name of the Officer who comes to correspond to any of Article 29-4, paragraph (1), item (ii), sub-items (a) through (g) of the Act;
  - (b) in cases where the Officer comes to correspond to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, the day when the Officer came to be subject to a ruling for the commencement of a guardianship or ruling for the commencement of a curatorship.
  - (c) in cases where the Officer becomes to correspond to Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the day when the Sales Representative came to be subject to the order for the commencement of bankruptcy proceedings;
  - (d) in cases where the Officer comes to correspond to Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act, the day when the punishment became final and binding, and the type of punishment;
  - (e) in cases where the Officer comes to correspond to Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, the date of rescission and the reasons for it; and
  - (f) in cases where 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) in cases where it corresponds to item (iii) of the following Article: the following matters:
- (a) the trade name or name of the Parent Company or Subsidiary Juridical Person, etc. who has come to correspond to or no longer corresponds to said provision; and
  - (b) the date when it comes to correspond to or no longer corresponds to the Parent Company or Subsidiary Juridical Person, etc.
- (vi) in cases where 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 who filed the petition for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings.
- (vii) in cases where 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) in cases where it corresponds to item (vi) of the following Article: the following matters:
- (a) the name of the business office or other office where 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 Juridical Person, 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 who caused the Problematic Conduct, etc.; and
  - (c) outline of the Problematic Conduct, etc.
- (ix) in cases where it corresponds to item (vii) of the following 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 who caused the Problematic Conduct, etc.;
  - (c) details of the Problematic Conduct, etc.; and
  - (d) in cases where any internal action has been taken, the details thereof.
- (x) in cases where it corresponds to item (viii) of the following Article: the matters specified in the following sub-items (a) and (b) in accordance with the category of cases listed in those sub-items (a) and (b):
- (a) in cases where 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) in cases where 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) in cases where it corresponds to item (ix) of the following Article: the matters specified in the following sub-items (a) and (b) in accordance with the category of cases listed in those sub-items (a) and (b):
- (a) in cases where it comes to know the fact that Major Shareholder comes to correspond to Article 29-4, paragraph (1), item (v), sub-item (d) 1 or 2 of the Act: the following matters:
1. the names of Major Shareholders who come to correspond to the provision;
  2. in cases where the Major Shareholder comes to correspond to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, the day when the Major Shareholders came to be subject to a ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the day when any procedure similar thereto under the laws and regulations of a foreign state similar was conducted;
  3. in cases where the Major Shareholder, or a statutory agent of the adult ward, a statutory agent of the person under curatorship or a statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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. in cases where the Major Shareholder, or a statutory agent of the adult ward, a statutory agent of the person under curatorship or a statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act, the day when the punishment became final and binding, and the type of punishment;
  5. in cases where the Major Shareholder, or a statutory agent of the adult ward, a statutory agent of the person under curatorship or a statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, the date of rescission and the reasons for it; and
  6. in cases where the Major Shareholder, or a statutory agent of the adult ward, a statutory agent of the person under curatorship or a statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) of the Act, the day when dismissal

or removal was ordered and the reasons for it.

(b) in cases where the Financial Instruments Business Operator has become aware that any of its Major Shareholders has come to fall under Article 29-4, paragraph (1), item (v), sub-item (e) 1 through 3 of the Act: the following matters:

1. the trade name or name of the Major Shareholder which has come to fall under such provision;
2. in cases where 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 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;
3. in cases where the Major Shareholder falls under Article 29-4, paragraph (1), item (i), sub-item (b) 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;
4. in cases where the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (v), sub-item (e) 3 of the Act, the name of the Officer representing the juridical person which has come to fall under any of sub-items (a) to (g) of item (ii) of that paragraph;
5. in cases where the Officer representing the juridical person which is the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, the day when the Officer became subject to an ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
6. in cases where the Officer representing the juridical person which is the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act, the day when the Officer became subject to an order for the commencement of bankruptcy proceedings;
7. in cases where the Officer representing the juridical person which is the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act, the day when the punishment became final and binding, and the type of punishment;
8. in cases where the Officer representing the juridical person 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 and the reasons therefor; and
9. in cases where the Officer representing the juridical person which is the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) of the Act, the date when the dismissal or removal was ordered, and the reasons therefor;

- (xii) in cases where 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) in cases where 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) in cases where it corresponds to item (xii), sub-item (a) of the following Article: the following matters:
  - (a) the trade name or name of the Subsidiary Juridical Person, etc., where 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 who caused the Problematic Conduct, etc.; and
  - (c) details of the Problematic Conduct, etc.
- (xv) in cases where it corresponds to item (xii), sub-item (b) of the following Article: the following matters:
  - (a) the trade name or name of the Subsidiary Juridical Person, etc., where 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 who caused the Problematic Conduct, etc.;
  - (c) details of the Problematic Conduct, etc.; and
  - (d) in cases where any internal action has been taken, the details thereof.
- (xvi) in cases where it corresponds to item (xii), sub-item (c) of the following Article: the matters specified in the following sub-items (a) and (b) in accordance with the category of cases listed in those sub-items (a) and (b):
  - (a) in cases where it has come to be known that the Subsidiary Juridical Person, 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) in cases where it has come to be known that the action or conciliation, for which the Subsidiary Juridical Person, 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) in cases where it corresponds to item (xii), sub-item (d) of the following Article: the matters specified in the following sub-items (a) and (b) in accordance with the categories of cases listed in those sub-items (a) and (b):
- (a) in cases where the Financial Instruments Business Operator has made any Subordinated Borrowing or where it has become aware that the Subsidiary Juridical Person, 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) in cases where the Financial Instruments Business Operator has issued any Subordinated Bond or where it has become aware that the Subsidiary Juridical Person, etc. has borrowed Subordinated Bond: the following matters:
    1. the methods 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) in cases where it corresponds to item (xii), sub-item (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) In cases where 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) in cases where 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 Soundness of Management after the merger.
  - (ii) in cases where 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) in cases where it corresponds to item (i) of the following Article: the documents specified in the following sub-items (a) and (b) in accordance with the category of cases listed in those sub-items (a) and (b):
- (a) in cases where it comes to correspond to 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): the following matters:
1. a copy of the written order for the rescission or any other document in lieu thereof; and
  2. a copy of the laws and regulations of the foreign state.
- (b) in cases where it has come to correspond to Article 29-4, paragraph (1), item (i), sub-item (b) 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) in cases where it corresponds to item (ii) of the following Article: the following documents:
- (a) in cases where the Officer has come to correspond to Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or a document stating the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
- (b) in cases where the Officer has come to correspond to 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 a document stating the details of the order for the commencement of bankruptcy proceedings;
- (c) in cases where the Officer has come to correspond to Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) 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
- (d) in cases where the Officer has come to correspond to Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act (limited to cases where the rescission 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.
- (v) in cases where it corresponds to item (iii) of the following Article: the following documents:

- (a) a document stating the outline of the business of the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 Juridical Person, etc.;
- (vi) in cases where it corresponds to item (iv) of the following Article: the latest daily accounts sheet;
- (vii) in cases where it corresponds to item (v) of the following Article: the amended articles of incorporation;
- (viii) in cases where it corresponds to item (ix) of the following Article: the documents specified in the following sub-items (a) and (b) in accordance with the category of cases listed in those sub-items (a) and (b):
  - (a) in cases where it comes to be known that a Major Shareholder comes to correspond to Article 29-4, paragraph (1), item (v), sub-item (d) 1 or 2 of the Act: the following documents:
    1. in cases where the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the document stating the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
    2. in cases where the Major Shareholder, or the statutory agent of the adult ward, the statutory agent of the person under curatorship or the statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state 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;
    3. in cases where the Major Shareholder, or the statutory agent of the adult ward, the statutory agent of the person under curatorship or the statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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;
    4. in cases where the Major Shareholder, or the statutory agent of the adult ward, the statutory agent of the person under curatorship or the statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has been punished, a copy of the laws and regulations of the foreign state which served as the basis



of such punishment;

5. in cases where the Major Shareholder, or the statutory agent of the adult ward, the statutory agent of the person under curatorship or the statutory agent of any person who is treated in the same manner under the laws and regulations of a foreign state has had the registration, etc. rescinded 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.
- (b) in cases where it has become aware that any of its Major Shareholders has come to fall under Article 29-4, paragraph (1), item (v), sub-item (e) 1 through 3 of the Act: the following documents:
1. in cases where 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 a document in lieu thereof;
  2. in cases where the Major Shareholder falls under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act or where the Officer representing the juridical person which is a Major Shareholder falls under sub-item (d) or (e) of item (ii) of that paragraph (limited to cases where the Registration, etc. was rescinded in a foreign state), a copy of the laws and regulations of a foreign state which served as the basis of the rescission;
  3. in cases where the Major Shareholder has come to fall under Article 29-4, paragraph (1), item (i), sub-item (b) 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. in cases where any Officer representing a juridical person which is a Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act, a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the document stating the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
  5. in cases where any Officer representing the juridical person 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; and
  6. in cases where any Officer representing a juridical person which is a Major Shareholder has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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.

- (ix) in cases where 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) in cases where it corresponds to item (xii), sub-item (d) of the following Article: the following documents:
  - (a) in cases where it has made any Subordinated Borrowing or where it has become aware that the Subsidiary Juridical Person, etc. has borrowed Subordinated Borrowing, a copy of the contract therefor;
  - (b) in cases where it has issued any Subordinated Corporate Bonds or where it has become aware that the Subsidiary Juridical Person, 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 Merger, etc.)

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) in cases where it comes to correspond to Article 29-4, paragraph (1), item (i), sub-item (b) (limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to the Act) or (b) of the Act;
- (ii) in cases where it comes to be known that the Officer comes to correspond to any of Article 29-4, paragraph (1), item (ii), sub-items (a) through (e) of the Act;
- (iii) in cases where another juridical person or organization has come to fall under the category of the Parent Juridical Person, etc. or the Subsidiary Juridical person, etc.; or where such other juridical person or organization no longer falls under such category;
- (iv) in cases where 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 (in the case of a foreign juridical person, including the cases where 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 such state);
- (v) in cases where the Registered Financial Institution has effected any change to its articles of incorporation;
- (vi) in cases where it comes to be known that any Officer or Employee has committed any Problematic Conduct, etc.;
- (vii) in cases where the details of the Problematic Conduct, etc. set forth in the preceding paragraph are revealed;

- (viii) in cases where 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 Juridical Person, etc.) or where such action or conciliation has been concluded;
- (ix) in cases where the fact comes to be known that a Major Shareholder comes to correspond to any of Article 29-4, paragraph (1), item (v), sub-item (d) 1 or 2, or sub-item (e) 1 through 3 of the Act;
- (x) in cases of a domestic company, in cases where it corresponds to Article 57-20, paragraph (1), item (iv) of the Act;
- (xi) in cases of a foreign company, in cases where 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 (excluding cases where it falls under Article 29-4, paragraph (1), item (i), sub-item (a) of the Act); and
- (xii) in cases of a Highest Designated Parent Company, the following cases:
  - (a) in cases where it comes to be known that an Officer or Employee of a Subsidiary Juridical Person, etc. has committed a Problematic Conduct, etc. (excluding cases where it is stipulated by the provisions of the laws and regulations that a Subsidiary Juridical Person, etc. must submit a notification to the Commissioner of the Financial Service Agency, etc. and take other procedures with regard to Problematic Conduct, etc.; the same applies to sub-item (b));
  - (b) in cases where the details of the Problematic Conduct, etc. set forth in sub-item (a) are revealed;
  - (c) in cases where 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 Juridical Person, etc.) or where such action or conciliation has been concluded (excluding cases where it is stipulated that a Subsidiary Juridical Person, etc. must submit a notification to the Commissioner of the Financial Service Agency, etc. and take other procedures with regard to the action or conciliation);
  - (d) in cases where it has made any Subordinated Borrowing or has issued any Subordinated Corporate Bonds, or where it has become aware that the Subsidiary Juridical Person, etc. has borrowed Subordinated Borrowing or has issued any Subordinated Corporate Bonds (excluding cases where it is stipulated by the laws and regulations that a Subsidiary Juridical Person, etc. must submit a notice to the Commissioner of the Financial Service Agency, etc. and other procedures with regard to Subordinated Borrowing or Subordinated Corporate Bonds; the same applies in sub-item (e));

(e) where the Financial Instruments Business Operator has made an accelerated payment of the Subordinated Borrowing, or where 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 where it has become aware that the Subsidiary Juridical Person, etc. has made an accelerated payment of the Subordinated Borrowing or made an accelerated payment of Subordinated Corporate Bonds (including cases where 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, etc.)

