

# **Certified Public Accountants Act**

(Act No. 103 of July 6, 1948)

- Chapter I General Provisions (Article 1 - Article 4)
- Chapter II Certified Public Accountant Examination (Article 5 - Article 16-2)
- Chapter III Registration of Certified Public Accountant (Article 17 - Article 23)
- Chapter IV Obligations of Certified Public Accountants (Article 24 - Article 28-4)
- Chapter V Responsibility of Certified Public Accountants (Article 29 - Article 34-2)
  - Chapter V-2 Audit Corporations
    - Section 1 General Rules (Article 34-2-2 - Article 34-10)
    - Section 2 Partners (Article 34-10-2 - Article 34-10-17)
    - Section 3 Services (Article 34-11 - Article 34-14-3)
    - Section 4 Accounting Books (Article 34-15 - Article 34-16-3)
    - Section 5 Statutory Withdrawal (Article 34-17)
    - Section 6 Dissolution and Merger (Article 34-18 - Article 34-20-2)
    - Section 7 Dispositions (Article 34-21 - Article 34-21-2)
    - Section 8 Miscellaneous Provisions (Article 34-22 - Article 34-23)
  - Chapter V-3 Special Provisions on Registration of Limited Liability Audit Corporations (Article 34-24 - Article 34-34)
  - Chapter V-4 Foreign Audit Firm (Article 34-35 - Article 34-39)
  - Chapter V-5 Hearing Procedure (Article 34-40 - Article 34-66)
- Chapter VI Certified Public Accountants and Auditing Oversight Board (Article 35 - Article 42)
  - Chapter VI-2 Japanese Institute of Certified Public Accountants (Article 43 - Article 46-14)
- Chapter VII Miscellaneous Provisions (Article 47 - Article 49-6)
- Chapter VIII Penal Provisions (Article 50 - Article 55-4)

## **Chapter I General Provisions**

(Mission of Certified Public Accountants)

Article 1 The mission of certified public accountants, as professionals on auditing and accounting, is to ensure matters such as the fair business activities of companies, etc. and the protection of investors and creditors by ensuring the reliability of financial documents and any other information concerning finance from an independent standpoint, thereby contributing to the sound development of the national economy.

(Professional Responsibilities of Certified Public Accountants)

Article 1-2 A certified public accountant is to always maintain their dignity, endeavor to acquire knowledge and skills, and provide services with fairness and integrity from an independent standpoint.

(Definitions)

- Article 1-3 (1) The term "financial documents" as used in this Act means inventories of property, balance sheets, profit and loss statement, and other documents concerning finance (including the electronic or magnetic records (meaning records that are made in an electronic form, magnetic form, or any other form that cannot be perceived by human beings to be provided for use in information processing by computers and that are specified by Cabinet Office Order; the same applies hereinafter) in a case where electronic or magnetic records are created in lieu of these documents).
- (2) The term "to make public" as used in this Act means to give a public notice or to put matters in a state under which shareholders, creditors, and many other persons may be informed.
- (3) The term "audit corporation" as used in this Act means a corporation established under this Act for the purpose of systematically providing the services set forth in paragraph (1) of the following Article.
- (4) The term "limited liability audit corporation" as used in this Act means an audit corporation whose articles of incorporation provide that all of its partners are partners with limited liability.
- (5) The term "unlimited liability audit corporation" as used in this Act means an audit corporation whose articles of incorporation provide that all of its partners are partners with unlimited liability.
- (6) The term "specified partner" as used in this Act means a partner of an audit corporation who is neither a certified public accountant nor a foreign certified public accountant (meaning a foreign certified public accountant as prescribed in Article 16-2 (5)).
- (7) The term "foreign audit firm, etc." as used in this Act means a person who has given a notification under the provisions of Article 34-35, paragraph (1).

(Services of Certified Public Accountants)

- Article 2 (1) A certified public accountant is to make it their practice to audit or attest financial documents for fees at the request of others.
- (2) Beyond the services prescribed in the preceding paragraph, a certified public accountant may make it their practice to compile financial documents, to examine or plan financial matters, or to be consulted on financial matters for fees at the request of others, using the title of "公認会計士"(pronounced "kounin

kaikeishi " and with the literal meaning "certified public accountant"); provided, however, that this does not apply to matters for which the provision of the services are restricted by other laws.

- (3) The provisions of paragraph (1) does not preclude a certified public accountant from engaging in the services set forth in the same paragraph as an assistant to another certified public accountant or an audit corporation.

(Qualification of Certified Public Accountants)

Article 3 A person who has passed the certified public accountant examination (including a person who has been exempted from short-answer examinations and essay examinations, pursuant to the provisions of Articles 9 and 10, regarding all the examination subjects of the short-answer examinations and essay examinations prescribed in Article 8 in the same session of a certified public accountant examination; the same applies hereinafter except in Article 12) who has interned for two years or more as prescribed in Article 15, paragraph (1) and has completed the professional accountancy education program as prescribed in Article 16, paragraph (1) and received the confirmation from the Prime Minister under the provisions of paragraph (7) of the same Article is qualified to become a certified public accountant.

(Disqualification Clause)

Article 4 A person who falls under any of the following items may not become a certified public accountant:

- (i) a minor, an adult ward or a person under curatorship;
- (ii) a person who has violated this Act or the provisions of Articles 197 to 198 inclusive of the Financial Instruments and Exchange Act (Act No. 25 of 1948) or who has committed a crime set forth in Article 233, paragraph (1) (limited to the portion pertaining to item (iii)) of the Act on Securities Investment Trust and Securities Investment Corporations (Act No. 198 of 1951), a crime set forth in Article 328, paragraph (1) (limited to the portion pertaining to item (iii)) of the Insurance Business Act (Act No. 105 of 1995), a crime set forth in Article 308, paragraph (1) (limited to the portion pertaining to item (iii)) of the Act on Securitization of Assets (Act No. 105 of 1998) or a crime set forth in Article 967, paragraph (1) (limited to the portion pertaining to item (iii)) of the Companies Act (Act No. 86 of 2005), who has been sentenced to imprisonment without work or a severer punishment and for whom five years have yet to elapse from the time when execution of the sentence was completed or the sentence ceased to be executed;
- (iii) a person who has been sentenced to imprisonment without work or a severer punishment and for whom three years have yet to elapse from the time when execution of the sentence was completed or the sentence ceased to

- be executed;
- (iv) a bankrupt whose rights have yet to be restored;
  - (v) a person who has received a disposition of dismissal by disciplinary action pursuant to the provisions of the National Public Officers Act (Act No. 120 of 1947), the Diet Secretariats Personnel Act (Act No. 85 of 1947) or the Local Public Officers Act (Act No. 261 of 1950) and for whom three years have yet to elapse from the date of the relevant disposition;
  - (vi) a person who has received a disposition of deletion of registration pursuant to the provisions of Article 30 or Article 31 and for whom five years have yet to elapse from the date of the relevant disposition;
  - (vii) a person who has received a disposition of suspension of services pursuant to the provisions of Article 30 or 31 and whose registration has been deleted during the period of the relevant suspension of services, and for whom the relevant period has yet to elapse;
  - (viii) a person who has received a disposition of deletion of registration as a specified partner pursuant to the provisions of Article 34-10-17, paragraph (2) and for whom five years have yet to elapse from the date of the relevant disposition;
  - (ix) a person who has, pursuant to the provisions of Article 34-10-17, paragraph (2), received a disposition of prohibition from executing the services of an audit corporation listed in the items of Article 34-5, participating in the decision-making of an audit corporation, or engaging in the services of an audit corporation as an assistant, and for whom the period of the relevant prohibition has yet to elapse;
  - (x) a person who has received a disposition of prohibition of services or expulsion pursuant to the provisions of the Licensed Tax Accountants Act (Act No. 237 of 1951), the Lawyers Act (Act No. 205 of 1949), the Act on Special Measures concerning the Practice of Law by Foreign Lawyers (Act No. 66 of 1986), or the Patent Attorneys Act (Act No. 49 of 2000), excluding a person who has become able to engage in the services again under these Acts.

## **Chapter II Certified Public Accountant Examination**

(Purpose and Method of Certified Public Accountant Examination)

Article 5 The purpose of the certified public accountant examination is to judge whether a person has the necessary knowledge and applied skills to become a certified public accountant, and the examination is conducted in writing based on the short-answer method (including the multiple-choice method; hereinafter the same applies in Articles 8 and 9) and the essay method in accordance with the provisions of Article 8.

Article 6 and Article 7 Deleted.

(Examination Subjects of the Certified Public Accountant Examination)

Article 8 (1) The short-answer examinations are conducted on the following subjects:

- (i) financial accounting (meaning bookkeeping, financial statement accounting, and any other subjects in the fields specified by Cabinet Office Order; the same applies hereinafter);
- (ii) management accounting (meaning cost accounting and any other subjects in the fields specified by Cabinet Office Order; the same applies hereinafter);
- (iii) auditing;
- (iv) business law (meaning the Companies Act and any other subjects in the fields specified by Cabinet Office Order; the same applies hereinafter).

(2) The essay examinations are conducted for a person who has passed the short-answer examinations or who has been exempted from short-answer examinations pursuant to the provisions of the following Article (including a person who has been exempted from the tests for all of the examination subjects) on the following subjects:

- (i) accounting (meaning financial accounting and management accounting; the same applies hereinafter);
- (ii) auditing;
- (iii) business law;
- (iv) tax law (including the Corporation Tax Act and any other subjects in the fields specified by Cabinet Office Order; the same applies hereinafter);
- (v) One of the following subjects that has been selected by the examinee beforehand:
  - (a) business administration;
  - (b) economics;
  - (c) the Civil Code;
  - (d) statistics.

(3) With regard to the examination subjects prescribed in the preceding two paragraphs, the scope covered by the examination may be specified for all or part of them pursuant to the provisions of a Cabinet Office Order.

(4) In the certified public accountant examination, consideration is given to judging the matters as practical abilities to think and judge instead of focusing excessively on the judgment of whether the examinee has the relevant knowledge, in order to make an appropriate judgment as to whether the examinee has the necessary knowledge and applied skills for a person qualified to become a certified public accountant.

(Partial Exemption from the Short-Answer Examination Subjects)

Article 9 (1) A person who falls under any of the following items, upon application, is exempted from the short-answer examinations:

- (i) a person who has or had held the post of professor or associate professor of a subject in the category of commercial science for three or more years at a university or college of technology under the School Education Act (Act No. 26 of 1947), a university under the former University Order (Imperial Order No. 388 of 1918) (including the preparatory course; the same applies hereinafter), the senior course of a high school under the former High School Order (Imperial Order No. 389 of 1918), or a vocational training school under the former Vocational Training School Order (Imperial Order No. 61 of 1903), or a person who has been conferred with a doctoral degree based on research on a subject in the category of commercial science;
  - (ii) a person who has or had held the post of professor or associate professor of a subject in the category of jurisprudence for three or more years at a university or college of technology under the School Education Act, a university under the former University Order, the senior course of a high school under the former High School Order, or a vocational training school under the former Vocational Training School Order, or a person who has been conferred with a doctoral degree based on research on a subject in the category of jurisprudence;
  - (iii) a person who has passed the high civil service examination;
  - (iv) a person who has passed the bar examination.
- (2) Beyond those specified under the items of the preceding paragraph, a person who falls under any of the following items, upon application, is exempted from the short-answer examinations on the subjects respectively prescribed in those items:
- (i) a person who is qualified to become a licensed tax accountant pursuant to the provisions of Article 3, paragraph (1), item (i) or (ii) of the Licensed Tax Accountants Act, or a person who has gained scores higher than the standards specified by Cabinet Order as prescribed in Article 7, paragraph (1) of the same Act in two subjects, bookkeeping and financial statement accounting, from among the examination subjects of the tax accountant examination (including a person who is deemed to have gained scores higher than the standards specified by Cabinet Order as prescribed in paragraph (1) of the same Article pursuant to the provisions of the same Article)--Financial accounting;
  - (ii) a person who has been conferred with a degree which is specified by the Minister of Education, Culture, Sports, Science and Technology as prescribed in Article 104 (3) of the School Education Act and which is specified by Cabinet Office Order based on research on a subject in the category of commercial science or another subject specified by Cabinet Office Order--

- Subject specified by Cabinet Order;
- (iii) a person who is categorized by Cabinet Order as the one whose period of having engaged in affairs or services related to all or part of the subjects listed in the items of paragraph (1) of the preceding Article totals seven years or more--Subject specified by Cabinet Order.
- (3) A person who has passed the short-answer examinations, upon application, is exempted from any short-answer examinations conducted by the day on which two years have elapsed from the date of the announcement of the results pertaining to the relevant short-answer examinations.
- (4) The procedures for the application set forth in the preceding three paragraphs are specified by Cabinet Office Order.

(Partial Exemption from the Essay Examination Subjects)

- Article 10 (1) A person who falls under any of the following items, upon application, is exempted from the essay examinations on the subjects respectively prescribed in those items:
- (i) a person set forth in item (i), paragraph (1) of the preceding Article--accounting and business administration;
- (ii) a person set forth in item (ii) or (iv), paragraph (1) of the preceding Article--business law and the Civil Code;
- (iii) a person set forth in item (iii), paragraph (1) of the preceding Article--subjects on which tests have been taken in the high civil service examination (business law in the case where the relevant subject was the Commercial Code);
- (iv) a person who has or had held the post of professor or associate professor of a subject in the category of economics for three or more years at a university or college of technology under the School Education Act, a university under the former University Order, the senior course of a high school under the former High School Order, or a vocational training school under the former Vocational Training School Order, or a person who has been conferred with a doctoral degree based on research on a subject in the category of economics—economics ;
- (v) a person who has passed the real estate appraisers examination--economics or the Civil Code;
- (vi) a person who is qualified to become a licensed tax accountant pursuant to the provisions of Article 3, paragraph (1), item (i) or (ii) of the Licensed Tax Accountants Law--tax laws;
- (vii) a person who is categorized by Cabinet Order as the one who has the necessary knowledge and applied skills for a person qualified to become a certified public accountant for all or part of the subjects listed in the items of Article 8, paragraph (2)--subjects specified by Cabinet Order.