Article 208-33 (1) A person who makes a notification pursuant to Article 57-18, paragraph (2) of the Act must submit to the Commissioner of the Financial Service Agency a notification stating the matters specified in the following items in accordance with the category of cases listed in the items:

- (i) in cases where 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) in cases where 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) in cases where 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) in cases where 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) in cases where 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) in cases where 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 Disposition)

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 to cases where the provisions of Article 32, paragraphs (1) and (2) of the Act apply mutatis mutandis to Article 57-26, paragraph (1) of the Act.

## **Section 5 Special Provisions on Foreign Business Operators**

### **Subsection 1 Foreign Securities Service Providers**

(Exemption from Restriction on Purchase and Sale, etc. 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 Cabinet 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, etc. of Securities)

Article 209 The financial institutions to be specified by Cabinet Office Order as referred to in Article 17-3, item (i), sub-item (b) of the Cabinet 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), sub-item (d) of the Cabinet 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), sub-item (e) of the Cabinet Order are a bank.

(Purchase and Sale, etc. of Securities Which May be Conducted on Customers' Account)

Article 212 The act to be specified by Cabinet Office Order as referred to in Article 17-3, item (i), sub-item (e) of the Cabinet 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 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), sub-item (a) of the Cabinet Order are as follows:

- (i) the purchase and sale of Securities;
- (ii) an intermediary, brokerage or agency service for the purchase and sale of Securities or a transaction specified in Article 28, paragraph (8), item (v) of the Act; and
- (iii) an intermediary, brokerage or agency service 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), sub-item (b) of the Cabinet 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 Cabinet 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 matters (in cases where 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), sub-item (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 such prior attachment and noting that said prior attachment should be referenced);
  - (ii) documents giving an outline of the Securities underwriting businesses 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 of Partial Underwriting Business)**

(Person Deemed to Conduct 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 Cabinet Order is the any of the persons listed in the items of Article 15-16, paragraph (1) of the Cabinet 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 (vii) 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 of Transaction-at-Exchange Operation**

(Application for Permission)

Article 218 A person who 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 (x) 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 operation;
- (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; and



- (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.

(Documents to be Attached to 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) resolving the launch of the Transaction-at-Exchange Operation (meaning the Transaction-at-Exchange Operation prescribed in Article 60, paragraph (1) of the Act; the same applies in item (ix), Article 223 and Article 229, paragraph (1));
- (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) 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 Cabinet 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) (in cases where any of the Officers is a juridical person, a document containing the background of said Officers);
- (vi) the extract of the certificates of residence of the Officers, etc. (in cases where the Officer is a juridical person, a certificate of registered matters of said Officer), or any other document in lieu thereof;
- (vii) 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 (a) or (b) of the Act, or any other document in lieu thereof;
- (viii) 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 (c) through (g) of the Act; and
- (ix) 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 Operation;

(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 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) in cases where 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) in cases where 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) in cases where 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 who has newly assumed positions as Officer:
    1. the resume (in cases where the Officer is a juridical person, a document containing the background of said Officer);
    2. the extracts of certificates of residence (in cases where the Officer is a juridical person, a certificate of registered matters of said Officer), or any other document in lieu thereof;
    3. the certificate issued by a public agency evidencing that the Officer does not fall under Article 29-4, paragraph (1), item (ii), sub-item (a) or (b) of the Act, or any other document in lieu thereof;
    4. 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 (g) of

the Act;

- (iv) in cases where there has been any change to the matters specified in Article 60-2, paragraph (1), item (iv) of the Act (limited to the cases where 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) in cases where there has been any change to the matters specified in Article 60-2, paragraph (1), item (v) of the Act (limited to the cases where the other business was launched): a document stating the contents of such other business;
- (vi) in cases where there has been any change to the matters specified in Article 60-2, paragraph (1), item (vii) of the Act (limited to the cases where 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) in cases where there has been any change to the matters specified in Article 60-2, paragraph (1), item (viii) 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 who 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. the certificate issued by a public agency evidencing that such person does not fall under Article 29-4, paragraph (1), item (ii), sub-item (a) or (b) of the Act, or any other document in lieu thereof; and
    4. 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 (c) through (g) of the Act.

(Cases where 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) where 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 the business pertaining to a Transaction at Exchange);
- (ii) where the Authorized Transaction-at-Exchange Operator has merged with another juridical person, where it has had the business of the Authorized Transaction-at-Exchange Operator succeeded through a split, where it has

- succeeded to all or part of any other juridical person's business through a split, where it has transferred a material part of the business of the Authorized Transaction-at-Exchange Operator, or where it has accepted the transfer of all or a material part of any other juridical person's business;
- (iii) where 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 where 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) where 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 Operation);
  - (v) where the Authorized Transaction-at-Exchange Operator has commenced the Transaction-at-Exchange Operation;
  - (vi) where the Authorized Transaction-at-Exchange Operator has come to fall under a person as specified in Article 60-3, paragraph (1), item (i), sub-items (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 (h) of that paragraph;
  - (vii) where the Authorized Transaction-at-Exchange Operator has become aware that any of its Officers, etc. has come to fall under Article 29-4, paragraph (1), item (ii), sub-items (a) through (g) of the Act;
  - (viii) where the Net Assets has become less than the amount of the stated capital (excluding the cases where item (vi) applies);
  - (ix) where 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 the cases where item (vi) applies);
  - (x) where 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); and
  - (xi) where the details of the Problematic Conduct, etc. for which a notification was made under the preceding item have been revealed.

(Notification on Change of Contents or Methods, etc. 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 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) in cases where there has been any change to the matters listed in the items of the preceding Article: a document stating the matters listed 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); and
  - (c) the Net Assets after the completion of the merger.
  - (d) the document stating the method of treatment of the customers' accounts;
- (iii) the cases falling under item (ii) of the preceding Article (limited to the cases where the Authorized Transaction-at-Exchange Operator has succeeded to all or part of any other juridical person'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 (limited to the cases where the Authorized Transaction-at-Exchange Operator has accepted transfer of all or part of any other juridical person's business): the following documents:
  - (a) the document stating the contents of the business transfer contract and the procedures for the business transfer;
  - (b) the latest balance sheets of the parties; and
  - (c) the document specifying the Net Assets after the acceptance of the transfer 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 (limited to the cases where the Authorized Transaction-at-Exchange Operator has come to fall under Article 60-3, paragraph (1), item (i), sub-item (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 (limited to the cases where the Authorized Transaction-at-Exchange Operator has come to fall under Article 60-3, paragraph (1), item (i), sub-item (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 Cabinet Order;
- (ix) the cases falling under item (vi) of the preceding Article (limited to the cases where the Authorized Transaction-at-Exchange Operator has come to fall under Article 60-3, paragraph (1), item (i), sub-item (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 (limited to the cases where the Authorized Transaction-at-Exchange Operator has come to fall under Article 60-3, paragraph (1), item (i), sub-item (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 (limited to the cases where any Officer, etc. has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act): a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or a document stating the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
- (xii) the cases falling under item (vii) of the preceding Article (limited to the cases where any Officer, etc. 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 a document stating the details of the order for the commencement of bankruptcy

- proceedings;
- (xiii) the cases falling under item (vii) of the preceding Article (limited to the cases where any of the Officers, etc. has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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;
  - (xiv) the cases falling under item (vii) of the preceding Article (limited to the cases where any of the Officers, etc. has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, and where a rescission was effected in a foreign state): a copy of the written order for the rescission 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 the Japanese translation thereof;
  - (xv) the cases falling under item (viii) of the preceding Article: a document stating the calculation of the Net Assets; and
  - (xvi) 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)

- 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), item (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 Report)

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 Limit for Submission of Business Report)

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 Cabinet Order must submit a written application for approval stating the following matters to the Commissioner of 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 legal opinion letter 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 legal opinion letter;

(3) In cases where the application for approval set forth in paragraph (1) has been filed, and where the Commissioner of 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 (in cases where such day falls in a day within three months after the commencement of the business year (in cases where 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 item (iv) of paragraph (1) 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 the document stating the following matters to the Commissioner of Financial Services Agency or Other Competent Official within three months after the end of each business year; provided, however, that with regard to the matters specified in item (ii), if the substance of such matters is identical to the matters specified in the documents already submitted within five years prior to the submission of such document, the statement of such matters may be omitted:
- (i) the fact that, the reasons on which the application for approval was filed have not been extinguished or changed in the relevant business year; and
  - (ii) the legal opinion letter prepared by a law expert with regard to the matters specified in the preceding item, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(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 Cabinet Order must submit a written application for approval stating the following matters to the Commissioner of Financial Services Agency or Other Competent Official:

- (i) the trade name;
  - (ii) the period for the submission of such 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 legal opinion letter 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 legal opinion letter;
- (3) In cases where the application for approval set forth in paragraph (1) has been filed, and where the Commissioner of 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 (in cases where such day falls in a day within three months after the commencement of the business year (in cases where 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 item (iv) of paragraph (1) 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 Financial Services Agency or Other Competent Official document stating the following matters within three months after the end of each business year; provided, however, that with regard to the matters specified in item (ii), if the substance of such matters are identical to those specified in the documents already submitted within five years prior to the submission of such document, the statement of such matter may be omitted:
- (i) the fact that, the reasons on which the application for approval was filed have not been extinguished or changed in the relevant business year; and
  - (ii) the legal opinion letter prepared by a law expert with regard to the matters specified in the preceding item, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Report on 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. In this case, the term "within four months after the end of each business year (in cases where the Financial Instruments Business Operator is a foreign juridical person, within four months after the end of the period from April 1 of each year and March 31 of the following year)" is deemed to be replaced with "within four months after the end of each business year."

- (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, paragraph (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 by replacing certain terms pursuant to Article 49-2, paragraph (1)" is deemed to be replaced with "as applied mutatis mutandis pursuant to Article 60-6."

(Public Notice of Rescission of Permission, etc.)

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.