- (2) A person who has, in the essay examinations, gained scores that are found to be reasonable by the Certified Public Accountants and Auditing Oversight Board with regard to part of the examination subjects, upon application, are exempted from any essay examinations on the relevant subjects conducted by the day on which two years have elapsed from the date of the announcement of the results pertaining to the relevant essay examinations.
- (3) The procedures for the application set forth in the preceding two paragraphs are specified by Cabinet Office Order.

(Examination Fee)

- Article 11 (1) A person who intends to take the certified public accountant examination must pay an examination fee of the amount specified by Cabinet Order which takes the actual costs into consideration.
- (2) The examination fee that has been paid pursuant to the provisions of the preceding paragraph must not be refunded in a case where the examinee failed to take the certified public accountant examination.

(Passing Certificate)

Article 12 A person who has passed the certified public accountant examination is awarded a certificate proving that the person has passed the relevant examination.

(Conduct of Examination)

- Article 13 (1) The certified public accountant examination is conducted by the Certified Public Accountants and Auditing Oversight Board.
- (2) The certified public accountant examination is conducted at least once every year.

(Revoking a Passing Grade on an Examination)

- Article 13-2 (1) The Certified Public Accountants and Auditing Oversight Board may revoke a passing grade on an examination or prohibit taking an examination against a person who has taken or has intended to take the certified public accountant examination by fraudulent means.
- (2) The Certified Public Accountants and Auditing Oversight Board may ban a person who has received a disposition under the provisions of the preceding paragraph from taking the certified public accountant examination with specifying a period of not more than three years, depending on the circumstances.

(Details of Examination)

Article 14 Beyond what is provided for in this Act, necessary matters concerning

the certified public accountant examination is specified by Cabinet Office Order.

(Internship)

Article 15 (1) The period of internship, etc. is a total of the following periods regardless of whether the periods are before or after passing the certified public accountant examination:

- (i) the period during which the person assisted a certified public accountant or an audit corporation with regard to the services set forth in Article 2, paragraph (1);
  - (ii) the period during which the person engaged in auditing, analysis or any other practice related to finance that is specified by Cabinet Order.
- (2) Beyond what is provided for in this Act, necessary matters concerning the internship, etc. are specified by Cabinet Office Order.

(Professional Accountancy Education Program)

Article 16 (1) Professional accountancy education program is provided by a body consisting of certified public accountants or any other institution certified by the Prime Minister (hereinafter referred to as a "professional accountancy education program body, etc." in this Article) for a person who has passed the certified public accountant examination, in order to have that person acquire the necessary skills to become a certified public accountant.

- (2) A person who intends to apply for the certification set forth in the preceding paragraph must submit to the Prime Minister a written application stating the matters specified by Cabinet Office Order with attached documents specified by Cabinet Office Order.
- (3) The Prime Minister, when there has been an application for the certification set forth in the preceding paragraph and if the minister finds that the contents, method and any other matters concerning the practical training conform to the standards specified by Cabinet Office Order, grants certification therefor.
- (4) If the Prime Minister finds the contents, method or any other matters concerning the professional accountancy education program to be provided by a professional accountancy education program body, etc. inappropriate in light of the standards specified by Cabinet Office Order as prescribed in the preceding paragraph, the minister may give the necessary instructions to the relevant professional accountancy education program body, etc.
- (5) If the Prime Minister finds that a professional accountancy education program body, etc. no longer conforms to the standards specified by Cabinet Office Order as prescribed in paragraph (3) or if the professional accountancy education program body, etc. fails to follow the instruction under the provisions of the preceding paragraph, or if an application for the rescission of

certification as a professional accountancy education program body, etc. has been filed by the relevant professional accountancy education program body, etc., the minister may rescind the certification set forth in paragraph (1).

- (6) A professional accountancy education program body, etc., when a person who has passed the certified public accountant examination and is receiving professional accountancy education program at the relevant professional accountancy education program body, etc. (hereinafter referred to as a "trainee" in the following paragraph) has finished the entire course of the professional accountancy education program, must report the status of the relevant professional accountancy education program to the Prime Minister in writing pursuant to the provisions of a Cabinet Office Order without delay.
- (7) If the Prime Minister finds that the trainee has completed the entire course of the professional accountancy education program based on the report under the provisions of the preceding paragraph, the minister must confirm that the relevant trainee has completed the professional accountancy education program.
- (8) Beyond what is provided for in this Act, necessary matters concerning professional accountancy education program are specified by Cabinet Office Order.

(Special Provisions for Those Qualified in Foreign Jurisdictions)

- Article 16-2 (1) A person who has a qualification equivalent to the qualification of a certified public accountant in a foreign state and has a reasonable knowledge of Japanese laws and regulations concerning accounting may provide the services prescribed in Article 2 after obtaining approval of the qualification from the Prime Minister and being registered on the foreign certified public accountants roster by the Japanese Institute of Certified Public Accountants; provided, however, that this does not apply to a person who falls under any of the items of Article 4.
- (2) The Prime Minister, when granting the approval of the qualification set forth in the preceding paragraph, is to have the Certified Public Accountants and Auditing Oversight Board conduct an examination or screening pursuant to the provisions of a Cabinet Office Order.
  - (3) A person who intends to take the examination or screening set forth in the preceding paragraph must pay a fee of the amount specified by Cabinet Order by taking the actual cost into consideration.
  - (4) The fee that has been paid pursuant to the provisions of the preceding paragraph is not to be refunded in a case when the person failed to take the examination or screening set forth in paragraph (2).
  - (5) If a person who has obtained the registration set forth in paragraph (1) (hereinafter referred to as a "foreign certified public accountant") falls under

any of the following items, the Japanese Institute of Certified Public Accountants must delete the registration set forth in the same paragraph:

- (i) when the person falls under any of the items of Article 21, paragraph (1);
- (ii) when the person has lost the qualification equivalent to the qualification of a certified public accountant in the foreign state.

(6) The provisions of Articles 18-2 through 20, Article 22, Articles 24 through 34-2, and Article 49 apply mutatis mutandis to foreign certified public accountants.

### **Chapter III Registration of Certified Public Accountant**

(Obligation for Registration)

Article 17 A person who is qualified to become a certified public accountant must have their name, date of birth, office and other matters specified by Cabinet Office Order registered on the certified public accountants roster (hereinafter simply referred to as "registration" in this Chapter) in order to become a certified public accountant.

(Roster)

Article 18 The certified public accountants roster and the foreign certified public accountants roster is kept at the Japanese Institute of Certified Public Accountants.

(Grounds for Refusal of Registration)

Article 18-2 A person who falls under any of the following items may not obtain registration as a certified public accountant:

- (i) a person who has been suspended through disciplinary action from providing services as a licensed tax accountant, lawyer, foreign lawyer registered in Japan, or patent attorney, and is currently subject to that suspension;
- (ii) a person who is likely to be inappropriate for providing services as a certified public accountant due to mental or physical disorder or a person who is likely to harm the creditability of certified public accountants.

(Procedures for Registration)

Article 19 (1) A person who intends to obtain registration must submit a written application for registration to the Japanese Institute of Certified Public Accountants.

(2) The written application for registration set forth in the preceding paragraph must attach a document proving that the applicant is qualified to become a certified public accountant.

(3) The Japanese Institute of Certified Public Accountants, in a case where a

written application for registration has been submitted pursuant to the provisions of paragraph (1) and if it finds the person seeking registration to be a person who can become a certified public accountant and who can obtain registration, is to carry out the registration without delay, and if it finds the person seeking registration to be a person who cannot become a certified public accountant or who cannot obtain registration, must refuse the registration based on a resolution of the qualification screening board (meaning the qualification screening board prescribed in Article 46-11; the same applies in Article 21, paragraph (2), Article 34-10-11, paragraph (2) and Article 34-10-14, paragraph (2)).

- (4) The Japanese Institute of Certified Public Accountants, when refusing registration pursuant to the provisions of the preceding paragraph, must notify the applicant to that effect in writing that states the reason therefor.

(Request for Investigation in a Case Where Registration Has Been Refused)

Article 19-2 (1) A person for whom registration has been refused pursuant to the provisions of paragraph (3) of the preceding Article, where the person is dissatisfied with the relevant disposition, may make a request for administrative review to the Prime Minister.

- (2) A person who has submitted a written application for registration pursuant to the provisions of paragraph (1) of the preceding Article, when no disposition has been given for the relevant application after the lapse of three months from the date of submission of the relevant written application, may deem that the registration has been refused and make a request for administrative review set forth in the preceding paragraph to the Prime Minister.

- (3) In the case referred to in the preceding two paragraphs, with regard to the application of the provisions of Article 25, paragraphs (2) and (3), and Article 46, paragraph (2) of the Administrative Complaint Investigation Act (Act No. 68 of 2014), the Prime Minister is deemed to be a higher administrative authority to the Japan Institute of Certified Public Accountants.

(Change of Registration)

Article 20 When there has been any change in the matters registered, a certified public accountant must immediately file an application for registration of such a change.

(Deletion of Registration)

Article 21 (1) In a case falling under any of the following items, the Japanese Institute of Certified Public Accountants must delete the registration of the certified public accountant:

- (i) when a certified public accountant has discontinued their services;

- (ii) when a certified public accountant has died;
  - (iii) when a certified public accountant has fallen under any of the items of Article 4;
  - (iv) when a certified public accountant is likely to be inappropriate for providing services as a certified public accountant due to mental or physical disorder.
- (2) The Japanese Institute of Certified Public Accountants, when deleting registration pursuant to the provisions of item (iv) of the preceding paragraph, must delete the registration based on a resolution of the qualification screening board.
- (3) The provisions of Article 19, paragraph (4) and Article 19-2, paragraphs (1) and (3) apply mutatis mutandis to the deletion of registration under the provisions of paragraph (1), item (iv). In this case, the term "Article 46, paragraph (2)" in paragraph (3) of the same Article is deemed to be replaced with "Article 46, paragraph (1)."

(Public Notice of Registration and Deletion of Registration)

Article 21-2 The Japanese Institute of Certified Public Accountants, when it has registered a certified public accountant or a foreign certified public accountant and has deleted the relevant registration, must give public notice to that effect in the official gazette without delay.

(Restrictions on Deletion of Registration)

Article 21-3 The Japanese Institute of Certified Public Accountants may not, when a certified public accountant or foreign certified public accountant has been placed under a procedure of disciplinary action, delete the registration of the relevant certified public accountant or foreign certified public accountant under the provisions of Article 21, paragraph (1), item (i) or Article 16-2, paragraph (5), item (i) (limited to the case pertaining to the provisions of Article 21, paragraph (1), item (i)) until the relevant procedure has been completed

(Details of Registration)

Article 22 Beyond what is provided for in this Chapter, the registration procedure, deletion of registration, certified public accountants roster, and other necessary matters concerning registration is specified by Cabinet Office Order.

Article 23 Deleted.

## **Chapter IV Obligations of Certified Public Accountants**

(Restrictions on Services Concerning Specified Matters)

Article 24 (1) A certified public accountant must not provide the services set forth in Article 2, paragraph (1) concerning financial documents that fall under any of the following items:

- (i) the financial documents of a company or any other person in a case where the certified public accountant or their spouse is or was within the past one year an officer, a person in an equivalent position or a responsible member in charge of any financial affairs of the relevant company or person;
  - (ii) the financial documents of a company or any other person in a case where the certified public accountant is or was within the past one year an employee of the relevant company or person;
  - (iii) beyond what is provided for in the preceding two items, the financial documents of a company or any other person in a case where the certified public accountant has a substantial interest in the relevant company or person.
- (2) The substantial interest set forth in item (iii) of the preceding paragraph means a relationship concerning business, accounting or other matters between a certified public accountant or their spouse and a company or any other person, which is categorized by Cabinet Order as one for which a restriction of services is necessary and appropriate in order to ensure fairness in the services set forth in Article 2, paragraph (1) provided by the certified public accountant.
- (3) A national public employee or local public employee or a person who has been in such a position must not provide, during their tenure of office nor during the two years after retirement, the services set forth in Article 2, paragraph (1) concerning the finance of a profit-making company closely related to the duties of the office which is or was held during the two years preceding retirement.

(Special Provisions on Restriction of Services Pertaining to Large Companies)

Article 24-2 When a certified public accountant, their spouse, or a corporation or any other body having a relationship that is categorized by Cabinet Office Order as one that is found to be substantially controlled by the relevant certified public accountant or their spouse continuously receives fees for the services set forth in Article 2, paragraph (2) (limited to those specified by Cabinet Office Order) from a person who falls under any of the following items (hereinafter referred to as a "large company, etc."), the certified public accountant must not provide the services set forth in paragraph (1) of the same Article concerning the financial documents of the relevant large company, etc.:

- (i) a company with accounting auditors (excluding one specified by Cabinet Order by taking into consideration the amount of stated capital, the total amount of the liabilities reported on the balance sheet pertaining to the most

- recent business year, and any other matters);
- (ii) a person who needs to receive audit attestation pursuant to the provisions of Article 193-2, paragraph (1) or (2) of the Financial Instruments and Exchange Act (excluding one specified by Cabinet Order);
  - (iii) a bank prescribed in Article 2, paragraph (1) of the Banking Act (Act No. 59 of 1981);
  - (iv) a long-term credit bank prescribed in Article 2 of the Long-Term Credit Bank Act (Act No. 187 of 1952);
  - (v) an insurance company prescribed in Article 2, paragraph (2) of the Insurance Business Act;
  - (vi) a person categorized by Cabinet Order as one equivalent to any of those listed in the preceding items.

Article 24-3 (1) If a certified public accountant has provided audit-related services concerning financial documents pertaining to all accounting periods (business years or other periods equivalent thereto; the same applies hereinafter) of consecutive accounting periods as specified by Cabinet Order (in the case of accounting periods as categorized by Cabinet Office Order as those equivalent to the relevant consecutive accounting periods, the relevant accounting periods; hereinafter referred to as the "consecutive accounting periods") not exceeding seven accounting periods of a large company, etc., the certified public accountant is not to provide audit-related services concerning the financial documents of the relevant large company, etc. pertaining to an accounting period specified by Cabinet Order which comes in or after the accounting period following the relevant consecutive accounting periods; provided, however, that this does not apply when an unavoidable circumstance as specified by Cabinet Office Order is found for the provision of audit-related services by the relevant certified public accountant (excluding one who is a partner of an audit corporation) concerning the financial documents of the relevant large company, etc. in or after the accounting period following the relevant consecutive accounting periods and where the approval of the Prime Minister has been gained for each accounting period pursuant to the provisions of a Cabinet Office Order.

(2) If a certified public accountant has provided audit-related services concerning the financial documents of a person who intends to list the securities the person issues in a financial instruments exchange (meaning a financial instruments exchange prescribed in Article 2, paragraph (16) of the Financial Instruments and Exchange Act; the same applies hereinafter) or any other person specified by Cabinet Order (excluding a large company, etc.) pertaining to the accounting period specified by Cabinet Office Order not exceeding three accounting periods preceding the accounting period that includes the day on

which the relevant securities issued by this person are to be listed or includes any other date specified by Cabinet Order, the provisions of the preceding paragraph applies by deeming this person to be a large company, etc. In this case, the term "certified public accountant" in the same paragraph is deemed to be replaced with "certified public accountant who has provided the audit-related services set forth in the following paragraph."

- (3) The audit-related services set forth in paragraph (1) (including the case where it is applied by replacing the terms pursuant to the provisions of the preceding paragraph) and the preceding paragraph means the services set forth in Article 2, paragraph (1), participation in the services set forth in the same paragraph that are provided by an audit corporation as a partner of the relevant audit corporation, and services that are categorized by Cabinet Office Order as equivalent services.

Article 24-4 A certified public accountant, when providing the services set forth in Article 2, paragraph (1) concerning the financial documents of a large company, etc., must provide the services jointly with another certified public accountant or audit corporation or by employing another certified public accountant as an assistant; provided, however, that this does not apply when there is an unavoidable circumstance as specified by Cabinet Office Order regarding the failure to work jointly with another certified public accountant or audit corporation or the failure to employ another certified public accountant as an assistant.

(Clear Indication of Scope of Attestation and of Interest of the Attestant)

Article 25 (1) A certified public accountant, when attesting the financial documents of a company or any other person, must clearly indicate the scope of the documents to be attested.

- (2) A certified public accountant, when attesting the financial documents of a company or any other person, must clearly indicate in the certificate whether or not the person has any interest in the relevant company or person, and if the person does have an interest, the details of the interest and any other matters specified by Cabinet Office Order.

(Prohibition of Discreditable Acts)

Article 26 A certified public accountant must not commit any act which will injure the credibility of certified public accountants or which will disgrace certified public accountants as a whole.

(Obligation to Observe Secrecy)

Article 27 A certified public accountant is not to, without justifiable grounds,

divulge to others or misappropriate any secrets that the accountant has learned concerning the matters handled in their services. The same applies after the person ceases to be a certified public accountant.

(Continuing Professional Education)

Article 28 A certified public accountant, pursuant to the provisions of a Cabinet Office Order, is to receive the continuing professional education aimed at improving competency that is provided by the Japanese Institute of Certified Public Accountants.

(Restriction on Employment of Certified Public Accountants)

Article 28-2 When a certified public accountant has provided the services set forth in Article 2, paragraph (1) concerning the financial documents of a company or any other person, the relevant certified public accountant (including a person who was formerly a certified public accountant) may not become an officer for nor take an equivalent position with the relevant company or person nor a consolidated company, etc. thereof (meaning a person categorized by Cabinet Office Order as one who prepares financial documents on a consolidated basis with the relevant company or person; hereinafter the same applies in this Article and Article 34-11, paragraph (1), item (iii)) until the day on which the accounting period following that pertaining to the relevant financial documents ends; provided, however, that this does not apply if the approval of the Prime Minister has been obtained in a case where unavoidable circumstances are found regarding becoming an officer of or taking an equivalent position with the relevant company or person or a consolidated company, etc. thereof or in any other case specified by Cabinet Office Order.

(Obligation to Supervise Employees)

Article 28-3 A certified public accountant, when employing an employee or any other worker to provide the services set forth in Article 2, paragraph (1) or (2), must supervise the relevant employee or worker in order to implement the relevant services appropriately.

(Public Inspection of Explanatory Documents Concerning the Status of Operations)

Article 28-4 (1) A certified public accountant, in each business year (meaning every year from April 1 through March 31 of the following year, and limited to the year in which the services set forth in Article 2, paragraph (1) have been provided concerning the financial documents of a large company, etc.), must prepare explanatory documents containing matters categorized by Cabinet Office Order as those concerning the status of operations, keep them at the

office of the relevant certified public accountant and make them available for public inspection.

- (2) The explanatory documents prescribed in the preceding paragraph may be prepared in the form of electronic or magnetic records.
- (3) When the explanatory documents prescribed in paragraph (1) have been prepared in the form of electronic or magnetic records, a certified public accountant may take a measure categorized by Cabinet Office Order as one for making available information on the contents of the relevant explanatory documents to unspecified and large number of persons by electronic or magnetic means (meaning a method that uses an electronic data processing system and is specified by Cabinet Office Order; the same applies hereinafter) at the office of the certified public accountant. In this case, the explanatory documents set forth in the same paragraph is deemed to have been kept and made available for public inspection pursuant to the provisions of the same paragraph.
- (4) Beyond what is provided for in the preceding three paragraphs, the period during which the explanatory documents prescribed in paragraph (1) is provided for public inspection and other necessary matters concerning the application of the provisions of the preceding three paragraphs are specified by Cabinet Office Order.

## **Chapter V Responsibility of Certified Public Accountants**

(Types of Disciplinary Action)

Article 29 Disciplinary actions for certified public accountants are of the following three types:

- (i) admonition;
- (ii) suspension of services for not more than two years;
- (iii) deletion of registration.

(Disciplinary Action for Misstatements or Unjust Attestation)

Article 30 (1) If a certified public accountant has intentionally attested financial documents containing misstatements, errors or omissions as if they contained no misstatements, errors or omissions, the Prime Minister may issue a disciplinary action set forth in item (ii) or (iii) of the preceding Article.

(2) If a certified public accountant has, in negligence of due care, attested financial documents containing material misstatements, errors or omissions as if they contained no misstatements, errors or omissions, the Prime Minister may issue a disciplinary action set forth in item (i) or (ii) of the preceding Article.

(3) When an audit corporation has attested financial documents containing

misstatements, errors or omissions as if they contained no misstatements, errors or omissions, and the certified public accountant who executed the services pertaining to the relevant attestation has committed the act intentionally or with negligence of due care, the provisions of the preceding two paragraphs applies mutatis mutandis to the relevant certified public accountant.

(General Disciplinary Action)

Article 31 (1) If a certified public accountant has violated this Act or an order based on this Act or has failed to follow an instruction under the provisions of Article 34-2, the Prime Minister may issue any of the disciplinary actions listed in the items of Article 29.

(2) If a certified public accountant has executed their services in a manner that is found to be grossly inappropriate, the Prime Minister may issue a disciplinary action set forth in Article 29, item (i) or (ii).

(Order for Payment of Surcharge)

Article 31-2 (1) If a certified public accountant has attested financial documents of a company or any other person, and a fact corresponding to the case prescribed in Article 30 (1) or (2) exists, the Prime Minister must order the relevant certified public accountant to pay a surcharge of the amount specified in each of the following items for the category of cases respectively set forth therein to the Treasury in accordance with the procedure prescribed in Articles 34-40 through 34-62:

(i) when a fact corresponding to the case prescribed in Article 30, paragraph (1) exists with regard to the relevant attestation -- An amount corresponding to one point five times the amount of fees or any other amount specified by Cabinet Order as a consideration (referred to as an "amount corresponding to audit fees" in the following item) that has been received during the accounting period pertaining to the financial documents of the relevant company or person receiving the relevant attestation

(ii) when a fact corresponding to the case prescribed in Article 30, paragraph (2) exists with regard to the relevant attestation -- An amount corresponding to audit fees

(2) Notwithstanding the provisions of the preceding paragraph, the Prime Minister, in the following cases, may refrain from ordering the certified public accountant set forth in the same paragraph to pay a surcharge set forth in the same paragraph:

(i) when a fact corresponding to the case prescribed in Article 30, paragraph (1) exists, and an action set forth in the same paragraph is to be issued against the relevant certified public accountant (limited to a case categorized by

Cabinet Office Order as one where the misstatements, errors or omissions pertaining to the financial documents set forth in the same paragraph are found to have a relatively slight impact on the credibility of the relevant financial documents as a whole)

- (ii) when a fact corresponding to the case prescribed in Article 30, paragraph (2) exists, if an action set forth in the same paragraph is to be issued against the relevant certified public accountant (excluding a case categorized by Cabinet Office Order as one where there was negligence of due care of a similar degree as set forth in the same paragraph)
  - (iii) when an action set forth in Article 29, item (ii) is to be issued against the relevant certified public accountant (limited to the case of ordering the suspension of services that are categorized by Cabinet Office Order as those set forth in Article 2, paragraph (1) that are provided based on a contract already concluded between the certified public accountant and the audit client company, etc. prescribed in Article 34-10-4, paragraph (4))
  - (iv) when an action set forth in Article 29, item (iii) is to be issued against the relevant certified public accountant
- (3) When the amount of surcharge calculated pursuant to the provisions of paragraph (1) is less than ten thousand yen, payment of the surcharge may not be ordered.
- (4) When the amount of surcharge calculated pursuant to the provisions of paragraph (1) includes an odd amount of less than ten thousand yen, such odd amount is omitted.
- (5) A person who has received an order under the provisions of paragraph (1) must pay the surcharge under the provisions of the same paragraph.

(Procedures for Disposition)

Article 32 (1) Any person may, if they considers that a fact corresponding to the case prescribed in Article 30 or 31 exists with regard to a certified public accountant, report the fact to the Prime Minister and request that a proper measure be taken.

- (2) When a report prescribed in the preceding paragraph has been made, the Prime Minister must carry out the necessary investigation concerning the case.
- (3) If the Prime Minister considers that a fact corresponding to the case prescribed in Article 30 or 31 exists with regard to a certified public accountant, the minister may carry out the necessary investigation *ex officio*.
- (4) When the Prime Minister intends to issue a disciplinary action set forth in Article 29 (i) or (ii) pursuant to the provisions of Article 30 or 31, the minister must hold a hearing regardless of the categories of procedures for hearing statements of opinion under the provisions of Article 13, paragraph (1) of the Administrative Procedure Act (Act No. 88 of 1993).

(5) A disciplinary action under the provisions of Article 30 or 31 must be taken when a fact corresponding to the case prescribed in Article 30 or 31 has been found to exist based on reasonable evidence after holding a hearing and after hearing the opinion of the Certified Public Accountants and Auditing Oversight Board; provided, however, that when the disciplinary action is one based on a recommendation under the provisions of Article 41-2, it is not necessary to hear the opinion of the Certified Public Accountants and Auditing Oversight Board.

(Authority for Investigation)

Article 33 (1) For the purpose of carrying out the necessary investigation concerning a case pursuant to the provisions of paragraph (2) (including the case where it is applied mutatis mutandis pursuant to Article 46-10, paragraph (2)) or (3) of the preceding Article, the Prime Minister may have the relevant officials in charge take any of the following actions:

(i) to order the persons concerned in the case or witnesses to appear and carry out a hearing or to collect opinions or reports from those persons;

(ii) to order an expert witness to appear and have them provide an expert opinion;

(iii) to order the owner of books, documents or any other objects to produce the relevant objects or to take custody of the objects produced;

(iv) to enter offices or any other places related to the case and inspect books, documents, and any other objects related to the case.

(2) A witness or expert witness who has been ordered to appear or provide an expert opinion pursuant to the provisions of the preceding paragraph may claim travel expenses, daily allowances, and any other expenses pursuant to the provisions of a Cabinet Order.

(Preparation and Disclosure of Protocols and Public Notice of Disciplinary Action)

Article 34 (1) When the Prime Minister has carried out the necessary investigation concerning a case, describe the gist thereof in a protocol and, if action prescribed in the preceding paragraph has been taken, the minister must clarify the result thereof.

(2) Any interested person may request inspection of the protocol set forth in the preceding paragraph or may request the delivery of a copy or extract thereof by paying the actual cost pursuant to the provisions of a Cabinet Office Order; provided, however, that no person other than the relevant certified public accountant or their agent, may request inspection of the protocol set forth in the preceding paragraph or request delivery of a copy or extract thereof until after disciplinary action or a decision under the provisions of Article 34-53,

paragraphs (1) through (3) has been issued or a decision not to instigate disciplinary action or issue a decision under the provisions of paragraph (6) of the same paragraph has been rendered for the case.

- (3) When the Prime Minister has issued disciplinary action pursuant to the provisions of Article 30 or 31, the minister must give public notice to that effect.

(Instruction)

Article 34-2 When a certified public accountant has violated this Act or an order based on this Act, or when the services set forth in Article 2, paragraph (1) provided by a certified public accountant are found to be grossly inappropriate and it is found necessary for ensuring a fair operation of the services set forth in the same paragraph provided by the relevant certified public accountant, the Prime Minister may give the necessary instruction to the relevant certified public accountant.