(Prohibited Acts in Relation to Transaction-at-Exchange Operation)

Article 231 (1) The acts to be specified by Cabinet Office Order as referred to in Article 38, item (vii) of the Act as applied mutatis mutandis pursuant to Article 60-13 of the Act are as follows:

- (i) an act of any Officer (in the case where the Officer is a juridical person, 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 Transactions of Securities, etc., by taking advantage of the business position and by the use of information on ordering trends in the customers' Purchase and Sale or Other Transactions of Securities, etc. and any other special information which may come to the person's knowledge in the course of duties;
- (ii) an act of the Acceptance of Entrustment, etc. for the Purchase and Sale or Other Transactions of Securities, etc., knowing that the customer's Purchase and Sale or Other Transactions of Securities, etc. 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 intermediary, brokerage or agency service 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 intermediary, brokerage or agency service for it, recommending the customer to implement said 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 Transactions of Securities, etc. (in the cases where the conduct of such Purchase and Sale or Other Transactions of Securities, etc. 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), sub-item (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) an act of the Acceptance of Entrustment, etc. of 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) in cases where an Authorized Transaction-at-Exchange Operator which has effected Stabilizing Transaction or has made an Acceptance of Entrustment, etc. therefor (excluding an Acceptance of Entrustment, etc. for Brokerage for Clearing of Securities, etc.), an act to make an Acceptance of Entrustment, etc. for purchasing of, or to sell the Share Certificates, Market Value Share Option Certificates, Market Value Corporate Bond Certificates With Share Options, Preferred Equity Securities or Investment Securities issued by the Issuer of the Securities subject to such Stabilizing Transaction (excluding an Acceptance of Entrustment, etc. for 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 to make an Acceptance of Entrustment, etc. (excluding an Acceptance of Entrustment, etc. from a Financial Instruments Business Operator, etc.) of 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 Cabinet Order, without disclosing the fact that Stabilizing Transaction was effected with regard to such Securities subject to the Stabilizing Transaction;

(2) The provisions of items (vi) and (vii) of the preceding paragraph do not apply to the cases where 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 State of Operation of Business is Likely to Go Against Public Interest or Hinder 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) where, 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 Transactions of Securities, etc., 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) where it is found that the Authorized Transaction-at-Exchange Operator has not established the trading management sufficient for prevention of making an Entrustment, etc. for 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;

#### **Subsection 4 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 who 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 who 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)) in the course of trade in a foreign state, in accordance with the laws and regulations of such foreign state; and
  - (iii) a person who 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 item (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 Provisions Concerning Specially Permitted Businesses  
for Qualified Institutional Investor, etc.**

(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 (3), item (ii), sub-item (b) of the Cabinet Order are the rights as Securities whose Issuer and Invested Business are identical to such rights as Securities.

(Persons Excluded from Definition of Qualified Institutional Investor, etc.)

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, in cases where 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 item (iii) or (iv) of paragraph (2) 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 who, 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 (limited to the cases where 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.), in cases where the total of the numbers listed in the following is 49 or less.

1. the number of the persons other than Qualified Institutional Investors, who are entitled to the rights under contracts or other juridical acts pertaining to the investment, to which money or other properties invested or contributed as the investment is to be appropriated (excluding a person who makes or intends to make such investment); and
  2. the number of the persons other than Qualified Institutional Investors, who are entitled to the rights under Limited Partnership Agreements for Investment or Limited Liability Partnership Agreements pertaining to the investment (excluding the cases where the person who 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, in cases where a person who makes or intends to make the investment and a person who makes or intends to carry out the Invested Business using money or other properties invested or contributed as the investment are the same, and where the total of the numbers listed in the following is 49 or less.
1. the number of the persons other than Qualified Institutional Investors, who are entitled the rights under the contract or other juridical act pertaining to the Invested Business (excluding a person who makes or intends to make such investment); and
  2. the number of persons other than Qualified Institutional Investors, who are entitled to the rights under the contracts or other juridical acts pertaining to the investment.

(Notification of Specially Permitted Businesses for Qualified Institutional Investors, etc.)

- Article 236 (1) A person who intends to file a notification under Article 63, paragraph (2) of the Act must submit a written notification on Specially Permitted Businesses for Qualified Institutional Investors, etc. prepared in accordance with Appended Form No. 20, attaching a copy thereof, to a Director-General of a Local Finance Bureau having jurisdiction over the location of such person's Head Office, etc. (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where the person has no business office or other office in Japan, to the Director-General of the Kanto Finance Bureau).
- (2) The written notification set forth in the preceding paragraph may be prepared



in English, in the same manner as Appended Form No. 20.

- (3) The certificate of the registered matters (in cases of an individual, an extract copy of the certificate of residence) or any other document in lieu thereof is to be attached the notification set forth in paragraph (1); provided, however, that in cases where there are unavoidable circumstances, it is sufficient to submit it without delay after the written notification is submitted.

(Employees of Specially Permitted Business Notifying Person)

Article 237 (1) The person to be specified by Cabinet Office Order as referred to in Article 17-13, item (i) of the Cabinet Order is a person who holds a position whereby the person may exercise authority on behalf of a person who 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 Cabinet Order are persons who make Investment Decisions based on analysis of the Values, etc. of Financial Instruments.

(Matters to be Notified in Relation to Specially Permitted Businesses for Qualified Institutional Investor, etc.)

Article 238 The matters to be specified by Cabinet Office Order as referred to in Article 63, paragraph (2), item (viii) of the Act are the following matters:

- (i) in cases of conducting any of the acts specified in items of Article 194-6, paragraph (3) of the Act in the course of trade, to that effect;
- (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 of the Equity in Invested Business pertaining to the business;  
and
- (b) the trade name or name of the Qualified Institutional Investor (in cases where there are two or more Qualified Institutional Investors, at least one of them) who acquires the Equity in Invested Business pertaining to the business.
- (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 of the Equity in Invested Business pertaining to the business;  
and
- (b) the trade name or name of the Qualified Institutional Investor (in cases where there are two or more of Qualified Institutional Investors, at least one of them) who acquires the Equity in Invested Business pertaining to the business.

(Notification of Change to Notified Matters in Relation to Specially Permitted Businesses for Qualified Institutional Investor, etc.)

Article 239 (1) A Specially Permitted Business Notifying Person that intends to file a notification under Article 63, paragraph (3) 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 Commissioner of the Financial Services Agency, in the case of a Specially Permitted Business Notifying Person designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Cabinet Order, or, to the Director-General of a Local Finance Bureau having jurisdiction over the location of the Head Office, etc. of the Specially Permitted Business Notifying Person (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof, or in cases where 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 Specially Permitted Business Notifying Person.

(2) The written notification set forth in the preceding paragraph may be prepared in English.

(3) The document set forth in paragraph (1) may be prepared in English, in the same manner as Appended Form No. 20.

(4) The documents specified in the following items 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 in cases where there are unavoidable circumstances, it is sufficient to submit it without delay after the written notification is submitted:

(i) in cases where there is a change to the matters specified in Article 63, paragraph (2), item (i) of the Act: the certificate of the registered matters stating the matters pertaining to the change (in cases of an individual, an extract copy of the certificate of residence) or any other document in lieu thereof;

(ii) in cases where there is a change to the matters specified in Article 63, paragraph (2), item (ii), (iii), 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.

(Notification in Cases of Exclusion from Definition of Specially Permitted Businesses for Qualified Institutional Investor, etc.)

Article 240 (1) A Specially Permitted Business Notifying Person that intends to file a notification under Article 63, paragraph (6) 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 Businesses for Qualified Institutional Investors, etc. and the reasons therefor, to the Commissioner of the Financial Services Agency, in the case of a Specially Permitted Business Notifying Person designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Cabinet Order, or, to the Director-General of a Local Finance Bureau having jurisdiction over the location of the Head Office, etc. of the Specially Permitted Business Notifying Person (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof, or in cases where 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 Specially Permitted Business Notifying Person.

(2) The written notification set forth in the preceding paragraph may be prepared in English.

(Notification of Succession of Status of Specially Permitted Business Notifying Person)

Article 241 (1) A person who intends to file a notification under Article 63-2, paragraph (2) of the Act must submit a written notification stating the following matters, to the Commissioner of the Financial Services Agency, in the case where the Specially Permitted Business Notifying Person set forth in paragraph (1) of that Article has been designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Cabinet Order, or, to a Director-General of a Local Finance Bureau having jurisdiction over the location of the Head Office, etc. of the Specially Permitted Business Notifying Person (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof, or in cases where the person has no any business office or other office in Japan, to the Director-General of the Kanto Finance Bureau), in the case of any other Specially Permitted Business Notifying Person:

- (i) the trade name or name of the successor;
- (ii) the date of and reasons for the succession; and
- (iii) the method of succession.

(2) The written notification set forth in the preceding paragraph may be prepared in English.

(Notification of Discontinuance, etc. of Specially Permitted Business Notifying Person)

Article 242 (1) A Specially Permitted Business Notifying Person 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 Commissioner of the Financial Services Agency, in the case of a Specially Permitted Business Notifying Person designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Cabinet Order, or, to the Director-General of a Local Finance Bureau having jurisdiction over the location of the Head Office, etc. of the Specially Permitted Business Notifying Person (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof, or in cases where 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 Specially Permitted Business Notifying Person:

(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; and

(ii) the cases falling under Article 63-2, paragraph (3), item (ii) of the Act: the date of and reasons for the discontinuance.

(2) The written notification set forth in the preceding paragraph may be prepared in English.

(Notification of Dissolution of Specially Permitted Business Notifying Person)

Article 243 (1) A person who 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, in the case where the Specially Permitted Business Notifying Person regarding whom the notification was filed is a one designated by the Commissioner of the Financial Services Agency under Article 42, paragraph (2) of the Cabinet Order, or, to the Director-General of a Local Finance Bureau having jurisdiction over the location of the Head Office, etc. of the Specially Permitted Business Notifying Person (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof, or in cases where 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 Specially Permitted Business Notifying Person.

(2) The written notification set forth in the preceding paragraph may be prepared in English.

(Matters to be Notified by Financial Instruments Business Operator, etc. in Relation of Specially Permitted Businesses for Qualified Institutional Investor, etc.)

Article 244 (1) A Financial Instruments Business Operator, etc. (meaning the Financial Instruments Business Operator, etc. prescribed in Article 63-3,

paragraph (1) of the Act; hereinafter the same applies in this Article through Article 246) which intends to file a written notification under Article 63-3, paragraph (1) of the Act must submit to the Commissioner of Financial Services Agency or Other Competent Official a notification on the Specially Permitted Businesses for Qualified Institutional Investor, 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 are the matters specified in Article 238, items (ii) and (iii).

(Notification of Change in Notified Matters pertaining to a Specially Permitted Businesses for Qualified Institutional Investors, etc. by the Financial Instruments Business Operator, etc.)

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 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 Financial Services Agency or Other Competent Official.

(Notification to be Filed by Financial Instruments Business Operator, etc. in Case of Exclusion from Category of Specially Permitted Businesses for Qualified Institutional Investor, etc.)

Article 245 A Financial Instruments Business Operator, etc. which files a notification pursuant to Article 63, paragraph (6) as applied mutatis mutandis pursuant to Article 63-3, paragraph (2) of the Act must submit to the Commissioner of 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 Businesses for Qualified Institutional Investor, etc. and the reasons therefor.

(Notification by Financial Instruments Business Operator, etc. in Relation to Discontinuance, etc. of Specially Permitted Businesses for Qualified Institutional Investor, etc.)