## **Chapter V-2 Audit Corporations**

### **Section 1 General Rules**

(Incorporation)

Article 34-2-2 (1) A certified public accountant (including a foreign certified public accountant; hereinafter the same applies in this Chapter, the following Chapter and Chapter VI-2) may incorporate an audit corporation pursuant to the provisions of this Chapter.

- (2) The provisions of Articles 1 and 1-2 apply mutatis mutandis to audit corporations.

(Name)

Article 34-3 (1) An audit corporation must use the characters "監査法人" (pronounced "kansa-houjin", and with a literal meaning of "audit corporation" ) in its name.

- (2) A limited liability audit corporation must use in its name words categorized by Cabinet Office Order as one indicating that all of the partners are partners with limited liability.

(Partners)

Article 34-4 (1) Every partner of an audit corporation must be a certified public accountant or a person who has obtained the registration set forth in Article 34-10-8.

- (2) None of the following persons may become a partner of an audit corporation:
- (i) a person who has received a disposition of suspension of services pursuant to the provisions of Article 30 or 31 and for whom the period of the relevant

- suspension of services has yet to elapse
- (ii) a person who has, pursuant to the provisions of Article 34-10-17, paragraph (2), received a disposition of prohibition from executing the services of another audit corporation listed in the items of the following Article, participating in the decision-making of another audit corporation, or engaging in the services of another audit corporation as an assistant, and for whom the period of the relevant prohibition has yet to elapse
  - (iii) if another audit corporation has been ordered to dissolve or suspend services pursuant to the provisions of Article 34-21, paragraph (2), a person who had been a partner of the relevant other audit corporation within thirty days prior to the date of such disposition and for whom three years (in the case of an order for suspension of services, the period of the relevant suspension of services) have yet to elapse from the date of the disposition
- (3) The proportion of partners who are certified public accountants among all partners of an audit corporation must, at the minimum be a proportion specified by Cabinet Office Order of not less than fifty per cent.

(Scope of Services)

Article 34-5 Beyond the services set forth in Article 2, paragraph (1), an audit corporation may, to the extent that it does not interfere with the relevant services, conduct all or part of the following services pursuant to the provisions of its articles of incorporation:

- (i) services set forth in Article 2, paragraph (2);
- (ii) professional accountancy education program for persons who have passed the certified public accountant examination.

(Registration)

Article 34-6 (1) An audit corporation must register in accordance with the provisions of a Cabinet Order.

- (2) The matters required to be registered pursuant to the provisions of the preceding paragraph may not be duly asserted against a third party unless it is after registration.

(Procedures for Incorporation)

Article 34-7 (1) In order to incorporate an audit corporation, persons who intend to be its partners must jointly establish the articles of incorporation. In this case, the persons who intend to be its partners must include five or more persons who are certified public accountants.

- (2) The provisions of Article 30, paragraph (1) of the Companies Act applies mutatis mutandis to the articles of incorporation of an audit corporation.
- (3) The articles of incorporation must contain a minimum of the following

matters:

- (i) purpose;
  - (ii) name;
  - (iii) location of office;
  - (iv) names and addresses of partners;
  - (v) whether all of the partners are unlimited liability partners or limited liability partners;
  - (vi) purpose of capital contribution by partners (capital contribution for a limited liability partner is limited to money or other property) and the amount or evaluation standard;
  - (vii) matters concerning execution of services.
- (4) When incorporating an unlimited liability audit corporation, the fact that all of its partners will be unlimited liability partners must be stated as the matter set forth in item (v) of the preceding paragraph.
- (5) When incorporating a limited liability audit corporation, the fact that all of its partners will be limited liability partners must be stated as the matter set forth in paragraph (3), item (v).

Article 34-8 Deleted.

(Time of Incorporation)

Article 34-9 An audit corporation is to be incorporated by registering its incorporation at the location of its principal office.

(Notification of Incorporation)

Article 34-9-2 An audit corporation, when it has been incorporated, must notify the Prime Minister to that effect within two weeks from the date of incorporation by attaching a certificate of the registered matters and a copy of the articles of incorporation.

(Change to Articles of Incorporation)

Article 34-10 (1) An audit corporation may change its articles of incorporation with the consent of all partners, except when otherwise provided by the articles of incorporation.

(2) An audit corporation, when it has changed its articles of incorporation, must notify the Prime Minister of the matters pertaining to the change within two weeks from the date of change.

## **Section 2 Partners**

(Execution of Services)

- Article 34-10-2 (1) With regard to the services set forth in Article 2, paragraph (1) provided by an audit corporation, only the partners who are certified public accountants have the right and obligation to execute the services.
- (2) With regard to the services provided by an audit corporation that are listed in the items of Article 34-5, all partners of the audit corporation has the right and obligation to execute the services.
- (3) Beyond what is provided for in the preceding two paragraphs, a partner who is a certified public accountant may participate in the decision-making of the audit corporation or engage in the services of the audit corporation as an assistant pursuant to the provisions of the articles of incorporation.
- (4) Beyond what is provided for in paragraph (2), a specified partner may participate in the decision-making of the audit corporation or engage in the services of the audit corporation as an assistant pursuant to the provisions of the articles of incorporation.

(Representation of Juridical Person)

- Article 34-10-3 (1) With regard to the services set forth in Article 2, paragraph (1), only the partners who are certified public accountants is to respectively represent the audit corporation; provided, however, that this does not preclude the audit corporation from especially specifying a partner who should represent the audit corporation with regard to the services set forth in the same paragraph from among the partners who are certified public accountants with the consent of all partners who are certified public accountants.
- (2) With regard to the services listed in the items of Article 34-5, all partners of an audit corporation is to respectively represent the audit corporation; provided, however, that this does not preclude the audit corporation from especially specifying a partner who should represent the audit corporation with regard to the services set forth in the relevant items from among the partners through the articles of incorporation or with the consent of all partners.
- (3) A partner who represents an audit corporation is authorized to perform all of the judicial and extra-judicial acts concerning the services of the audit corporation (in the case of a specified partner, excluding the services set forth in Article 2, paragraph (1)).
- (4) Restrictions on the authority set forth in the preceding paragraph may not be duly asserted against a third party without the knowledge of these restrictions.

(Designated Partners)

- Article 34-10-4 (1) An unlimited liability audit corporation may designate one or several partners to be in charge of services (excluding specified partners; the same applies in the following paragraph and paragraph (6)) with regard to specified attestation.

- (2) With regard to the attestation designated under the provisions of the preceding paragraph (hereinafter referred to as the "designated attestation" in this Article and Article 34-10-6), only the partners who has been designated (hereinafter referred to as the "designated partner" in this Article and Article 34-10-6) has the right and obligation to execute the services.
- (3) With regard to the designated attestation, only the designated partner is to represent the unlimited liability audit corporation notwithstanding the provisions of the preceding Article.
- (4) An unlimited liability audit corporation, when it has made a designation under the provisions of paragraph (1), must notify the person who intends to receive the attestation (hereinafter referred to as an "audit client company, etc." in this Article and Article 34-10-6) to that effect in writing.
- (5) An audit client company, etc., with regard to the attestation it intends to receive, may specify a reasonable period of time and request an unlimited liability audit corporation to clarify whether it will make a designation under the provisions of paragraph (1) within such period. In this case, if the unlimited liability audit corporation fails to give a notification set forth in the preceding paragraph within such period, the unlimited liability audit corporation may not make the designation after that; provided, however, that this does not preclude the unlimited liability audit company from making a designation by obtaining the consent of the audit client company, etc.
- (6) With regard to the designated attestation, if a designated partner has become unavailable prior to the completion of services pertaining to the relevant attestation, the unlimited liability audit corporation must make a new designation. If the unlimited liability audit corporation has failed to make the designation, all partners are deemed to have been designated.

(Designated Limited Liability Partners)

- Article 34-10-5 (1) A limited liability audit corporation, with regard to all attestations carried out by the relevant limited liability audit corporation, must designate one or several partners to be in charge of services (excluding specified partners; the same applies in the following paragraph, paragraph (5) and paragraph (6)) with regard to each attestation.
- (2) With regard to the attestation designated under the provisions of the preceding paragraph (hereinafter referred to as the "specified attestation" in this Article and the following Article), only the partners who has been designated (hereinafter referred to as the "designated limited liability partner" in this Article and the following Article) has the right and obligation to execute the services.
  - (3) With regard to the specified attestation, only the designated limited liability partner is to represent the limited liability audit corporation notwithstanding

the provisions of Article. 34-10-3

- (4) A limited liability audit corporation, when it has made a designation under the provisions of paragraph (1), must notify the person who intends to receive attestation to that effect in writing or by any other method specified by Cabinet Office Order.
- (5) If there was attestation in which a designation under the provisions of paragraph (1) was not made, all partners are deemed to have been designated with regard to the relevant attestation.
- (6) With regard to the specified attestation, if a designated limited liability partner has become unavailable prior to the completion of services pertaining to the relevant attestation, the limited liability audit corporation must make a new designation. If the limited liability audit corporation has failed to make the designation, all partners are deemed to have been designated.

(Responsibilities of Partners)

- Article 34-10-6 (1) When an audit corporation is unable to pay its liabilities fully with its assets, each partner is jointly and severally responsible for the payment.
- (2) The preceding paragraph applies when compulsory execution on the assets of the audit corporation has failed to prove effective.
  - (3) The preceding paragraph does not apply when partners of an audit corporation have proved that the audit corporation has financial resources and that execution is easy.
  - (4) If a designation under the provisions of Article 34-10-4, paragraph (1) has been made and a notice under the provisions of paragraph (4) of the same Article has been given (including if a designation is deemed to have been made pursuant to the provisions of paragraph (6) of the same Article; the same applies in the following paragraph and paragraph (6)), if an unlimited liability audit corporation is unable to pay fully with its assets the liabilities that are to be borne against an audit client company, etc. with regard to the designated attestation, designated partners (including persons who were formerly designated partners; hereinafter the same applies in this Article) is jointly and severally responsible for the payment, notwithstanding the provisions of paragraph (1); provided, however, that this does not apply to the case where a withdrawn designated partner has proved that such liabilities have arisen from a cause which occurred after their withdrawal.
  - (5) In a case where a designation under the provisions of Article 34-10-4, paragraph (1) has been made and a notice under the provisions of paragraph (4) of the same Article has been given, if a compulsory execution on the assets of the unlimited liability audit corporation based on claims that have arisen on the part of an audit client company, etc. with regard to the designated

attestation has failed to prove effective, the preceding paragraph applies except when designated partners have proved that the unlimited liability audit corporation has financial resources and that execution is easy.

- (6) When a designation under the provisions of Article 34-10-4, paragraph (1) has been made and a notice under the provisions of paragraph (4) of the same Article has been given, and a non-designated partner has participated in services pertaining to the designated attestation either before or after the designation, the relevant partner assumes the same responsibility as the one assumed by a designated partner pursuant to the provisions of the preceding two paragraphs, except for a situation where such partner proves that he or she was not in negligence of due care in the designated audit engagement in question. The same applies when the partner has withdrawn from the unlimited liability audit corporation.
- (7) A partner of a limited liability audit corporation is responsible for paying the liabilities of the limited liability audit corporation within the limit of the value of their capital contribution (excluding the value of capital contribution that has already been paid to the limited liability audit corporation).
- (8) Notwithstanding the provisions of the preceding paragraph, in a case where the designation under the provisions of paragraph (1) of the preceding Article has been made and a notice under the provisions of paragraph (4) of the same Article has been given (including the case where a designation is deemed to have been made pursuant to the provisions of paragraph (5) or (6) of the same Article; the same applies in the following paragraph and paragraph (10)), if a limited liability audit corporation is unable to pay fully with its assets the liabilities that are to be borne with regard to the specified attestation, designated limited liability partners (including persons who were formerly designated limited liability partners; hereinafter the same applies in this Article) is jointly and severally responsible for the payment; provided, however, that this does not apply to the case where a withdrawn designated limited liability partner has proved that such liabilities have arisen from a cause which occurred after his/her withdrawal.
- (9) If a designation under the provisions of paragraph (1) of the preceding Article has been made and a notice under the provisions of paragraph (4) of the same Article has been given, if a compulsory execution on the assets of the limited liability audit corporation based on claims that have arisen with regard to the specified attestation has failed to prove effective, the preceding paragraph applies except when designated limited liability partners have proved that the limited liability audit corporation has financial resources and that execution is easy.
- (10) In a case where a designation under the provisions of paragraph (1) of the preceding Article has been made and a notice under the provisions of

paragraph (4) of the same Article has been given, if a non-designated partner has participated in services pertaining to the specified attestation either before or after the designation, the relevant partner assumes the same responsibility as the one assumed by a designated limited liability partner pursuant to the provisions of the preceding two paragraphs, except for a situation where such partner proves that he or she was not in negligence of due care in the designated audit engagement in question. The same applies when the partner has withdrawn from the limited liability audit corporation.

(11) Article 612 of the Companies Act applies mutatis mutandis to the withdrawal of a partner from an audit corporation; provided, however, that this does not apply to the liabilities of an unlimited liability audit corporation that are to be assumed against an audit client company, etc. with regard to the designated attestation or the liabilities of a limited liability audit corporation to be assumed with regard to the specified attestation.

(Responsibility of a Person Who Has Committed an Act in Making a Person Believe they are a Partner)

Article 34-10-7 (1) When a person who is not a partner of an unlimited liability audit corporation has committed an act to make a person falsely believe that they are a partner of an unlimited liability audit corporation, the relevant person who is not a partner of the unlimited liability audit corporation assumes the same responsibility as that of a partner of the unlimited liability audit corporation against a person who has carried out transactions with the unlimited liability audit corporation based on such false belief.

(2) When a person who is not a partner of a limited liability audit corporation has committed an act to induce a false belief that they are a partner of a limited liability audit corporation, the relevant person who is not a partner of the limited liability audit corporation assumes the responsibility to pay, to the extent of the responsibility of having induced such false belief, the liabilities of the relevant limited liability audit corporation against a person who has carried out transactions with the limited liability audit corporation based on such false belief.

(3) When a partner of a limited liability audit corporation has committed an act to induce a false belief as to the limit of their responsibility, the relevant partner of the limited liability audit corporation assumes the responsibility to pay, to the extent of the responsibility of having induced such false belief, the liabilities of the relevant limited liability audit corporation against a person who has carried out transactions with the limited liability audit corporation based on such false belief.

(Obligation of Registration of Specified Partners)

Article 34-10-8 A person who intends to be a specified partner must have the persons name, date of birth, the audit corporation to which the person belongs to and any other matters specified by Cabinet Office Order registered on the roster of specified partners (such roster is hereinafter referred to as the "specified partners' roster" in this Section) (such registration is hereinafter simply referred to as "registration" in this Section (excluding Article 34-10-10, items (vii) and (viii))).

(Specified Partners' Roster)

Article 34-10-9 The specified partners' roster is kept at the Japanese Institute of Certified Public Accountants.

(Grounds for Refusal of Registration)

Article 34-10-10 A person who falls under any of the following items may not obtain registration as a specified partner:

- (i) a certified public accountant
- (ii) a minor, an adult ward or a person under curatorship
- (iii) a person who has violated this Act or the provisions of Articles 197 through 198 of the Financial Instruments and Exchange Act or who has committed a crime set forth in Article 233, paragraph (1) (limited to the portion pertaining to item (iii)) of the Act on Securities Investment Trust and Securities Investment Corporations, a crime set forth in Article 328, paragraph (1) (limited to the portion pertaining to item (iii)) of the Insurance Business Act, a crime set forth in Article 308, paragraph (1) (limited to the portion pertaining to item (iii)) of the Act on Securitization of Assets or a crime set forth in Article 967, paragraph (1) (limited to the portion pertaining to item (iii)) of the Companies Act, who has been sentenced to imprisonment without work or a severer punishment and for whom five years have yet to elapse from the time when the execution of the sentence has been completed or the sentence has ceased to be executed
- (iv) a person who has been sentenced to imprisonment without work or a severer punishment and for whom three years have yet to elapse from the time when the execution of the sentence has been completed or the sentence has ceased to be executed
- (v) a bankrupt whose rights have yet to be restored
- (vi) a person who has received a disposition of dismissal by disciplinary action pursuant to the provisions of the National Public Service Act, the Diet Secretariats Personnel Act or the Local Public Service Act and for whom three years have yet to elapse from the date of the relevant disposition
- (vii) a person who has received a disposition of Deletion of registration as a certified public accountant pursuant to the provisions of Article 30 or 31 and

for whom five years have yet to elapse from the date of the relevant disposition

- (viii) a person who has received a disposition of suspension of services pursuant to the provisions of Article 30 or 31 and whose registration as a certified public accountant has been Deleted during the period of the relevant suspension of services, and for whom the relevant period has yet to elapse
- (ix) a person who has received a disposition of deletion of registration pursuant to the provisions of Article 34-10-17, paragraph (2) and for whom five years have yet to elapse from the date of the relevant disposition
- (x) a person who has, pursuant to the provisions of Article 34-10-17, paragraph (2), received a disposition of prohibition from executing the services of an audit corporation listed in the items of Article 34-5, participating in the decision-making of an audit corporation, or engaging in the services of an audit corporation as an assistant, and whose registration as a specified partner has been deleted during the period of the relevant prohibition pursuant to the provisions of Article 34-10-14, paragraph (1) (limited to the portion pertaining to item (i) or (iii)) and for whom the relevant period has yet to elapse
- (xi) a person who has received a disposition of prohibition of services or expulsion pursuant to the provisions of the Licensed Tax Accountants Act, the Lawyers Act, the Act on Special Measures concerning the Handling of Legal Services by Foreign Lawyers, or the Patent Attorneys Act, excluding a person who has become able to engage in the services again under these Acts
- (xii) a person who has trouble in or lacks the capacity to execute the services of an audit corporation due to mental or physical disorder.

(Procedures for Registration)

- Article 34-10-11 (1) A person who intends to obtain registration must submit a written application for registration to the Japanese Institute of Certified Public Accountants.
- (2) The Japanese Institute of Certified Public Accountants, if a written application for registration has been submitted pursuant to the provisions of the preceding paragraph and if it finds the person seeking registration to be a person who can obtain registration, must make the registration without delay, and if it finds the person seeking registration to be a person who cannot obtain registration, refuse the registration based on a resolution of the qualification screening board.
  - (3) The Japanese Institute of Certified Public Accountants, when refusing registration pursuant to the provisions of the preceding paragraph, must notify the applicant to that effect by means of a document stating the reason therefor.

(Request for Investigation in the Case Where Registration Has Been Refused)

Article 34-10-12 (1) A person who has been refused registration pursuant to the provisions of paragraph (2) of the preceding Article may, where the person is dissatisfied with the relevant disposition, make a request for administrative review to the Prime Minister.

(2) A person who has submitted a written application for registration pursuant to the provisions of paragraph (1) of the preceding Article, when no disposition has been given for the relevant application after the lapse of three months from the date of the submission of the relevant written application, may deem that the registration has been refused and make a request for administrative review to the Prime Minister.

(3) In the case referred to in the preceding two paragraphs, with regard to the application of the provisions of Article 25, paragraphs (2) and (3) and Article 46, paragraph (2) of the Administrative Complaint Investigation Act, the Prime Minister is deemed to be a higher administrative authority to the Japan Institute of Certified Public Accountants.

(Change of Registration)

Article 34-10-13 When there has been any change in the matters registered, a person who has obtained registration must immediately file an application for the registration of such a change.

(Deletion of Registration)

Article 34-10-14 (1) In a case falling under any of the following items, the Japanese Institute of Certified Public Accountants must delete the registration:

- (i) when a specified partner has ceased to be a partner of an audit corporation;
- (ii) when a specified partner has died;
- (iii) when a specified partner has fallen under any categories of persons listed in the items of Article 34-10-10.

(2) The Japanese Institute of Certified Public Accountants, when deleting registration pursuant to the provisions of item (iii) of the preceding paragraph (limited to deletion of registration when the specified partner falls under the category of person set forth in Article 34-10-10, item (xii); the same applies in the following paragraph), must delete the registration based on a resolution of the qualification screening board.

(3) The provisions of Article 34-10-11, paragraph (3) and Article 34-10-12, paragraphs (1) and (3) apply mutatis mutandis to the deletion of registration under the provisions of the preceding paragraph. In this case, the term "Article 46, paragraph (2)" in paragraph (3) of the same Article is deemed to be

replaced with "Article 46 (1)."

- (4) The Japanese Institute of Certified Public Accountants may not, when a specified partner has been placed under a procedure of disposition set forth in Article 34-10-17, paragraph (2), delete the registration of the relevant specified partner under the provisions of paragraph (1), item (i) until the relevant procedure has been completed.

(Details of Registration)

Article 34-10-15 Beyond what is provided for in this Section, the procedure of registration, deletion of registration, specified partners' roster, and other necessary matters concerning registration are specified by Cabinet Office Order.

(Obligation to Observe Secrecy)

Article 34-10-16 A specified partner must not, without justifiable grounds, divulge to others or misappropriate any secrets that the partner learned concerning the matters handled in the course of services. The same applies after a specified partner ceases to be a specified partner.

(Dispositions against Specified Partners)

Article 34-10-17 (1) The dispositions against specified partners are to be of the following three types:

(i) admonition;

(ii) prohibition from executing the services of an audit corporation listed in the items of Article 34-5, participating in the decision-making of an audit corporation, or engaging in the services of an audit corporation as an assistant for not more than two years;

(iii) deletion of registration.

(2) When a specified partner has violated this Act or an order based on this Act, the Prime Minister may issue any of the dispositions listed in the items of the preceding paragraph.

(3) The provisions of Articles 32 through 34 applies mutatis mutandis to dispositions set forth in the preceding paragraph.

### **Section 3 Services**

(Restrictions on Services Concerning Specified Matters)

Article 34-11 (1) An audit corporation must not provide the services set forth in Article 2, paragraph (1) concerning the financial documents that fall under any of the following items:

(i) the financial documents of a company or any other person when the audit

- corporation owns stock in or invests in the relevant company or person;
- (ii) the financial documents of a company or any other person when any partner of the audit corporation has the relationship prescribed in Article 24, paragraph (1), item (i) with the relevant company or person;
  - (iii) if a person who participated in the services set forth in Article 2, paragraph (1) provided by the audit corporation, as its partner, concerning the financial documents of a company or any other person has become an officer for or taken an equivalent position with the relevant company or person or a consolidated company, etc. thereof during the accounting period pertaining to the relevant financial documents or the following accounting period (hereinafter referred to as the "accounting period relevant to the partner concerned" in this item), the financial documents of the relevant company or person or a consolidated company, etc. thereof pertaining to the relevant accounting period relevant to the partner concerned;
  - (iv) beyond what is provided for in the preceding three items, the financial documents of a company or any other person in which the audit corporation has a substantial interest.
- (2) The substantial interest set forth in item (iv) of the preceding paragraph means a relationship concerning the business, accounting or other matters between an audit corporation or its partner and a company or any other person, which is categorized by Cabinet Order as one for which a restriction of services is necessary and appropriate in order to secure fairness in the services set forth in Article 2, paragraph (1) provided by the audit corporation.
- (3) No partner of an audit corporation who has the relationship prescribed in Article 24, paragraph (1) or (3) with a company or any other person must not participate in the services set forth in Article 2, paragraph (1) provided by the relevant audit corporation that pertain to the financial documents of the relevant company or person.

(Special Provisions on Restriction of Services Pertaining to Large Corporations)

- Article 34-11-2 (1) When an audit corporation or a corporation or any other body having a relationship that is categorized by Cabinet Office Order as one that is found to be substantially controlled by the relevant audit corporation continuously receives fees for the services set forth in Article 2, paragraph (2) (limited to services related to the preparation of financial documents and any other services specified by Cabinet Office Order; the same applies in the following paragraph) from a large company, etc., the audit corporation must not provide the services set forth in paragraph (1) of the same Article concerning the financial documents of the relevant large company, etc.
- (2) When a partner of an audit corporation continuously receives fees for the

services set forth in Article 2, paragraph (2) from a large company, etc., the audit corporation must not provide the services set forth in paragraph (1) of the same Article concerning the financial documents of the relevant large company, etc.

Article 34-11-3 If an audit corporation provides the services set forth in Article 2, paragraph (1) concerning the financial documents of a large company, etc., and a partner of the relevant audit corporation has provided audit-related services (meaning the audit-related services prescribed in Article 24-3, paragraph (3); hereinafter the same applies in this Article through Article 34-11-5) concerning the financial documents pertaining to all accounting periods of consecutive accounting periods as specified by Cabinet Order not exceeding seven accounting periods of a large company, etc., the audit corporation must not have the relevant partner provide audit-related services concerning the financial documents of the relevant large company, etc. pertaining to an accounting period specified by Cabinet Order which comes in or after the accounting period following the relevant consecutive accounting periods as specified by Cabinet Order.

(Special Provisions on Restriction of Services of Large Audit Corporations)

Article 34-11-4 (1) If a large audit corporation provides the services set forth in Article 2, paragraph (1) concerning the financial documents of an issuer of securities listed in a financial instruments exchange or any other person specified by Cabinet Order (hereinafter referred to as a "listed securities issuer, etc." in this paragraph), and any partner executing the relevant services who supervises the relevant affairs or any other person specified by Cabinet Office Order (hereinafter referred to as a "lead engagement partner, etc." in this paragraph) has provided audit-related services concerning the financial documents pertaining to all accounting periods of consecutive accounting periods as specified by Cabinet Order not exceeding five accounting periods of the listed securities issuer, etc., the large audit corporation must not have the relevant lead engagement partner, etc. provide audit-related services concerning the financial documents of the relevant listed securities issuer, etc. pertaining to an accounting period specified by Cabinet Order which comes in or after the accounting period following the relevant consecutive accounting periods as specified by Cabinet Order.

(2) The large audit corporation set forth in the preceding paragraph (including when it is applied mutatis mutandis by replacing the terms pursuant to the provisions of paragraph (2) of the following Article) means an audit corporation categorized by Cabinet Office Order as a large-scale audit corporation.

(Restriction of Services Pertaining to Newly Listed Enterprise)

Article 34-11-5 (1) When an audit corporation has provided audit-related services concerning the financial documents of a person who intends to list the securities the person issues in a financial instruments exchange or any other person specified by Cabinet Order (excluding a large company, etc.) pertaining to the accounting period specified by Cabinet Office Order not exceeding three accounting periods preceding the accounting period that includes the day on which the relevant securities issued by the person are to be listed or includes any other date specified by Cabinet Order, the provisions of Article 34-11-3 applies by deeming the person to be a large company, etc. In this case, the term "audit corporation" in the same Article is deemed to be replaced with "audit corporation that has provided the audit-related services set forth in Article 34-11-5, paragraph (1)."

(2) If a large audit corporation prescribed in paragraph (2) of the preceding Article has provided audit-related services concerning the financial documents of a person who intends to list the securities the person issues in a financial instruments exchange or any other person specified by Cabinet Order pertaining to the accounting period specified by Cabinet Office Order not exceeding three accounting periods preceding the accounting period that includes the day on which the relevant securities issued by the person are to be listed or includes any other date specified by Cabinet Order, the provisions of paragraph (1) of the same Article apply by deeming the person to be a listed securities issuer, etc. prescribed in the same paragraph. In this case, the term "large audit corporation" in the same paragraph is deemed to be replaced with "large audit corporation that has provided the audit-related services set forth in paragraph (2) of the following Article."

(Method of Execution of Audit or Attestation Services)

Article 34-12 (1) An audit corporation must not have any person other than a partner provide the services set forth in Article 2, paragraph (1).

(2) When an audit corporation attests the financial documents of a company or any other person, the partner who has executed the services pertaining to the relevant attestation must sign the certificate with an indication of his qualification and affix their seal thereto.