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 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; and
- (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 discontinuance.

### **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 registration applicant; 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 juridical person, 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 who holds any position equivalent thereto)) or employee; and
  - (b) in cases where 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 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 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 whom the application for registration was filed 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 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 whom the application for registration was filed, or any other document in lieu thereof; and
- (ii) the documents in which the applicant and the Sales Representative regarding whom the application for registration was filed pledge that such Sales Representative does not fall under any of the items of Article 64-2, paragraph (1) of the Act.

(Notification of Change, etc. 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 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) or (iii) of the Act must submit to the Competent Director-General of 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 (limited to the case where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act): the following matters:
  - (a) the name of the Sales Representative who has come to fall under such provision; and
  - (b) the day when the Sales Representative became subject to an ruling for the commencement of a guardianship or ruling for the commencement of a curatorship.

- (ii) the case falling under Article 64-4, item (ii) of the Act (limited to the case where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act): the following matters:
  - (a) the name of the Sales Representative who 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 (ii) of the Act (limited to the case where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act): the following matters:
  - (a) the name of the Sales Representative who 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 (ii) of the Act (limited to the case where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act): the following matters:
  - (a) the name of the Sales Representative who has come to fall under such provision; and
  - (b) the date of rescission and the reasons therefor.
- (v) the case falling under Article 64-4, item (ii) of the Act (limited to the case where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) of the Act): the following matters:
  - (a) the name of the Sales Representative who has come to fall under such provision; and
  - (b) the date when the dismissal or removal was ordered and the reasons therefor.
- (vi) the case falling under Article 64-4, item (iii) of the Act: the following matters:
  - (a) the name of the person who 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) or (iii) 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 (ii) of the Act (limited to the case where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act): a copy of the written ruling for the commencement of a guardianship or ruling for the commencement of a curatorship, or the document stating the details of the ruling for the



- commencement of a guardianship or ruling for the commencement of a curatorship;
- (ii) the case falling under Article 64-4, item (ii) of the Act (limited to the cases where the Sales Representative 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;
  - (iii) the case falling under Article 64-4, item (ii) of the Act (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) 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) the case falling under Article 64-4, item (ii) of the Act (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, and where the rescission was effected in a foreign state): a copy of the written order for the rescission 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 and a Japanese translation thereof.

(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 (iii) of the Act must, in cases where 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 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, paragraph (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 Director-General of Finance Bureau, etc.)

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 having 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 (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where 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) in cases where 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 (1) The amount to be specified by Cabinet Office Order as referred to in Article 17-15, paragraph (1) of the Cabinet Order is one thousand yen.  
 (2) In cases where a cash payment of the fee is to be made pursuant to the proviso to Article 17-15, paragraph (2) of the Cabinet Order, such payment is to be made in accordance with the information about the payment obtained by filing an application for registration under Article 64, paragraph (1) of the Act (including the cases where it is applied mutatis mutandis pursuant to Article

66-25 of the Act) using the electronic information processing system set forth in Article 3, paragraph (1) of the Act on Use of Information and Communications Technology in Administrative Procedure (Act No. 151 of 2002) pursuant to that paragraph.

### **Chapter III Financial Instruments Intermediary Service Providers**

#### **Section 1 General Provisions**

(Application for Registration)

Article 257 A person who intends to obtain a registration under Article 66 of the Act must submit to the Director-General of a Local Finance Bureau having jurisdiction over the location of such person's Head Office, etc. (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where 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 Electromagnetic 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 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) in cases where the registration applicant is an individual regularly engaged in the business of any other company, the trade name and type of business of such other company;
- (ii) in cases where the registration applicant is a juridical person 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; and
- (iii) in cases where the registration applicant 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 registration applicant'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), sub-item (c)).
- (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) in the case where the registration applicant is a juridical person, the methods of allocation of business operation.

(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) in the case where the registration applicant is a juridical person, the following documents:
  - (a) the resumes of the Officers (in cases where any of the Officers is a juridical person, the document describing the background of said Officer);
  - (b) the extracts of the certificates of residence of the Officers (in cases where any of the Officers is a juridical person, the certificate of registered matters of said Officer), or any other document in lieu thereof;
  - (c) the certificates issued by a public agency evidencing that none of the Officers falls under Article 29-4, paragraph (1), item (ii), sub-item (a) or (b) of the Act, or any other document in lieu thereof;
  - (d) 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 (g) of the Act;
- (ii) in cases where the registration applicant is an individual, the following documents:
  - (a) resume of the registration applicant;
  - (b) the extracts of the certificates of residence of the registration applicant, or any other documents in lieu thereof;
  - (c) the certificate issued by a public agency evidencing that the registration applicant does not fall under Article 29-4, paragraph (1), item (ii), sub-item (a) or (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).

(Electromagnetic Record)

Article 261 (1) The Electromagnetic Record to be specified by Cabinet Office Order as referred to in Article 66-2, paragraph (3) of the Act is a 90mm flexible disk cartridge which complies with the JIS X6223.

- (2) Entry onto the Electromagnetic Record set forth the preceding paragraph must be completed in accordance with the following methods:
- (i) with regard to the track format, the method designated by the JIS X6225; and
  - (ii) with regard to volume and file configuration, the method designated by the JIS X0605.
- (3) With regard to the Electromagnetic Record set forth in paragraph (1), a document containing the following matters must be affixed to the label area specified by the JIS X6223:
- (i) the trade name or name of a registration applicant; and
  - (ii) the date of application.

(Public Inspection of Registry of Financial Instruments Intermediary Service Providers)

Article 262 A Competent Director-General of 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 having jurisdiction over the location of the relevant Financial Instruments Intermediary Service Provider's Head Office, etc. (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, at the Fukuoka Local Finance Branch Bureau; or in cases where 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 Change of Matters to be Stated in Written Application 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 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) in cases where 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 (in cases where the registration applicant is an individual, the extract copy of the certificate of residence) containing the particulars so changed, or any other document in lieu thereof;
- (ii) in cases where 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 who has newly assumed the position of Officer:
    1. resumes of the Officer (in cases where the Officer is a juridical person, the document containing the background of said Officer);
    2. the extracts of certificate of residence of the Officer (in cases where the Officer is a juridical person, the certificate of registered matters of said Officer), or any other document in lieu thereof;
    3. the certificate issued by a public agency evidencing that the Officer does not fall under Article 29-4, paragraph (1), item (ii), sub-item (a) or (b) of the Act, or any other document in lieu thereof;
    4. documents in which the Officer pledges that the Officer does not fall under any of Article 29-4, paragraph (1), item (ii), sub-items (c) through (g) of the Act;
  - (iii) in cases where there has been any change to the matters specified in Article 66-2, paragraph (1), item (iv) of the Act (limited to the cases where the registration applicant 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 registration applicant newly accepts entrustment;
  - (iv) in cases where there has been any change to the matters specified in Article 258, item (iii) (limited to the case where the registration applicant 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).
- (2) In cases where the Competent Director-General of 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 said Financial Instruments Intermediary Service Provider and any other documents to the Director-General of a Local Finance Bureau having jurisdiction over the relocated address of the Head Office, etc. notified thereunder (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where 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 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 Contract for Financial Instruments Transaction pertaining to an Act of Financial Instruments Intermediation;
- (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 sub-items (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 Contract for Financial Instruments Transaction pertaining to the Act of Financial Instruments Intermediation, or the type thereof;
  2. the Securities or the types thereof;
  3. the Invested Business 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 Cabinet Order (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 the Acts of Financial Instruments Intermediation 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.

(Method of Indication of Advertisement, etc. on Contents of Financial Instruments Intermediary Service)

- Article 267 (1) In cases where 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) In cases where 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), item (iv) and (v) of the Cabinet Order 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) Notwithstanding the provisions of the preceding paragraph, in cases where 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 Cabinet Order in a size which does not differ substantially from the size of the largest letters or numerical characters representing the matters other than such matter.

(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 Cabinet Order are the amount of the consideration payable by customers in relation to a Contract for Financial Instruments Transaction pertaining to the Acts of Financial Instruments Intermediation 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 method 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 Cabinet Order or the amount of Investment Properties, which pertains to the Contract for Financial Instruments Transaction, or the ratio to the profit generating from the Acts of Financial Instruments Transaction; 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 in cases where those details cannot be indicated, such fact and the reason therefor are indicated.

(2) In cases where the Contract for Financial Instruments Transaction related to the Acts of Financial Instruments Intermediation as set forth in the preceding paragraph pertains to the acquisition of the Investment Trust Beneficial Interests, etc., and where 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) In cases where 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 cases where 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 the cases where it is 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' Decision)

Article 269 The matters to be specified by Cabinet Office Order as referred to in Article 18, paragraph (1), item (vi) of the Cabinet Order are as follows:

- (i) the facts regarding important matters on the Contract for Financial Instruments Transaction pertaining to the Acts of Financial Instruments Intermediation, which would be disadvantageous to the customer; and
- (ii) in cases where the Entrusting Financial Instruments Business Operator, etc. is a member of a Financial Instruments Firms Association, such fact and the name of such Financial Instruments Firms Association.

(Method Equivalent to Broadcasting by Use of Broadcasting Facilities of Basic Broadcaster)

Article 270 (1) The methods to be specified by Cabinet Office Order as referred to in Article 18, paragraph (2) of the Cabinet 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 who 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 methods similar thereto.
- (2) The matters to be specified by Cabinet Office Order as referred to in Article 18, paragraph (2), item (ii) of the Cabinet Order are the matters specified in Article 266, item (iii), sub-item (d).

(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 Contract for Financial Instruments Transaction pertaining to the Acts of Financial Instruments Intermediation (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 Contract for a Financial Instruments Transaction pertaining to the Acts of Financial Instruments Intermediation;
- (iii) the matters related to agreement for liquidated damages (including penalties) in connection with a Contract for Financial Instruments Transaction pertaining to the Acts of Financial Instruments Intermediation;
- (iv) the matters related to a Financial Instruments Market or any other market similar thereto located in a foreign state, which relates to the Contract for Financial Instruments Transaction pertaining to the Acts of Financial Instruments Intermediation;
- (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 Contract for Financial Instruments Transaction pertaining to the Acts of Financial Instruments Intermediation 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 where 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 the Acts of Financial Instruments Intermediation, 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 the Acts of Financial Instruments Intermediation;
  - (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 the Acts of

Financial Instruments Intermediation.

- (ix) in cases where any Financial Instruments Intermediary Service Provider intends to make an Advertisement, etc. regarding an Investment Advisory Contract pertaining to the Acts of Financial Instruments Intermediation, the matters related to the contents and method of the advisory service;
- (x) in cases where any Financial Instruments Intermediary Service Provider intends to make an Advertisement, etc. regarding a Discretionary Investment Contract pertaining to the Acts of Financial Instruments Intermediation, the matters related to the contents and method of the Investment Decisions; and
- (xi) in cases where 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), sub-item (d)1., the matters related to bloodlines of the racehorses and the status of the management of the breeding thereof.

(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) in cases where 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) in cases where the Financial Instruments Intermediary Service Provider carries out the Investment Advisory Business and where it conducts Acts of Financial Instruments Intermediation (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 (excluding the cases where the amount of Fees, etc. for the Acts of Financial Instruments Intermediation to be performed in a certain period has been fixed without regard to the number of occasions of the Acts of Financial Instruments Intermediation, and where 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 such Acts of Financial Instruments Intermediation (in cases where the amount of Fees, etc. has not been fixed in advance, the formula for the calculation thereof);
- (iii) in cases where 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 Cabinet 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 Structured 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), sub-item (e) of the Act are an Acceptance of Entrustment, etc. of the purchase and sale of Securities on the condition that credit is granted (limited to Acceptance of Entrustment, etc. pertaining to Acts of Financial Instruments Intermediation; the same applies in item (i)), which fulfills all of the following requirements:

- (i) that the act is an Acceptance of Entrustment, etc. for the purchase and sale of Securities from 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 method of appropriation of the deposit for making purchases, as a method 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, in the where 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 Provider in Relation to its Financial Instruments Intermediary Service Operation)

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 the Acts of Financial Instruments Intermediation;
- (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 the Acts of Financial Instruments Intermediation;
- (iii) an act to use fraudulent means, or to commit an assault or intimidation, in connection with the Acts of Financial Instruments Intermediation;
- (iv) an act to refuse or unreasonably delay the performance of all or part of the Acts of Financial Instruments Intermediation under the Contract for Financial Instruments Transaction pertaining to such Acts of Financial Instruments Intermediation;
- (v) in connection with the Acts of Financial Instruments Intermediation, an act to solicit a customer (limited to an individual customer, in cases where the Act of Financial Instruments Intermediation 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 Cabinet 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 Contract for Financial Instruments Transaction specified in Article 38, item (iv) of the Act (excluding those pertaining to the transactions specified in Article 116, paragraph (1), item (iii), sub-items (a) and (b)), without clearly indicating to them in advance that the purpose of such assembly is solicitation for conclusion of such Contract for Financial Instruments Transaction;
  - (vii) an act to solicit a customer (excluding a Professional Investor) to conclude a Contract for Financial Instruments Transaction as specified in Article 38, item (vi) of the Act (excluding those pertaining to the transactions specified in Article 116, paragraph (1), item (iii), sub-items (a) and (b)), notwithstanding that the customer has, in advance, manifested the intention not to conclude such Contract for Financial Instruments Transaction (including manifesting the intention that the customer does not wish to accept any solicitation for the conclusion of such Contract for Financial Instruments Transaction);
  - (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 (in the case where the Officer is a juridical person, 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 Transactions of Securities, etc., 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 (limited to the cases where 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 (limited to the cases where 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 (in the case where the Officer is a juridical person, including executive members thereof) or employee receiving from, or provide to, its Parent Juridical Person, etc. or Subsidiary Juridical Person, 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, 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 Juridical Person, etc. or of its Subsidiary Juridical Person, etc., in the course of duties (excluding the cases where the customer has given prior written consent for the provision of such special information by such Financial Instruments Intermediary Service Provider, its Parent Juridical Person, etc. or its Subsidiary Juridical Person, etc., or Officers or employees thereof; where the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. is the Entrusting Financial Instruments Business Operator, etc. and where the information listed in Article 123, paragraph (1), item (xviii), sub-items (a) through (c) is to be received or the information listed in Article 281, item (xii), sub-items (a) through (c) is to be provided; where 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 where 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 Juridical Person, etc. or Subsidiary Juridical Person, etc. (excluding information which the Parent Juridical Person, etc. or Subsidiary Juridical Person, 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 Beneficiary Certificates 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 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 the cases of conducting an 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 the cases of conducting an 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), sub-item (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 the cases of conducting a Trust Business, etc. (meaning the Trust Business 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 the cases of conducting a 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, 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 intermediary service for concluding a contract for loans or for discounting negotiable instrument is provided;
- (xxv) in the cases of providing Financial Institution Agency Service, an act of the Financial Instruments Intermediary Service Provider or any of its Officers (in the case where the Officer is a juridical person, 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 Non-Disclosure Loan Information, etc. (meaning 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 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 (xxxii); hereinafter the same applies in this item) (excluding the cases specified in the following sub-items):

- (a) where such Non-Disclosure Loan Information, etc. is to be provided with a prior written consent therefor from the customer;
  - (b) the cases where it is deemed necessary that any Non-Disclosure Loan Information, etc. be received from the Financial Instruments Intermediary Service Provider engaged in Financial Institution Agency Service Operation or its Officer or employee, so as to ensure compliance with the laws and regulations applicable to the Financial Instruments Intermediary Service; or
  - (c) the cases where the Non-Disclosure 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 in addition to 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; and
- (xxvii) in cases where the Entrustor Financial Instruments Business Operator (meaning a Financial Instruments Business Operator engaged in a Type I Financial Instruments Business which entrusts Financial Instruments Intermediary Service Operation 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 (xxxii)) issued by any person owing a debt to the Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. of such Entrustor Financial Instruments Business Operator, etc., or an Underwriter of the treasury shares to be disposed of, and where the Financial Instruments Intermediary Service Provider is aware of the circumstance where the

- proceeds from these Securities (in cases where the Entrustor 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 said Article pertaining to the Securities (limited to an act pertaining to the case where the Securities are to be sold between the day when the Entrustor 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.
- (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 item (xv) of paragraph (1) do not apply to the cases where 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 Definition of 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 who 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 who, 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 Transfer of Corporate Bonds, Shares, etc. (including the cases where 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 Juridical Person, etc. Under Control of such Specified Officer (such juridical person 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 who 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 whereby 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 or Foreign Investment Securities similar to

- Investment Securities 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 Beneficiary Certificates of Securities in Trust of which the Entrusted Securities are the Securities specified in sub-items (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 sub-item (a) or (b).
- (2) In cases where the total of the Subject Voting Rights held by the Specified Officer and those held by the Juridical Person, 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 Juridical Person, etc. (meaning a juridical person or any other organization; hereinafter the same applies in this Article), such other Juridical Person, etc. is deemed to be the Juridical Person, etc. Under Control of such Specified Officer, and the provisions of item (i) of the preceding paragraph and this paragraph apply.
- (3) The "Juridical Person, etc. Under Control" as used in item (i) of paragraph (1) and the preceding paragraph means the Juridical Person, 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 item (iii) of paragraph (1) means the Officer, etc. prescribed in Article 1-3-3, item (v) of the Cabinet Order.

(Exception to Limitation on Intermediary Service, etc. for Purchase and Sale, etc. of Securities for Professional Investors)

Article 275-3 The cases to be specified by Cabinet Office Order as referred to in Article 66-14-2 of the Act are the cases where 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 to be specified by Cabinet Office Order as referred to in Article 39, paragraph (3) of the Act as applied mutatis mutandis pursuant to



Article 66-15 of the Act are the cases where 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) of the Act; or, information as to whether any event as specified in Article 2, paragraph (21), item (v), sub-item (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 to be specified by Cabinet Office Order as referred to 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) the cases where the final and binding judgment has been issued by the court;
- (ii) the cases where a judicial settlement (excluding the judicial settlement under Article 275, paragraph (1) of the Code of Civil Procedures) has been reached;
- (iii) the cases where a conciliation as prescribed in Article 16 of the Civil Conciliation Act has been reached; or the cases where 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) the cases where 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) the cases where 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 where an arbitral award under arbitration procedure conducted before such organization has been issued;
- (vi) the cases where a settlement has been reached through mediation prescribed in Article 19, paragraph (1) or Article 25 of the Consumer Basic Act, or where a resolution based on an agreement prescribed in that Article has been conducted;
- (vii) the cases where 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 the cases where the dispute pertaining to the Acts of Financial Instruments Intermediation falls within the scope of the disputes referred to in Article 6, item (i) of that Act);
- (viii) the cases where a settlement has been reached, and where 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 (in the case where the judicial

- scrivener set forth in sub-item (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 evidencing that the attorney or judicial scrivener set forth in sub-item (a) has verified and confirmed that the purpose of the payment under sub-item (b) was compensation for all or part of any losses arising from Problematic Conduct has been delivered to the Financial Instruments Intermediary Service Provider, and its Entrusting Financial Instruments Business Operator, etc.
  - (ix) the cases where 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 where 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 (in the case where the committee prescribed in sub-item (b) consists only of members who 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 sub-item (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 who 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) the cases where 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 where 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) the cases where 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 (limited to the case where 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 items (ix) through (xi) of paragraph (1), and where 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 having jurisdiction over the location of the head office, or any other business office or office where the Problematic Conduct pertaining to such offer, promise or provision took place (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where 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 the following Article).

(Application for Confirmation of Problematic Conduct)

Article 278 A person who 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 having jurisdiction over the location of the head office or any other business office or office where the Problematic Conduct pertaining to such confirmation took place one original of the written application set forth in paragraph (5) of that Article and the documents attached thereto, as well as one copy thereof.

(Matters to be Stated in Application for Confirmation)

Article 279 The matters to be specified by Cabinet Office Order as referred to in Article 39, paragraph (5) 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 (in cases where the customer is a juridical person, 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 Application for Confirmation)

- Article 280 (1) The documents to be specified by Cabinet Office Order as referred to in Article 39, paragraph (5) 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 to the case where the written application under Article 39, paragraph (5) 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.

(Cases Where the Status of the Operation of Business is Likely to Go Against Public Interest or Hinder 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) where 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) where 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 of 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) where 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 transactions of Securities, etc., 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) where 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;
- (v) where 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) where the Financial Instruments Intermediary Service Provider solicits a customer for a rollover of Investment Trust Beneficiary Certificates, etc., and where it has not given the customer (excluding a Professional Investor) any explanation on important matters regarding such rollover;

- (vii) where 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 where 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) where the management of an Electronic data processing system to be used for the Financial Instruments Intermediary Service is found to be insufficient;
- (ix) where the Financial Instruments Intermediary Service Provider or its Officer (in the case where the Officer is a juridical person, 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 Non-Disclosure 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 where 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 Non-Disclosure Loan Information, etc. (excluding Corporate Information), without obtaining the customer's prior written consent for the provision of such information);
- (x) where 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 121-2, 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 Structured Financial Institution, trust company or any other financial institution specified in the items of Article 1-9 of the Cabinet Order) and carries out its business therein, and where it is found 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) where the Financial Instruments Intermediary Service Provider carries out its businesses using a computer connected via telecommunications line, 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) where 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 where the Financial Instruments Intermediary Service Provider solicits the Purchase and Sale or Other Transactions of Securities, etc. using any information on customers' properties or any other special information obtained from the Entrusting Financial Instruments Business Operator, etc. (limited to information 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 the Acts of Financial Instruments Intermediation;

(b) information obtained in the course of the Financial Instruments Intermediary Service Operation 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.