(3) The provisions of Article 25 applies mutatis mutandis to the case where an audit corporation attests the financial documents of a company or any other person.

(Development of an Operation Control Structure)

Article 34-13 (1) An audit corporation must develop the operation control structure pursuant to the provisions of a Cabinet Office Order in order to

perform its services fairly and accurately.

- (2) The operation control structure prescribed in the preceding paragraph must include the following matters (referred to as the "status of operation of services" in Article 44 (1), item (xii), Article 46-9-2, paragraph (1) and Article 49-4, paragraph (2), item (ii)):
  - (i) measures for securing the fair execution of services;
  - (ii) formulation and implementation of policy on service quality control;
  - (iii) measures for eliminating the possibility of persons other than partners who are certified public accountants from having an inappropriate influence on the execution of services set forth in Article 2, paragraph (1) provided by partners who are certified public accountants.
- (3) Service quality control set forth in item (ii) of the preceding paragraph means to take the necessary measures for preventing the occurrence of a situation that would impair the appropriateness, fairness or credibility of services with regard to matters concerning the acceptance and continuance of engagements pertaining to services, the assignment of partners in charge of services or any other persons, engagement performance and monitoring review of services and the implementation of any other services specified by Cabinet Office Order, in accordance with their respective characteristics.
- (4) When an audit corporation makes decisions on matters categorized by Cabinet Office Order as important matters pertaining to its activities by a panel consisting of some of its partners, the proportion of partners who are certified public accountants out of the partners constituting the relevant council must be the minimum proportion specified by Cabinet Office Order of not less than fifty per cent.
- (5) An audit corporation or its specified partner must not commit an act that would ruin the trust of citizens in audit corporations.

(Prohibition of Business Competition by Partners)

- Article 34-14 (1) A partner of an audit corporation must not be a partner of another audit corporation.
- (2) A partner of an audit corporation must not provide services that fall within the scope of the services of the audit corporation on their own behalf and on the behalf of a third party; provided, however, that this does not apply if services that fall under the relevant scope of services are the services set forth in Article 2, paragraph (2), and the consent of all partners other than the relevant partner has been obtained with regard to the provision of the services that fall under the relevant scope of services.
  - (3) When, in violation of the provisions of the preceding paragraph, a partner of an audit corporation has provided services that fall under the scope of services provided by the audit corporation on their own behalf or on behalf of a third

party, the amount of the profit gained by the relevant partner or by the third party from the services are presumed to be the amount of damage caused to the audit corporation.

(Restriction on Employment of Engagement Partner )

Article 34-14-2 The provisions of Article 28-2 applies mutatis mutandis to a partner who executed the services in the case where an audit corporation has provided the services set forth in Article 2, paragraph (1) concerning the financial documents of a company or any other person.

(Application Mutatis Mutandis of the Provisions of an Obligation to Supervise Employees)

Article 34-14-3 The provisions of Article 28-3 applies mutatis mutandis to audit corporations.

#### **Section 4 Accounting Books**

(Fiscal Year)

Article 34-15 The fiscal year of an audit corporation commences on April 1 of each year and terminate on March 31 of the following year; provided, however, that this does not apply if otherwise provided for by the articles of incorporation.

(Accounting Principle)

Article 34-15-2 The accounting of an audit corporation is made in accordance with the generally accepted accounting practices for business enterprises.

(Preparation and Preservation of Accounting Books)

Article 34-15-3 (1) An audit corporation must prepare accurate accounting books on a timely basis in accordance with Cabinet Office Order.

(2) An audit corporation must preserve accounting books and important materials relating to its services for ten years after closing the accounting books.

(Order to Submit Accounting Books)

Article 34-15-4 A court may order a party concerned in a lawsuit to submit all or part of its accounting books on a motion or by the court's own authority.

(Preparation of Financial Statement Accounting)

Article 34-16 (1) An audit corporation must prepare a balance sheet as of the date of incorporation, in accordance with Cabinet Office Order.

- (2) An audit corporation must prepare financial statement accounting (meaning a balance sheet, profit and loss statement and other documents categorized by Cabinet Office Order as those necessary and appropriate for indicating the status of the property and the profit and loss of the audit corporation; the same applies in the following Article and Article 34-32, paragraph (1)) and a business report describing the general situation of its business and other matters specified by Cabinet Office Order, and submit those documents to the Prime Minister within two months after the termination of each fiscal year.
- (3) The documents set forth in the preceding paragraph may be prepared or submitted in the form of an electronic or magnetic record.
- (4) An audit corporation must preserve the documents set forth in paragraph (2) for ten years from when the documents have been prepared.

(Order to Submit a Balance Sheet)

Article 34-16-2 A court may order a party concerned in a lawsuit to submit all or part of the financial statements on a motion or by the court's own authority.

(Public Inspection of Explanatory Documents Concerning the Status of Business and Property)

Article 34-16-3 (1) An audit corporation, in each business year, prepare explanatory documents containing matters categorized by Cabinet Office Order as those concerning the status of business and property, must keep them at the office of the relevant audit corporation and make them available for public inspection.

- (2) The explanatory documents prescribed in the preceding paragraph may be prepared in the form of electronic or magnetic records.
- (3) When the explanatory documents prescribed in paragraph (1) have been prepared in the form of electronic or magnetic records, an audit corporation may take a measure categorized by Cabinet Office Order as one for making information on the contents of the relevant explanatory documents available for many and unspecified persons by electronic or magnetic means at the office of the audit corporation. In this case, the explanatory documents set forth in the same paragraph is deemed to have been kept and made available for public inspection pursuant to the provisions of the same paragraph.
- (4) Beyond what is provided for in the preceding three paragraphs, the period during which the explanatory documents prescribed in paragraph (1) is provided for public inspection and any other necessary matters concerning the application of the provisions of the preceding three paragraphs are specified by Cabinet Office Order.

## Section 5 Statutory Withdrawal

Article 34-17 A partner of an audit corporation is to withdraw from the audit corporation based on the following reasons:

- (i) in the case of a partner who is a certified public accountant, deletion of their registration as a certified public accountant
- (ii) in the case of a specified partner, deletion of the persons registration as a specified partner
- (iii) occurrence of reasons provided by the articles of incorporation
- (iv) consent of all partners
- (v) expulsion

### **Section 6 Dissolution and Merger**

(Dissolution)

Article 34-18 (1) An audit corporation is to be dissolved based on the following reasons:

- (i) occurrence of reasons provided by the articles of incorporation;
  - (ii) consent by all partners;
  - (iii) merger (limited to the case where the relevant audit corporation becomes extinct through the merger);
  - (iv) court decision on a commencement of bankruptcy proceedings;
  - (v) court decision ordering dissolution;
  - (vi) dissolution order under the provisions of Article 34-21, paragraph (2).
- (2) Beyond the cases provided for in the preceding paragraph, also in the case where the number of partners who are certified public accountants becomes no more than four and the number of partners who are certified public accountants fails to become five or more for six consecutive months from such date, an audit corporation is to dissolve when the relevant six months have elapsed.
- (3) An audit corporation, when it has been dissolved based on any reason other than those set forth in paragraph (1), items (iii) and (vi), must notify the Prime Minister to that effect within two weeks from the date of dissolution.

(Merger)

Article 34-19 (1) An audit corporation, with the consent of all partners, may merge with other audit corporations.

- (2) A merger is to take effect by a registration made at the location of the principal office by the audit corporation surviving the merger or by the audit corporation incorporated as a result of the merger.
- (3) An audit corporation, when it has carried out a merger, must notify the Prime Minister to that effect by attaching a certificate of the registered matters (in

the case of an audit corporation incorporated as a result of a merger, a certificate of the registered matters and a copy of the articles of incorporation) within two weeks from the date of merger.

- (4) An audit corporation surviving a merger or an audit corporation incorporated as a result of a merger is to succeed to the rights and obligations of the audit corporation that became extinct through the relevant merger (including rights and obligations based on a disposition issued by an administrative agency with regard to the services provided by the relevant audit corporation).

(Objection by Creditors)

Article 34-20 (1) Any creditor of an audit corporation carrying out a merger may state an objection to the relevant audit corporation with regard to the merger.

- (2) An audit corporation carrying out a merger must give public notice of the following matters in the Official Gazette and give notice separately to the known creditors; provided, however, that the period set forth in item (iii) may not be less than one month:

(i) the fact that the audit corporation will carry out a merger;

(ii) the name and location of the principal office of the audit corporation that will become extinct through the merger and of the audit corporation surviving the merger or the audit corporation to be incorporated as a result of the merger;

(iii) the fact that creditors may state objections within a certain period of time.

- (3) Notwithstanding the provisions of the preceding paragraph, when an audit corporation carrying out a merger gives public notice under the provisions of the same paragraph by the method set forth in Article 939, paragraph (1), item (ii) or (iii) of the Companies Act in accordance with the provisions of its articles of incorporation under the provisions of Article 939, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to paragraph (6), beyond one in the Official Gazette, it is not necessary to give the individual notice under the provisions of the preceding paragraph; provided, however, that, when the audit corporation surviving the merger or the audit corporation incorporated as a result of the merger is a limited liability audit corporation, and the audit corporation to become extinct through the merger is an unlimited liability audit corporation, this does not apply to the relevant unlimited liability audit corporation to become extinct through the merger.

- (4) If a creditor does not state an objection during the period set forth in paragraph 2, item (iii), the relevant creditor is deemed to have approved the relevant merger.

- (5) If a creditor has stated an objection during the period set forth in paragraph (2), item (iii), the audit corporation carrying out the merger must make a payment or provide reasonable collateral to the creditor, or entrust reasonable

property to a trust company, etc. (meaning a trust company and a financial institution providing trust services (which means a financial institution that has obtained the approval set forth in Article 1, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions (Act No. 43 of 1943))) for the purpose of having the relevant creditor receive a payment; provided, however, that this does not apply when the relevant merger does not risk harming the relevant creditor.

- (6) The provisions of Article 939, paragraph (1) (limited to the portions pertaining to items (ii) and (iii)) and Article 939, paragraph (3), Article 940, paragraph (1) (limited to the portion pertaining to item (iii)) and Article 940, paragraph (3), Article 941, Article 946, Article 947, Article 951, paragraph (2), Article 953, and Article 955 of the Companies Act applies mutatis mutandis to the case where an audit corporation gives public notice under the provisions of paragraph (2). In this case, the term "method of public notice" in Article 939, paragraphs (1) and (3) of the same Act is deemed to be replaced with "method of public notice of a merger," and the term "trade name" in Article 946, paragraph (3) of the same Act is deemed to be replaced with "name."

(Action for Invalidation of Merger)

Article 34-20-2 The provisions of Article 828, paragraph (1) (limited to the portions pertaining to items (vii) and (viii)) and Article 828, paragraph (2) (limited to the portions pertaining to items (vii) and (viii)), Article 834 (limited to the portions pertaining to items (vii) and (viii)), Article 835, paragraph (1), Article 836 , paragraphs (2) and (3), Articles 837 through 839, Article 843 (excluding paragraph (1), items (iii) and (iv) and the proviso to paragraph (2)), and Article 846 of the Companies Act applies mutatis mutandis to actions for the invalidation of mergers of audit corporations, whereas the provisions of Article 868, paragraph (6), Article 870, paragraph (2) (limited to the portion pertaining to item (vi)), Article 870-2, the main clause of Article 871, Article 872 (limited to the portion pertaining to item (v)), Article 872-2, the main clause of Article 873, Article 875, and Article 876 apply mutatis mutandis to a motion set forth in Article 843, item (iv) of the same Act as applied mutatis mutandis pursuant to this Article.

## **Section 7 Dispositions**

(Disposition for False or Inappropriate Attestation)

Article 34-21 (1) When an audit corporation has violated this Act (excluding Article 34-10-5 and the following Chapter; hereinafter the same applies in this paragraph and item (iii) of the following paragraph) or an order based on this Act, or where operation of the services set forth in Article 2, item (1) provided

by an audit corporation are found to be grossly inappropriate and if it is found necessary for securing the fair operation of the services set forth in the same paragraph, the Prime Minister may give the necessary instruction (excluding ordering an improvement of the operation control structure pursuant to the provisions of the following paragraph or prohibiting a partner from participating in all or part of the services or decision-making of an audit corporation pursuant to the provisions of paragraph (3), in the case of falling under item (iii) of the following paragraph).

- (2) The Prime Minister, when an audit corporation falls under any of the following items, issue an admonition, may order an improvement of the operation control structure prescribed in Article 34-13, paragraph (1), order the suspension of all or part of the services by specifying a period not exceeding two years, or order the dissolution of the audit corporation:
  - (i) when a partner has intentionally attested financial documents containing false matters, mistakes or omissions as those containing no false matters, mistakes or omissions;
  - (ii) when a partner has, in negligence of due care, attested financial documents containing material false matters, mistakes or omissions as those containing no material false matters, mistakes or omissions;
  - (iii) when an audit corporation has violated this Act or an order based on this Act or when its operation is found to be grossly inappropriate;
  - (iv) when an audit corporation fails to follow an instruction under the provisions of the preceding paragraph.
- (3) The Prime Minister, when an audit corporation falls under any of the items of the preceding paragraph, may prohibit the relevant audit corporation from having a partner who is found to be largely responsible for the audit corporation to have fallen under the relevant item participate in all or part of the services or decision-making of the relevant audit corporation, by specifying a period not exceeding two years.
- (4) The provisions of Articles 32 to 34 inclusive apply mutatis mutandis to the dispositions set forth in the preceding two paragraphs.
- (5) An audit corporation that has been placed under a procedure of disposition under the provisions of paragraph (2) or (3) is deemed to remain extant with regard to the application of the provisions of this Article until the relevant procedure has been completed, even after the completion of its liquidation.
- (6) If an audit corporation is to be punished pursuant to the provisions of paragraph (2) or paragraph (3), and a fact that falls under Article 30 or Article 31 exists with regard to a certified public accountant who is a partner of the relevant audit corporation, the provisions of paragraphs (2) and (3) are not to be construed so as to preclude the cumulative imposition of a disciplinary action against the certified public accountant who is a partner of the audit

corporation.