### **Section 3 Accounting**

(Books and Documents Related to Business)

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)

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's transaction itself is dealing or it is a transaction based on entrustment by customer;
- (ii) the customer's name;
- (iii) the type of transaction (in the case of any of the transactions listed in sub-items (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 Gensaki Transaction: 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), item (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 (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 item (i) of paragraph (3));
- (v) information as to whether the type of transaction is a sale or purchase (in the case of a transaction specified in any of the sub-items (a) to (d) below, the type of such transaction as set forth respectively therein; hereinafter the same applies in item (i) of paragraph (3)):
  - (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, when 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 (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 sub-item (d) of item (xi)) 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 item (i) of paragraph (3));
- (vii) the agreed volume (in cases where there is no volume, the number of transactions or any other information equivalent to the volume; the same applies in item (i) of paragraph (3));
- (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 sub-items (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 (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, in cases where 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) in cases where a subsidiary book on a financial instruments intermediary service is to be prepared by means of an Electromagnetic Record, such records are prepared in accordance with the following, in addition to the matters listed 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

matters 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 sub-items (d)2., (e)3. and (g)2. of item (iii) of paragraph (1): 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 Electromagnetic Record pursuant to the provisions of item (vi) of the preceding paragraph: in cases where such information prepared by means of an Electromagnetic 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, etc. on Financial Instruments Intermediary Service)

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, 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, 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 Discontinuance, etc. of Business of Financial Instruments Intermediary Service Providers)

Article 286 (1) A person who makes a notification under Article 66-19, paragraph (1) of the Act must submit to the Competent Director-General of 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 (limited to cases where the Financial Instruments Intermediary Service was discontinued): the date of and reasons for the discontinuance;
- (ii) the case falling under Article 66-19, paragraph (1), item (i) of the Act (limited to cases where 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 (limited to cases where 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 juridical person 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;
- (2) A person who 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 the case where 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 (limited to the cases where 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 (limited to the cases where 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 juridical person 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.

## **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 registration applicant;
- (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 juridical person, an officer stationed at a business office or other offices in Japan (including the person who is in the position of director, accounting advisor, company auditor and executive officer or any other position similar thereto)) or employee; and
  - (b) in cases where 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 to be Equipped with 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 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 Application 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 Application 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) 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 Change, etc. of 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 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) or (iii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act must submit to the Competent Director-General of 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 (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act): the following matters:
- (a) the name of the person who has come to fall under such provision; and
  - (b) the date when the person became subject to an ruling for the commencement of a guardianship or a ruling for the commencement of a curatorship.
- (ii) the case falling under Article 64-4, item (ii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (b) of the Act): the following matters:
- (a) the name of the person who 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 (ii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (limited to the cases where the Sales Representative has come to fall under the provisions of Article 29-4, paragraph (1), item (ii), sub-item (c) or (g) of the Act): the following matters:
- (a) the name of the person who 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 (ii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1) item (ii), sub-item (d) or (e) of the Act): the following matters:
- (a) the name of the person who has come to fall under such provision; and
  - (b) the date of the rescission and the reasons therefor.
- (v) the case falling under Article 64-4, item (ii) of the Act as applied mutatis mutandis pursuant to Article 66-25 of the Act (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (f) of the Act): the following matters:
- (a) the name of the person who has come to fall under such provision; and
  - (b) the date when the dismissal or removal was ordered and the reasons therefor.
- (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: the following matters:
- (a) the name of the person who 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) or (iii) 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 (ii) of the Act as applied *mutatis mutandis* pursuant to Article 66-25 of the Act (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (a) of the Act): a copy of the written ruling for the commencement of a guardianship or a ruling for the commencement of a curatorship, or a document describing the details of the ruling for the commencement of a guardianship or ruling for the commencement of a curatorship;
- (ii) the case falling under Article 64-4, item (ii) of the Act as applied *mutatis mutandis* pursuant to Article 66-25 of the Act (limited to the cases where the Sales Representative 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 a document stating the details of the order for the commencement of bankruptcy proceedings;
- (iii) the case falling under Article 64-4, item (ii) of the Act as applied *mutatis mutandis* pursuant to Article 66-25 of the Act (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (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;
- (iv) the case falling under Article 64-4, item (ii) of the Act as applied *mutatis mutandis* pursuant to Article 66-25 of the Act (limited to the cases where the Sales Representative has come to fall under Article 29-4, paragraph (1), item (ii), sub-item (d) or (e) of the Act, and where the rescission was effected in a foreign state): a copy of the written order for the rescission 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 and a Japanese translation thereof.

(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 Director-General of Finance Bureau, etc.)

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 matters to the Director-General of a Local Finance Bureau having 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 (in cases where such location falls within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, to the Director-General thereof; or in cases where 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) in cases where 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 Agency**

### **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), sub-item (b)3.), the meanings of the terms listed in the following items are as prescribed respectively in those items:
- (i) juridical person: meaning a juridical person 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) Person Concerned With Rating: meaning a Person Concerned With Rating 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 Juridical Person: meaning a Subsidiary Juridical Person 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 securities 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 have the natures of securities 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 sub-items (a) through (e) (excluding those satisfying any of requirements listed in sub-items (f) to (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 juridical person (referred to as a "Special Purpose Juridical Person" in this sub-item (a)2., sub-item (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 Juridical Person 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 said 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 method specified in Article 3, item (i) or (iii) of the Trust Act (including other similar methods thereto based on foreign acts; the same applies in 2. of this sub-item and sub-item (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, etc. on Regulated Securities (Order of Ministry of Finance No. 22 of 1993), 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), item (i) and (ii); hereinafter the same applies in sub-items (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 methods specified in Article 3, item (i) or (iii) of the Trust Act, the said Special Purpose Juridical Person obtains Underlying Assets by allotting the money from the said Trust, issuing Trust Bond Certificates pertaining to the said 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 sub-item (d)2.) or monetary loan pertaining to the said 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 Juridical Person; and
  2. that the Special Purpose Juridical Person issues such Securities or takes out such 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 said Securities or said borrowing to satisfy the obligations pertaining to said Securities or monetary loan (including Securities to be issued for the purpose of refinancing said Securities or monetary loan; and also including monetary loans taken out for the purpose of said refinancing).
- (d) Securities or claims which satisfy all of the following requirements:
1. that the trust has been created in accordance with the method 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., said 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 said Trust Beneficiary Certificates, etc. or said loan, and also including the loans taken out for the purpose of such refinancing);
- (e) in addition to the requirements listed in sub-items (a) through (d) above,

- requirements of a similar nature as designated by the Commissioner of the Financial Services Agency;
- (f) the said Securities or claim pertaining to a monetary loan (hereinafter referred to as "the said Securities, etc." in sub-items (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 (limited to cases where the credit status of the said Underlying Asset is considered to be equivalent to that of the said Securities, etc. substantially);
- (g) the said Securities pertaining to which Special Purpose Juridical Person under (a)1. or (c)1., for the purpose of performing obligations, may conclude a loan contract (limited to cases where the credit status of the said Underlying Asset is considered to be equivalent to that of the said 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 said Special Purpose Juridical Person 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 sub-item (a)1., sub-item (b)1. and 2., sub-item (c)1. and sub-item (d)1. of the preceding item;
- (iii) Rating Analyst: meaning a person who, prior to determining a Credit Rating, performs an analysis of the credit status of financial instruments or juridical persons (including a juridical person 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), sub-item (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 Persons Concerned With Rating Have 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), sub-item (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 Persons Concerned With Rating and any other persons; and
  - (x) Associated Juridical Person: meaning the Subsidiary Juridical Person of a juridical person, another juridical person which has the juridical person as its Subsidiary Juridical Person, or a Subsidiary Juridical Person of another juridical person which has the juridical person as its Subsidiary Juridical Person (excluding said juridical person), which performs Credit Rating Activities in the course of the trade.

(Application for Registration)

Article 296 A person who 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 Electromagnetic 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 Juridical Person)

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 who, as a representative of a foreign juridical person (limited to a foreign juridical person 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 who is capable of providing an account of the

status of its Compliance With Laws and Regulations, etc.).

(Matters to be Included in Written Application 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 registration applicant (limited to a foreign juridical person);
- (ii) the following matters concerning another registration applicant or Credit Rating Agency, which falls under the registration applicant's Associated Juridical Person and which, jointly with the registration applicant, 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 Juridical Person of the registration applicant (excluding the another registration applicant or Credit Rating Agency, which falls under the registration applicant's Associated Juridical Person and which, jointly with the registration applicant, 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 registration applicant (limited to a foreign juridical person):
  - (a) the name of the state where the head office, the principal business office or principal office locates;
  - (b) in cases where the registration applicant 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 sub-item (a) (hereinafter referred to as an "Foreign Administrative Organ, etc." in this Chapter), to that effect and the name and location of said 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), sub-item (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 operation;
- (ii) the method of execution of the business;
- (iii) the method of allocation of the 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 said activities;
- (v) the details of the measures to be implemented so that a Person in Charge of Rating, as a party independent of a Person Concerned With Rating, fairly and faithfully carries out the business, in cases where such Person in Charge of Rating consecutively is involved in the processes of determining Credit Ratings for the matter in which the same Persons Concerned With Rating 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 the case where 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, in cases where it is unable to retain sufficient staff with the expert knowledge and skills required for determining a Credit Rating, or in cases where 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 (limited to cases where the design of the said 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), sub-item (a); the same applies in item (xxvii)) and the outline of the Conflict Avoidance Measures (meaning Conflict Avoidance Measures as set forth in sub-item (a) of item (vii) 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 Transactions of Securities, etc. 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 Persons Concerned With Rating Have Interests, in cases where the registration applicant or one of its Officers or employees has a close relationship with any Persons Concerned With Rating 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 Persons Concerned With Rating Have Interests, in cases where there may arise any Conflict of Interests as between the registration applicant and the Persons Concerned With Rating;

- (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 Person Concerned With Rating;
- (xxvi) the details of the measures to be implemented so as to verify the appropriateness of a Credit Rating of any Matter in Which Persons Concerned With Rating Have Interests, in cases where any Rating Analyst who no longer assumes the position of Officer or employee of the registration applicants to assume the position of an Officer or any other position equivalent thereto of the Person Concerned With Rating;
- (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 Businesses (meaning businesses 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 businesses excluding Credit Rating Business and also excluding the Ancillary Businesses; 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, in cases where 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 registration applicant as a consideration for the performance of duties; the same applies in the following item) of Officers and employees of the registration applicant;
- (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 adversely affect 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 registration applicant 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 Persons Concerned With Rating, 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 Person Concerned With Rating;
  - (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 juridical persons, 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, in cases where any act pertaining to Ancillary Businesses is to be conducted; and
  - (xli) the code of conduct required to be complied with by the registration applicant as well as its Officers and employees.

(Documents to be Attached to Written Application 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 business execution system, such as its personnel structures and the organizational system pertaining to the business;

- (ii) the following documents concerning Officers (including those who are found to have the same or a higher authority over a juridical person 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 (in cases where an Officer is a juridical person, the document describing the background of said Officer);
  - (b) the extracts from the certificates of residence of the Officers (in cases where the Officer is a juridical person, its certificate of registered matters), or any other document in lieu thereof;
  - (c) the certificate issued by a public agency evidencing that none of the Officers falls under Article 29-4, paragraph (1), item (ii), sub-item (a) or (b) of the Act, or any other document in lieu thereof;
  - (d) 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 (g) of the Act;
- (iii) the following documents concerning the Representative Person in Japan of the registration applicant (limited to a foreign juridical person), 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;
- (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;
- (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), sub-item (a)) of the Monitoring Committee are deemed to be independent;
- (vi) a document describing the outline of the share-capital relationship, personnel relationship, and business relationship in the most recent year, as between the registration applicant, and another registration applicant or Credit Rating Agency which falls under the category of an Associated Juridical Person of the registration applicant and which performs Credit Rating Activities jointly with the registration applicant;
- (vii) a document describing the following conditions of an Associated Juridical

Person of the registration applicant (excluding another registration applicant or Credit Rating Agency which is Associated Juridical Person of the registration applicant and performs Credit Rating Activities jointly with the registration applicant):

- (a) an outline of the share-capital relationship, personnel relationship, and business relationship in the most recent one year, as between the registration applicant and its Associated Juridical Person;
  - (b) the name of the state where the head office, principal business office or principal office of the Associated Juridical Person (limited to a foreign juridical person) of the registration applicant is located; and, in cases where it is subject to supervision by any Foreign Administrative Organ, etc. in that state, to that effect, and the name and location of said 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) in cases where the registration applicant possesses any statistical information or any other information on the transition of a credit status (limited to the case where the object of the Credit Rating is the assessment of such credit status) of financial instruments or juridical persons, a document describing such information.
- (2) In cases where the documents specified in item (viii) of the preceding paragraph are to be attached, and where the balance sheet or profit and loss statement has been prepared by means of an Electromagnetic Record, the Electromagnetic Record (limited to an Electromagnetic Record as set forth in the following Article) may be attached in lieu of said documents.
- (3) In cases where the registration applicant has obtained registration under Article 66-27 of the Act, and where 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) In cases where the registration applicant has obtained registration under Article 66-27 of the Act, and where 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.