- (7) If an audit corporation is to be punished pursuant to the provisions of paragraph (2) or (3), and a fact that falls under Article 34-10-17, paragraph (2) exists with regard to a specified partner of the relevant audit corporation, the provisions of paragraphs (2) and (3) is not to be construed so as to preclude the cumulative imposition of a disposition set forth in the same paragraph against the relevant specified partner.

(Order for Payment of Surcharge)

Article 34-21-2 (1) When an audit corporation has attested the financial documents of a company or any other person, and there is a fact whereby the relevant audit corporation falls under paragraph (2), item (i) or (ii) of the preceding Article, the Prime Minister must order the relevant audit corporation to pay a surcharge of the amount specified in each of the following items for the category of cases respectively set forth therein to the Treasury in accordance with the procedure prescribed in Articles 34-40 through 34-62:

- (i) when there is a fact whereby the audit corporation falls under paragraph (2), item (i) of the preceding Article with regard to the relevant attestation--An amount corresponding to one point five times the amount of fees or any other amount specified by Cabinet Order as a consideration (referred to as an "amount corresponding to audit fees" in the following item) that has been received during the accounting period pertaining to the financial documents of the relevant company or person receiving the relevant attestation;
- (ii) if there is a fact whereby the audit corporation falls under paragraph (2), item (ii) of the preceding Article--An amount corresponding to audit fees.

(2) Notwithstanding the provisions of the preceding paragraph, the Prime Minister may, in the following cases, refrain from ordering the audit corporation set forth in the same paragraph to pay a surcharge set forth in the same paragraph:

- (i) if a fact that falls under paragraph (2), item (i) of the preceding Article exists, and a disposition set forth in the same paragraph is to be issued against the relevant audit corporation (limited to a case categorized by Cabinet Office Order as one where the false matters, mistakes or omissions pertaining to the financial documents as set forth in the same item are found to have a relatively slight impact on the credibility of the relevant financial documents as a whole);
- (ii) if a fact that falls under paragraph (2), item (ii) of the preceding Article exists, and a disposition set forth in the same paragraph is to be issued against the relevant audit corporation (excluding a case categorized by Cabinet Office Order as one where there was negligence of due care of a similar degree as set forth in the same item);

- (iii) in the case of ordering the suspension of services that are categorized by Cabinet Office Order as those set forth in Article 2, paragraph (1) that are provided based on a contract already concluded between the audit corporation and the audit client company, etc. prescribed in Article 34-10-4, paragraph (4);
  - (iv) in the case of ordering dissolution.
- (3) When the amount of the surcharge calculated pursuant to the provisions of paragraph (1) is less than ten thousand yen, payment of the surcharge may not be ordered.
  - (4) When the amount of surcharge calculated pursuant to the provisions of paragraph (1) includes an odd amount of less than ten thousand yen, the odd amount is omitted.
  - (5) A person who has received an order under the provisions of paragraph (1) must pay the surcharge under the provisions of the same paragraph.
  - (6) If an audit corporation has become extinct through a merger, the provisions of this Article applies by deeming the acts committed by the relevant audit corporation to be acts committed by the audit corporation surviving the merger or the audit corporation incorporated as a result of the merger.
  - (7) The provisions of Article 32, paragraph (1) through (3), Article 33, Article 34 and paragraphs (5) through (7) of the preceding Article apply mutatis mutandis to an order under the provisions of paragraph (1). In this case, the phrase "paragraph (2) or (3)" in the provisions of paragraphs (5) through (7) of the preceding Article is deemed to be replaced with "paragraph (1) of the following Article."

## **Section 8 Miscellaneous Provisions**

(Application Mutatis Mutandis of the Civil Code and the Companies Act to Audit Corporations)

Article 34-22 (1) The provisions of Article 50 of the Civil Code (Act No. 89 of 1896) and Article 600, Article 604, paragraphs (1) and (2), Article 618, Article 621, Article 622 and Article 624 of the Companies Act apply mutatis mutandis to audit corporations, the provisions of Article 55 of the Civil Code and Article 581, Article 582, Article 585, paragraphs (1) and (4), Article 586, Article 593, Article 595, Article 596, Article 601, Article 605, Article 606, Article 609, paragraphs (1) and (2), Article 611 (excluding the proviso to paragraph (1)) and Article 613 of the Companies Act apply mutatis mutandis to partners of audit corporations, and the provisions of Articles 859 through 862 and Article 937 (limited to the portions pertaining to item (i),(k) and (l)) of the Companies Act apply mutatis mutandis to the expulsion of a partner of an audit corporation and actions for the extinction of the right to execute services and the authority

of representation of an audit corporation. In this case, the term "trade name" in Article 613 of the Companies Act is deemed to be replaced with "name," the term "Ministry of Justice Order" in Article 618, paragraph (1), item (ii) of the same Act is deemed to be replaced with "Cabinet Office Order," the phrase "Article 594, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to the provisions of Article 598, paragraph (2))" in Article 859, item (ii) of the same Act is deemed to be replaced with "Article 34-14, paragraph (1) or (2) of the Certified Public Accountants Act," and the phrase "head office (in the case prescribed in item (i), (e) wherein the matters listed in the items of Article 930, paragraph (2) have been registered based on the relevant resolution, the head office and the branch officer pertaining to the relevant registration)" in Article 937, paragraph (1) of the same Act is deemed to be replaced with "principal office and the secondary office."

(2) The provisions of Article 82 and Article 83 of the Civil Code, Article 35 (2) and Article 40 of the Act of Procedures in Non-Contentious Matters (Act No. 14 of 1898), and Article 644 (excluding item (iii)), Articles 645 through 649, Article 650, paragraphs (1) and (2), Article 651, paragraphs (1) and (2) (excluding the portion pertaining to application mutatis mutandis of Article 594 of the same Act), Article 652, Article 653, Articles 655 through 659, Articles 662 through 664, Article 666, Article 667, Article 672, Article 673, Article 675, Article 863, Article 864, Article 868, paragraph (1), Article 869, Article 870, paragraph (1) (limited to the portions pertaining to items (i) and (ii)), Article 871, Article 872 (limited to the portion pertaining to item (iv)), Article 874 (limited to the portions pertaining to items (i) and (iv)), Article 875, and Article 876 of the Companies Act apply mutatis mutandis to the dissolution and liquidation of audit corporations. In this case, the term "Article 641, item (v)" in Article 644, item (i) of the Companies Act is deemed to be replaced with "Article 34-18, paragraph (1), item (iii) of the Certified Public Accountants Act," the term "Article 641 (iv) or (vii)" in Article 647, paragraph (3) of the same Act is deemed to be replaced with "Article 34-18, paragraph (1), item (v) or (vi) or Article 34-18, paragraph (2) of the Certified Public Accountants Act," the term "Ministry of Justice Order" in Article 658, paragraph (1) of the same Act is deemed to be replaced with "Cabinet Office Order," and the term "Article 580" in Article 673, paragraph (1) of the same Act is deemed to be replaced with "Article 34-10-6 of the Certified Public Accountants Act."

(3) The provisions of Articles 668 through 671 of the Companies Act apply mutatis mutandis to the voluntary liquidation of unlimited liability audit corporations. In this case, the term "Article 641, items (i) through (iii)" in Article 668, paragraph (1) and Article 669 of the same Act is deemed to be replaced with "Article 34-18, paragraph (1), item (i) or (ii) of the Certified Public Accountants Act," the term "Ministry of Justice Order" in Article 669 of

the same Act is deemed to be replaced with "Cabinet Office Order," the term "that paragraph" in paragraph (2) of the same Article is deemed to be replaced with "paragraph (1) of the preceding Article," and the term "Article 939, paragraph (1)" in Article 670, paragraph (3) of the same Act is deemed to be replaced with "Article 939, paragraph (1) as applied mutatis mutandis pursuant to Article 34-20, paragraph (6) of the Certified Public Accountants Act."

- (4) The provisions of Article 824, Article 826, Article 868, paragraph (1), Article 870 , paragraph (1) (limited to the portion pertaining to item (x)), the main clause of Article 871, Article 872 (limited to the portion pertaining to item (iv)), the main clause of Article 873, Article 875, Article 876, Article 904, and Article 937, paragraph (1) (limited to the portion pertaining to item (iii),(b)) of the Companies Act apply mutatis mutandis to the order of the dissolution of audit corporations, and the provisions of Article 825, Article 868, paragraph (1), Article 870, paragraph (1) (limited to the portion pertaining to item (i)), Article 871, Article 872 (limited to the portions pertaining to items (i) and (iv)), Article 873, Article 874 (limited to the portions pertaining to items (ii) and (iii)), Article 875, Article 876, Article 905, and Article 906 of the Companies Act apply mutatis mutandis to the preservation of the property of an audit corporation upon a motion set forth in Article 824, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to the provisions of this paragraph. In this case, the phrase "head office (in the case prescribed in item (i),(g) wherein the matters listed in the items of Article 930, paragraph (2) have been registered based on the relevant resolution, the head office and the branch office pertaining to the relevant registration)" in Article 937, paragraph (1) of the Companies Act is deemed to be replaced with "principal office and the secondary office."
- (5) The provisions of Article 828, paragraph (1) (limited to the portion pertaining to item (i)) and Article 828, paragraph (2) (limited to the portion pertaining to item (i)), Article 834 (limited to the portion pertaining to item (i)), Article 835, paragraph (1), Articles 837 through 839, and Article 846 of the Companies Act apply mutatis mutandis to the action for invalidation of the incorporation of an audit corporation.
- (6) The provisions of Article 833, paragraph (2), Article 834 (limited to the portion pertaining to item (xxi)), Article 835, paragraph (1), Article 837, Article 838, Article 846, and Article 937, paragraph (1) (limited to the portion pertaining to item (i),(i)) of the Companies Act apply mutatis mutandis to the action for the dissolution of an audit corporation. In this case, the phrase "head office (in the case prescribed in item (i),(g) wherein the matters listed in the items of Article 930, paragraph (2) have been registered based on the relevant resolution, the head office and the branch office pertaining to the relevant

registration)" in Article 937, paragraph (1) of the Companies Act is deemed to be replaced with "principal office and the secondary office."

- (7) The court which supervises the dissolution and the liquidation of audit corporations may seek the opinion of the Prime Minister or request the Prime Minister to carry out an investigation.
- (8) The Prime Minister may state their opinion to the court prescribed in the preceding paragraph.
- (9) With regard to the application of the provisions of Article 16 of the Bankruptcy Act (Act No.75 of 2004), an unlimited liability audit corporation is deemed to be a general partnership company.
- (10) An unlimited liability audit corporation is to become a limited liability audit corporation by changing its articles of incorporation to make all of its partners limited liability partners.
- (11) A limited liability audit corporation becomes an unlimited liability audit corporation by changing its articles of incorporation to make all of its partners unlimited liability partners.
- (12) An audit corporation, when it has made a change to the articles of incorporation set forth in the preceding two paragraphs, must notify the Prime Minister to that effect within two weeks from the date of change.
- (13) In the case of making a change to the articles of incorporation set forth in paragraph (10), if any partner of the unlimited liability audit corporation that is making the relevant change to the articles of incorporation has not completed the payment or delivery pertaining to the capital contribution to the limited liability audit corporation resulting from the relevant change to the articles of incorporation, the relevant change to the articles of incorporation is to take effect on the day when the relevant payment or delivery has been completed.
- (14) The provisions of Article 34-14, paragraph (1) and Article 34-17 (limited to the portions pertaining to items (iii) through (v)) of this Act, Article 604, items (i) and (ii), Article 606, Article 609, paragraphs (1) and (2), Article 621, Article 622 and Article 624 of the Companies Act as applied mutatis mutandis pursuant to paragraph (1) of this Article, and paragraph (10) of this Article does not apply to an audit corporation to be placed into liquidation pursuant to the provisions of Article 644 (excluding item (iii)) of the Companies Act as applied mutatis mutandis to paragraph (2) of this Article.

(Application Mutatis Mutandis of the Companies Act to Limited Liability Audit Corporations)

Article 34-23 (1) The provisions of Article 207 (excluding paragraph (9), item (i)), Article 604, paragraph (3), Article 620, Article 623, paragraph (1), Articles 625 through 636, Article 660, Article 661 and Article 665 of the Companies Act

apply mutatis mutandis to limited liability audit corporations. In this case, the term "Ministry of Justice Order" in these provisions is deemed to be replaced with "Cabinet Office Order," the phrase "the matters listed in Article 199, paragraph (1), item (iii)" in Article 207, paragraph (1) of the Companies Act is deemed to be replaced with "property other than money as the object of capital contribution," the phrase "provided for in that item" in the same paragraph is deemed to be replaced with "other than money," the phrase "provided for in Article 199 , paragraph (1), item (iii)" in paragraph (7) and paragraph (9), items (ii) through (v) of the same Article is deemed to be replaced with "of property other than money," the term "subscriber for Shares for Subscription" in paragraph (8) of the same Article is deemed to be replaced with "person who intends to become a partner," the phrase "their applications for subscription for Shares for Subscription, or their manifestation of intention relating to the contract provided for in Article 205, paragraph (1)" in the same paragraph is deemed to be replaced with "the persons offer for capital contribution," the phrase "director, an accounting advisor, a company auditor or executive officer," in paragraph (10), item (i) of the same Article is deemed to be replaced with "partner," the phrase "employee including a manager" in the same item is deemed to be replaced with "employee," the term "subscriber for shares for subscription" in item (ii) of the same paragraph is deemed to be replaced with "person who intends to become a partner," the term "the preceding paragraph" in Article 604, paragraph (3) of the same Act is deemed to be replaced with "the preceding paragraph as applied mutatis mutandis pursuant to Article 34-22, paragraph (1) of the Certified Public Accountants Act," the term "business year" in Article 631, paragraph (1) of the same Act is deemed to be replaced with "fiscal year," the term "Article 624, paragraph (1)" in Article 632 , paragraph (1) of the same Act is deemed to be replaced with "Article 624, paragraph (1) as applied mutatis mutandis pursuant to Article 34-22, paragraph (1) of the Certified Public Accountants Act," the phrase "a demand is made under the provisions of the first sentence of Article 624 , paragraph (1)" in paragraph (2) of the same Article is deemed to be replaced with "a demand is made under the provisions of the first sentence of Article 624, paragraph (1) as applied mutatis mutandis pursuant to Article 34-22, paragraph (1) of the Certified Public Accountants Act," and the phrase "the demand under the first sentence of Article 624, paragraph (1)" in the same paragraph is deemed to be replaced with "the demand under the first sentence of Article 624, paragraph (1) as applied mutatis mutandis pursuant to Article 34-22, paragraph (1) of the Certified Public Accountants Act," and any other necessary technical replacement of terms is specified by Cabinet Order.