(Electromagnetic Records)

Article 301 (1) An Electromagnetic Record as specified by Cabinet Office Order, and as referred to in Article 66-28, paragraph (3) of the Act, is a 90mm flexible magnetic disk cartridge which complies with X6223 of the Japanese Industrial Standards.



- (2) Entry onto an Electromagnetic Record as set forth in the preceding paragraph must be completed in accordance with the following methods:
- (i) with regard to the track format, the method designated by the JIS X6225; and
  - (ii) with regard to volume and file configuration, the method designated by the JIS X0605.
- (3) With regard to the Electromagnetic Record set forth in paragraph (1), a document containing the following matters must be affixed to the label area specified by the JIS X6223:
- (i) the trade name or name of the registration applicant; and
  - (ii) the date of application.

(Public Inspection of Registry of Credit Rating Agencies)

Article 302 The Commissioner of the Financial Services Agency is to keep and make available for public inspection the 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.

(Criteria for Examination of Organizational System)

Article 303 When conducting an examination under Article 66-30, paragraph (1), item (v) of the Act as to whether the registration applicant is a juridical person not found to have established a system necessary for the fair and appropriate performance of the Credit Rating Business, it is to be examined, in addition to 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 registration applicant 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 Change to Matters Contained in Written Application 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) in cases where 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) in cases where 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 business execution system, such as the personnel structure 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 who has newly assumed the position of Officer:
    - 1. resume of the Officer (in cases where the Officer is a juridical person, the document containing the background of said Officer);
    - 2. extracts from the certificate of residence (in cases where the Officer is a juridical person, its certificate of registered matters), or any other document in lieu thereof;
    - 3. the certificate issued by a public agency evidencing that none of the Officers falls under Article 29-4, paragraph (1), item (ii), sub-item (a) or (b) of the Act, or any other document in lieu thereof;
    - 4. 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 (g) of the Act;
- (iii) in cases where there has been any change to the matter specified in Article 298, item (i): the following documents concerning a person who 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;
- (iv) in cases where there has been any change to the matter specified in Article 298, item (ii): a document describing the outline of the share-capital relationship, personnel relationship, and business relationship in the most recent one year, as between the said Credit Rating Agency and its new Associated Juridical Person;

- (v) in cases where 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 share-capital relationship, personnel relationship, and business relationship in the most recent one year, as between the Credit Rating Agency and its new Associated Juridical Person;
  - (b) the name of the state where the head office, principal business office or principal office of the new Associated Juridical Person (limited to a foreign juridical person) of the Credit Rating Agency is located; and, in cases where it is subject to supervision by any Foreign Administrative Organ, etc. in that state, to that effect, and the name and location of said Foreign Administrative Organ, etc.;
- (vi) in cases where there has been any change to the matter specified in Article 298, item (v): the following documents concerning a person who 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; and
  - (b) extracts from the certificate of residence, or any other document in lieu thereof.

(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 Persons Concerned With Rating, fairly and faithfully carries out the business, even in cases where such Person in Charge of Rating is involved consecutively in the processes of

determining Credit Ratings of the matters in which the same Person Concerned With Rating has an interest;

- (a) measures to be implemented so that, in cases where 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 same Person Concerned With Rating 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 Person Concerned With Rating 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 Persons Concerned With Rating has an interest (in cases where the object of the Credit Rating is the assessment of the credit status of any subject other than Asset Securitization Products, and where two or more Credit Ratings with the same object were determined in the same business year, such 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 about whom serious questions might be raised 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 where 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, in cases where any such 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 who 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 (in cases where 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, in cases where the Credit Rating Agency is unable to secure sufficient staff with expert knowledge and skills for determining a Credit Rating, or in cases where 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 said 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 (limited to cases where the design of the said 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 (in cases where 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 method, and to secure that such acts 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 Transactions of Securities, etc. which may entail any Conflict of Interests;
    2. the measures to prevent any Officer or employee who has any potential Conflict of Interests with a Person Concerned With Rating, if any, from being involved in the process of determining the Credit Rating of any matter in which said Person Concerned With Rating 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 Persons Concerned With Rating Have Interests, in cases where there is any potential Conflict of Interests between the Credit Rating Agency and the relevant Person Concerned With Rating, and in cases where any of the following applies:
      - i. where the Credit Rating Agency has been furnished with loans (including the guarantee of obligations and the offering of collaterals) by Person Concerned With Rating;
      - ii. where 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 16) falls under the category of a Person Concerned With Rating;
- iii. where the Person Concerned With Rating acts as the underwriter of Securities issued by the Credit Rating Agency; or
  - iv. where the Credit Rating Agency has been furnished by the Person Concerned With Rating 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 Person Concerned With Rating;
  5. the measures to be implemented so as to verify the appropriateness of a Credit Rating of any Matter in Which Person Concerned With Rating Has an Interest, in cases where any Rating Analyst who 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 such Person Concerned With Rating (limited to the cases where 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 Businesses 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, in cases where 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 Persons Concerned With Rating 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 sub-item (a) above);
    - (c) measures to announce the details of the solicitation made by the Credit Rating Agency pursuant to sub-item (b) above, as well as the results thereof (meaning the results of the interviews with the Persons Concerned

With Rating 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 adversely affect 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 who 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 juridical persons, 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 an Ancillary Business from being misperceived as an act pertaining to the Credit Rating Business, in cases where any act pertaining to an Ancillary Businesses 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, in cases where 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 this sub-item (a)) of the Credit Rating Agency, its Subsidiary Juridical Person, any other juridical person which holds such Credit Rating Agency as its Subsidiary Juridical Person or any Subsidiary Juridical Person of any other juridical person which holds such Credit Rating Agency as its Subsidiary Juridical Person (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 in the cases where the Independent Member has committed any wrongful act, where the Independent Member is found to have committed any breach of the obligations in the course of duties, or where 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 in the case where, 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 said provision, and where it is found that implementation of any alternative measures would enable its Officers and employees to carry out its business independently from the Persons Concerned With Rating and in a fair and faithful manner, provided that approval from the Commissioner of the Financial Services Agency is obtained.
- (3) The provisions of item (xvii) of paragraph (1) do not apply in the case where, 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 said provision, and where it is found 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) In cases where 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) In cases where two or more Credit Rating Agencies (limited to the cases where said two or more Credit Rating Agencies are Associated Juridical Persons, and where 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, said 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), sub-item (a)3. through 5.; excluding the provisions pertaining to domestic business offices of Credit Rating Agencies (limited to foreign juridical persons; hereinafter the same applies in this paragraph and the following paragraph)) do not apply, in cases where the said Credit Rating Agency is considered to be

able to carry out the business fairly and appropriately by implementing an alternative measure, where it is considered to be under appropriate supervision of Foreign Administrative Organ that the said Credit Rating Agency is able to carry out the business fairly and appropriately by implementing the said alternative measure, and where the Commissioner of the Financial Services Agency approves it.

- (7) In cases where 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 Foreign Administrative Organ;
  - (iv) a written description of other matters to be referred;
  - (v) a legal opinion letter 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 legal opinion letter.
- (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.

(Persons Concerned With Rating)

Article 307 (1) The persons as specified by Cabinet Office Order, and 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) in cases where the object of a Credit Rating is the assessment of the credit status of any juridical person: such juridical person (excluding the juridical person 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 said juridical person; and
  - (ii) in cases where the object of a Credit Rating is the assessment of the credit status of the financial instrument: the said financial instrument (limited to cases where the said financial instrument is Securities) or debtor (limited to cases where the said financial instrument is claim), and consignees of the business affairs related to the structure of said 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, in cases where 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), sub-item (a)1., (b)1. or 2., when said Asset Securitization Products satisfy the requirements set forth in Article 295, paragraph (3), item (i), sub-item (a) or (b);
  - (ii) a third party (limited to a principal third party) as set forth in Article 295, paragraph (3), item (i), sub-item (c)1. or (d)1., when said Asset Securitization Products satisfy the requirements set forth in Article 295, paragraph (3), item (i), sub-item (c) or (d);
  - (iii) a Special Purpose Juridical Person as set forth in Article 295, paragraph (3), item (i), sub-item (a) or (c), in cases where said Asset Securitization Products satisfy the requirements set forth in Article 295, paragraph (3), item (i), sub-item (a) or (c); and
  - (iv) a consignee of business affairs related to the structures of said Asset Securitization Products.
- (3) In cases where 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), sub-item (a) to (e) and the assessment of credit status of financial instruments prescribed in the same item, sub-item (f), the assessment of credit status of the Underlying Assets under the same item, sub-item (f) is deemed to be the object of Credit Rating and the provisions of paragraph (1), item (ii) apply. In cases where 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), sub-item (a) to (e) and the assessment of credit status of financial instruments prescribed in the same item, sub-item (g), the assessment of credit status of Securities issued by the identical person who concludes the contract of the monetary loan or the claim pertaining to the monetary loan to the said person is deemed to be the object of Credit Rating and the provisions of paragraph (1), item (ii) apply.

(Close Relationship with Persons Concerned With Rating)

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 Persons Concerned With Rating, in cases where any of the following situations applies:

- (i) where the Person in Charge of Rating of the Credit Rating Agency is the Officer of the Person Concerned With Rating or has assumed any other position equivalent thereto;
- (ii) where the Person in Charge of Rating 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 Persons Concerned With Rating (excluding the cases specified in the preceding item);
- (iii) where 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 Person Concerned With Rating; or
- (iv) where the Credit Rating Agency or its Person in Charge of Rating is a person entitled to any rights related to Derivatives Transactions (limited to Derivative Transactions related to the Persons Concerned With Rating or Securities issued by the Person Concerned With Rating)
- (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 who, under its name or any other person's name (including a fictitious name), owns the Securities (including a person who 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 who 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 said 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 who 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 Persons Concerned With Rating Have 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 Person Concerned With Rating;
- (ii) the assessment of the credit status of financial instrument, in cases where the Person Concerned With Rating is the issuer of the said financial instrument (limited to cases where the said financial instrument is Securities) or debtor (limited to cases where the said financial instrument is claim) thereof; and
- (iii) the assessment of the credit status of financial instruments or juridical persons pertaining to certain structures, in cases where the Person

Concerned With Rating is the consignee of business affairs related to such structures.

(Matters Which May Materially Influence Credit Rating)

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) the organizational scheme of the juridical person and the composition of the principal assets and liabilities thereof, in cases where the object of the Credit Rating is the assessment of the credit status of such juridical person, Securities issued by the said juridical person or claim against the said juridical person; and
- (ii) material matter on the structures of financial instruments or any important matters related to the structures of the said juridical person, in cases where the object of the Credit Rating is the assessment of such financial instruments or juridical person.

(Type of Advice Excluded from Application of Prohibition)

Article 311 The case specified by Cabinet Office Order, as referred to in Article 66-35, item (ii) of the Act, is the case where the Credit Rating Agency, in response to a demand from the Person Concerned With Rating, has provided an explanation as to how the information or facts provided by the Person Concerned With Rating 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 any Person Concerned With Rating, 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 said Credit Assessment (excluding an act to provide in advance any Person Concerned With Rating 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 any Person Concerned With Rating, to demand the delivery thereof, or to accept an offer for the delivery thereof (excluding the cases where 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) in cases where 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 Policy, etc.)

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 juridical persons (limited to the cases where 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 Person Concerned With Rating, 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 the Person Concerned With Rating 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 Person Concerned With Rating;

- (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, in cases where 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 means; provided, however, that in cases where 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 sub-item (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 where the parties listed in item (i) or (ii) of that paragraph are located as well as any enough reasons for not announcing said information:
    - (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 who, 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 sub-item (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 Person Concerned With Rating;
    - (f) in cases where the object of the Credit Rating is the assessment of the credit status of the Asset Securitization Products, and where such products substantially deviates from the design of Asset Securitization Products that the Credit Rating Agency determined the Credit Rating in the past;
    - (g) in cases where the Credit Rating was determined without any solicitation from the Person Concerned With Rating, such fact, and information as to whether any undisclosed information by the Person Concerned With Rating (limited to cases where the said information affects credit assessment substantially) had been obtained in the process of determining the Credit Rating;
    - (h) in cases where 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, in cases where 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 said information;
    - 2. an outline of the measures implemented for the purpose of the quality assurance of said information; and
    - 3. the provider of said information;
  - (k) the following matters, in cases where 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 said 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.

(Method of Announcement of Rating Policy, etc.)

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) In cases where two or more Credit Rating Agencies (limited to the cases where said two or more Credit Rating Agencies fall under the category of Associated Juridical Persons, and where 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, said two or more Credit Rating Agencies may jointly formulate and announce the Rating Policy, etc.

(3) In cases where 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 Operation)

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 said Credit Rating, and the object of said 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) in case where 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 (in case where the final decision is adopted by means other than a council, to that effect and the reasons therefor);
  - (e) in case where any Associated Juridical Person was involved in the process of determining the Credit Rating, the name and address of such Associated Juridical Person;
  - (f) in case where the Credit Assessment was implemented based primarily on quantitative analysis, and where 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 Person Concerned With Rating);
  - (h) information as to whether the Credit Rating was determined in response to solicitation from any Person Concerned With Rating;
  - (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 any Persons Concerned With Rating, and any other measures implemented for preventing any Conflict of Interests;
  - (ii) the records on the following matters concerning the Person Concerned With

- Rating 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 Person Concerned With Rating (limited to records concerning Credit Rating Activities);
  - (ix) the documents or electromagnetic records received from investors and any other users of Credit Ratings (limited to documents or electromagnetic 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) In cases where more than two Credit Rating Agencies (limited to cases where the said more than two Credit Rating Agencies are Associated Juridical Persons and they share the same Representative Person in Japan or the person prescribed in Article 297) perform Credit Rating Activities in the course of trade in cooperation, the said more than two Credit Rating Agencies may prepare books and documents cooperatively.

(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) In cases where any Credit Rating Agency which is a foreign

juridical person intends to obtain approval under the proviso to Article 18-4-2 of the Cabinet Order, it must submit to the Commissioner of the Financial Services Agency a written application for approval stating the following matters:

- (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 juridical person, 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 legal opinion letter 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 legal opinion letter.

(3) In cases where the application for approval set forth in paragraph (1) was filed, and where it is found impossible for a Credit Rating Agency which is a foreign juridical person 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 (in cases where such day falls within three months from the commencement of the business year (in cases where 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 paragraph (1) 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 juridical person, etc.

as set forth in that paragraph submits to the Commissioner of the Financial Services Agency documents stating the following matters within three months from the end of each business year; provided, however, that with regard to the matters specified in item (ii), if the substance of such matters is identical to that stated in the documents already submitted within five years prior to the submission of such document, the statement of such matters may be omitted:

- (i) that the reasons for the application for which approval was sought have not been eliminated or changed in the relevant business year; and
- (ii) a legal opinion letter prepared by a law expert referring to the matters specified in the preceding item, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

(Matters to be Contained in Explanatory Document)

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. in cases where the Credit Rating Agency receives a Rating Fee exceeding ten percent of the sales volume of the Credit Rating Business from a single Person Concerned With Rating (including the parties set forth in Article 15-16, paragraph (1), respective items and Article 15-16, paragraph (2), respective items of the Cabinet Order) of the Person Concerned With Rating), the name of said Person Concerned With

Rating;

3. statistical information or any other information on the transition of the credit status of the financial instruments or juridical persons (limited to cases where 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 Businesses 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 Person Concerned With Rating;
- (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 Person Concerned With Rating, fairly and faithfully carries out the business, even in cases where such Person in Charge of Rating is involved consecutively in the processes of determining Credit Ratings of the matter in which the same Person Concerned With Rating 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 (limited to cases where the design of the said 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 Person Concerned With Rating Has an Interest, in cases where any Rating Analyst who 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 Person Concerned With Rating;
  - (g) the measures to be implemented so that activities pertaining to Ancillary Businesses 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, in cases where 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 adversely affect 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 method 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 Juridical Persons and Subsidiary Juridical Persons of the Credit Rating Agency:
    - (a) the composition of the group of the Credit Rating Agency and its Associated Juridical Persons and Subsidiary Juridical Persons; and
    - (b) the trade name or name, and locations of the principal business office or principal office of Associated Juridical Persons and Subsidiary Juridical Persons, as well as the details of their respective principal businesses.

(Method 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 such means as use of the internet so as to allow easy inspection by investors and Credit Ratings users.

(2) In cases where two or more Credit Rating Agencies (limited to cases where said two or more Credit Rating Agencies fall under the category of Associated Juridical Persons, and where 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, said two or more Credit Rating Agencies may jointly prepare and announce the explanatory documents.

(Procedures for Obtaining Approval on Period of Public Inspection of Explanatory Documents)

Article 320 (1) In cases where any Credit Rating Agency which is a foreign juridical person intends obtain approval under the proviso to Article 18-4-3 of the Cabinet Order, it must submit to the Commissioner of the Financial Services Agency a written application for approval stating the following matters:

- (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 juridical person, 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 legal opinion letter 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 legal opinion letter.
- (3) In cases where the application for approval set forth in paragraph (1) has been filed, and where, 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 juridical person 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 (in cases where such day falls within four months from the commencement of the business year (in cases where 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 paragraph (1) 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 juridical person, etc. as set forth in that paragraph submits to the Commissioner of the Financial Services Agency the documents stating the following matters within four months from the end of each business year; provided, however, that with regard to the matters specified in item (ii), if the substance of such matters is identical to that stated in the documents already submitted within five years prior to the submission of such document, the statement of such matters may be omitted:
- (i) that the reasons for application for which approval was sought have not been eliminated or changed in the relevant business year; and
  - (ii) a legal opinion letter prepared by a law expert referring to the matters specified in the preceding item, as well as a copy of the relevant provisions of the applicable laws and regulations referred to in such legal opinion letter.

## Section 4 Supervision

(Notification of Discontinuance of Business, etc.)

Article 321 (1) A person who 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 (excluding the cases where the following item and item (iii) applies): the date of and reason for the discontinuance;
  - (ii) the case falling under Article 66-40, paragraph (1), item (i) of the Act (limited to cases where 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 (limited to cases where 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, etc. on Discontinuance, etc. 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 In cases where 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 method of Credit Assessment.

## **Chapter V Miscellaneous Provisions**

(Travel Expenses and Other Expenses Payable for Witnesses, etc.)

Article 326 (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), sub-item (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, etc. (Act No. 114 of

1950).

- (2) In addition to 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, etc.)

Article 327 (1) In cases where 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 the cases where it is 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 (in the case where 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) In cases where any person who intends to obtain a registration under Article 29, Article 33-2 or Article 66 of the Act, where such person intends to submit a written application for registration under Article 5, Article 43 or Article 257 to the Director-General of a Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau, and where 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 or Article 257 via the head of the finance branch office, the head of the Otaru Branch or the head of the Kitami Branch.

- (3) In cases where any Financial Instruments Business Operator, etc., Authorized Transaction-at-Exchange Operator, Specially Permitted Business Notifying Person or Financial Instruments Intermediary Service Provider intends to submit to the Competent Director-General of Local Finance Bureau, etc. a written application, written notification or any other document prescribe by the Act, the Cabinet Order or this Cabinet Office Order (excluding the written application for registration under Article 64, paragraph (3) of the Act (including the cases where it is applied mutatis mutandis pursuant to Article 66-25 of the Act) and the written notifications under Article 252, Article 253 and Article 292), and where the location of the Head Office, etc. of the 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 Specially Permitted Business Notifying Person or the location of the Head Office, etc. of the Financial Instruments Intermediary Service Provider 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, Specially Permitted Business Notifying Person or Financial Instruments Intermediary Service Provider 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 juridical person, 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 a Type I Financial Instruments Business or an 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 or Article 286, such parties designated to receive documents are dealt with in the same manner as those set forth in the preceding paragraph.

(Standard Processing Period)

Article 328 (1) In cases where 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 and Article 66-27 of the Act, an authorization under Article 30, paragraph (1) of the Act and a permission under Article 60, paragraph (1) 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), Article 49-4, paragraph (2), Article 56-4, paragraph (3) and (4) of the Act and under Article 15-13, item (iii) of the Cabinet Order; and a confirmation under the proviso to Article 39, paragraph (3) of the Act (including the cases where it is 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 "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, etc. 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 Part 2, Paragraph 1, Item 2 and Paragraph 2 of Article 17 of 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 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 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 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 Contract for Financial Instruments Transaction set forth in item (iii) of that Article.

(Transitional Measures on Delivery of Explanatory Document on Listed Securities, etc.)

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 Delivery of Document for Delivery Prior to Conclusion of Contract)

Article 14 (1) In cases where any Financial Instruments Business Operator, etc.

intends to conclude any Contract for Financial Instruments Transaction on or after the enforcement date, and where 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 Contract for Financial Instruments Transaction 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) In cases where any Financial Instruments Business Operator, etc. intends to conclude any Contract for Financial Instruments Transaction on or after the enforcement date, and where 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 Contract for Financial Instruments Transaction 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 Prohibition of Provision of Non-Disclosure Information)

Article 17 The provisions of Article 153, paragraph (1), item (vii) do not apply for the time being to any person who 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 Securities and Exchange Act, and the Act on Arrangement of Relevant Acts Incidental to Enforcement of the Act on Partial Revision of 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 In cases where, 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 In cases where, 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, etc.)

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 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.