- (2) The provisions of Article 33 (excluding paragraph (11), item (ii)), Article 52, Article 212 (excluding paragraph (1), item (i)) and Article 578 of the Companies

Act apply mutatis mutandis to a person who intends to become a partner of a limited liability audit corporation. In this case, the phrase "the matters listed in each item of Article 28" in Article 33, paragraph (1) of the Companies Act is deemed to be replaced with "that property other than money may be made the object of capital contribution," the term "Article 30, paragraph (1)" in the same paragraph is deemed to be replaced with "Article 30, paragraph (1) as applied mutatis mutandis pursuant to Article 34-7, paragraph (2) of the Certified Public Accountants Act," the term "Ministry of Justice Order" in paragraphs (4), (6) and paragraph (10), item (ii) of the same Article is deemed to be replaced with "Cabinet Office Order," the phrase "matters listed in each item of Article 28" in paragraphs (7) and (8) of the same Article is deemed to be replaced with "the value of property other than money," the phrase "under Article 28, items (i) and (ii) of " in paragraph (10), item (i) of the same Article is deemed to be replaced with "other than money," the phrase "Matters listed in items (i) and (ii) of the same Article" in the same item is deemed to be replaced with "The value of the relevant property other than money," the phrase "Matters listed in Article 28, items (i) and (ii) with respect to" in item (ii) of the same paragraph is deemed to be replaced with "The value of," the phrase "Matters listed in Article 28, items (i) and (ii)" in item (iii) of the same paragraph is deemed to be replaced with "The value of the relevant property other than money," the term "An incorporator" in paragraph (11), item (i) of the same Article is deemed to be replaced with "A person who intends to become a partner of a limited liability audit corporation," the phrase "A director at incorporation (referring to a director at incorporation prescribed in Article 38, paragraph (1)) or an Auditor at Incorporation (referring to an Auditor at Incorporation prescribed in Paragraph 3, item (ii) of the Article)" in item (iii) of the same paragraph is deemed to be replaced with "A partner of a limited liability audit corporation," the phrase "the value of the properties contributed in kind at formation of a stock company is substantially short of the value specified or recorded in the articles of incorporation with respect to the properties contributed in kind" in Article 52, paragraph (1) of the same Act is deemed to be replaced with "the value of the property other than money that has been made the object of capital contribution is substantially short of the value specified or recorded in the articles of incorporation with respect to the property other than money," the term "Directors at Incorporation" in the same paragraph and paragraph (2) of the same Article is deemed to be replaced with "partners of the limited liability audit corporation," the term "Properties Contributed in Kind" in the same paragraph is deemed to be replaced with "property other than money," the phrase "matters listed in Article 28, item (i) or (ii)" in item (i) of the same paragraph is deemed to be replaced with "property other than money," the term "Article 33, paragraph (10), item (iii)" in paragraph (3) of the same Article

is deemed to be replaced with "Article 33, paragraph (10), item (iii) as applied mutatis mutandis pursuant to Article 34-23, paragraph (2) of the Certified Public Accountants Act," the term "Properties Contributed in Kind" in Article 212 of the same Act is deemed to be replaced with "property other than money," the phrase "a shareholder of the shares for subscription pursuant to the provisions of Article 209, paragraph (1)" in paragraph (1), item (ii) of the same Article is deemed to be replaced with "partner," the phrase "provided for under Article 199, paragraph (1), item (iii)" in the same item is deemed to be replaced with "of property other than money," the phrase "prescribed under Article 19, paragraph 9, paragraph (1), item (iii)" in paragraph (2) of the same Article is deemed to be replaced with "of property other than money," the phrase "their application for subscription for shares for subscription or their manifestation of intention relating to the contract provided for in Article 205, paragraph (1)" in the same paragraph is deemed to be replaced with "the persons capital contribution" and the phrase "If a membership company to be incorporated is a limited liability company" in Article 578 of the same Act is deemed to be replaced with "In the case of incorporating a limited liability audit corporation," and any other necessary technical replacement of terms are specified by Cabinet Order.

(3) The provisions of Article 213 (excluding paragraph (1), items (ii) and (iii)), Article 583 (excluding paragraph (2)) and Article 597 of the Companies Act apply mutatis mutandis to partners of limited liability audit corporations. In this case, the term "Ministry of Justice Order" in Article 213, paragraph (1), item (i) of the Companies Act is deemed to be replaced with "Cabinet Office Order," the term "Article 207, paragraph (2)" in paragraph (2), item (i) of the same Article is deemed to be replaced with "Article 207, paragraph (2) as applied mutatis mutandis pursuant to Article 34-23, paragraph (1) of the Certified Public Accountants Act," the term "Properties Contributed in Kind" in the same paragraph and paragraph (4) of the same Article is deemed to be replaced with "property other than money" and the term "Directors, etc." in item (i) of the same paragraph is deemed to be replaced with "Partners of the limited liability audit corporation," and any other necessary technical replacement of terms is specified by Cabinet Order.

(4) The provisions of Article 939, paragraph (1) (limited to the portions pertaining to items (ii) and (iii)), Article 939, paragraph (3), Article 940, paragraph (1) (limited to the portion pertaining to item (iii)), Article 940, paragraph (3), Article 941, Article 946, Article 947, Article 951, paragraph (2), Article 953 and Article 955 of the Companies Act apply mutatis mutandis to the case where a limited liability audit corporation gives public notice under the provisions of Article 627, paragraph (3) or Article 635, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to paragraph (1) of this

Article. In this case, the term "trade name" in Article 946, paragraph (3) of the Companies Act is deemed to be replaced with "name," and any other necessary technical replacement of terms are specified by Cabinet Order.

- (5) The provisions of Article 868, paragraph (1), Article 869, Article 870, paragraph (1) (excluding the portions pertaining to item (i), items (iii) and (iv)), Article 871, Article 872 (limited to the portion pertaining to item (iv)), Article 874 (limited to the portions pertaining to items (i) and (iv)), Article 875 and Article 876 of the Companies Act apply mutatis mutandis to Article 207 of the Companies Act as applied mutatis mutandis pursuant to paragraph (1) of this Article, the election of an inspector under the provisions of Article 33 of the Companies Act as applied mutatis mutandis pursuant to paragraph (2) of this Article and the case where a limited liability audit corporation files a petition for permission under the provisions of Article 661, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to paragraph (1) of this Article. In this case, the phrase "Directors at Incorporation, persons who contribute by any property other than money set forth in Article 28, item (i) and the assignor set forth in item (ii) of the same Article" in Article 870 (1), item (iii) of the Companies Act is deemed to be replaced with "partners of the limited liability audit corporation or persons who intend to become partners of the limited liability audit corporation" and the phrase "property other than money pursuant to the provisions of Article 199, paragraph (1), item (iii) or Article 236, paragraph (1), item (iii)" in item (iv) of the same Article is deemed to be replaced with "property other than money," and any other necessary technical replacement of terms are specified by Cabinet Order.
- (6) The provisions of Article 620, Article 623, paragraph (1), Article 626 and Article 627 of the Companies Act as applied mutatis mutandis under paragraph (1) do not apply to a limited liability audit corporation to be placed into liquidation pursuant to the provisions of Article 644 (excluding item (iii)) of the Companies Act as applied mutatis mutandis pursuant to paragraph (2) of the preceding Article.

### **Chapter V-3 Special Provisions on Registration of Limited Liability Audit Corporations**

(Registration)

Article 34-24 A limited liability audit corporation ,must not provide the services set forth in Article 2, paragraph (1) or those listed in the items of Article 34-5 unless it has obtained registration from the Prime Minister (simply referred to as "registration" in Articles 34-25 through 34-31).

(Application for Registration)

Article 34-25 (1) A limited liability audit corporation intending to obtain registration (including an unlimited liability audit corporation intending to make a change to the articles of incorporation under the provisions of Article 34-22, paragraph (10); the same applies in Article 34-27, paragraph (1), item (ii), (b)) must submit a written application containing the following matters to the Prime Minister:

- (i) name;
- (ii) location of office;
- (iii) names and addresses of partners;
- (iv) amount of stated capital;
- (v) other matters specified by Cabinet Office Order.

(2) The written application set forth in the preceding paragraph must attach the articles of incorporation and any other documents containing matters specified by Cabinet Office Order.

(Implementation of Registration)

Article 34-26 (1) The Prime Minister, when an application for registration has been filed, must register the following matters on the limited liability audit corporation roster, except when refusing registration pursuant to the provisions of paragraph (1) of the following Article:

- (i) matters listed in the items of paragraph (1) of the preceding Article;
- (ii) date of registration and the registration number.

(2) When the Prime Minister, has made the registration pursuant to the provisions of the preceding paragraph, the minister must notify the registration applicant to that effect without delay.

(3) The Prime Minister must make the limited liability audit corporation roster available for public inspection.

(Refusal of Registration)

Article 34-27 (1) The Prime Minister must refuse registration if the registration applicant falls under any of the following items:

- (i) when the registration of the applicant has been rescinded pursuant to the provisions of Article 34-29, paragraph (2) and three years have yet to elapse from the date of the rescission;
- (ii) when any of the partners falls under any of the following categories:
  - (a) a person who falls under any of the items of Article 34-4, paragraph (2);
  - (b) if the registration of another registered limited liability audit corporation (hereinafter referred to as a "registered limited liability audit corporation") has been rescinded pursuant to the provisions of Article 34-29, paragraph (2), a person who had been a partner of the relevant other registered limited liability audit corporation within thirty days prior to the date of

the rescission and for whom three years have yet to elapse from the date of the rescission;

(iii) when the amount of stated capital is less than the amount specified by Cabinet Order as an amount necessary and appropriate for the public interest or investor protection;

(iv) when the proportion of partners who are certified public accountants among the partners of the applicant is smaller than the proportion specified by Cabinet Office Order of not less than fifty per cent.

(2) When the Prime Minister has refused registration pursuant to the provisions of the preceding paragraph, the minister must notify the applicant to that effect along with the reason therefor, without delay.

(Change of Registration)

Article 34-28 (1) When there has been any change in the matters registered, a registered limited liability audit corporation must immediately file an application for the registration of such a change.

(2) Registration of a registered limited liability audit corporation loses its effect when the registered limited liability audit corporation has dissolved pursuant to the provisions of Article 34-18, paragraph (1) or (2), when, in the case of making a change to the articles of incorporation under the provisions of Article 34-22, the change to the articles of incorporation has not taken effect within two weeks from the registration thereof, or when a change to the articles of incorporation under the provisions of paragraph (11) of the same Article has been made.

(Dispositions against Registered Limited Liability Audit Corporations)

Article 34-29 (1) When a registered limited liability audit corporation has violated Article 34-10-5 or the provisions of this Chapter or an order based on these provisions, the Prime Minister may give the necessary instruction (excluding ordering the improvement of the operation control structure pursuant to the provisions of the following paragraph or prohibiting a partner from participating in all or part of the services or decision-making of an audit corporation pursuant to the provisions of paragraph (3), in the case of falling under item (iii) of the following paragraph) to the relevant registered limited liability audit corporation.

(2) The Prime Minister, when a registered limited liability audit corporation falls under any of the following items, may issue an admonition, order the improvement of the operation control structure prescribed in Article 34-13, paragraph (1) or order the suspension of all or part of the services by specifying a period not exceeding two years to the relevant registered limited liability audit corporation or rescind its registration:

- (i) when a registered limited liability audit corporation has fallen under any of the items of Article 34-27, paragraph (1) (excluding item (i));
  - (ii) when a registered limited liability audit corporation has obtained registration by wrongful means;
  - (iii) when a registered limited liability audit corporation has violated Article 34-10-5 or the provisions of this Chapter or an order based on these provisions;
  - (iv) when a registered limited liability audit corporation fails to follow an instruction under the provisions of the preceding paragraph.
- (3) The Prime Minister, when a registered limited liability audit corporation falls under item (iii) or (iv) of the preceding paragraph, may prohibit the relevant registered limited liability audit corporation from having the partners who is found to be largely responsible for the registered limited liability audit corporation to have fallen under item (iii) or (iv) of the same paragraph participate in all or part of the services or decision-making of the relevant registered limited liability audit corporation, by specifying a period not exceeding two years.
- (4) The provisions of Articles 32 through 34 apply mutatis mutandis to the dispositions set forth in the preceding two paragraphs.
- (5) A registered limited liability audit corporation that has been placed under a procedure of disposition under the provisions of paragraph (2) or (3) is deemed to be extant with regard to the application of the provisions of this Article until the relevant procedure has been completed, even after the completion of its liquidation.
- (6) If a registered limited liability audit corporation is to be punished pursuant to the provisions of paragraph (2) or (3), and a fact that falls under Article 30 or 31 exists with regard to a certified public accountant who is a partner of the relevant audit corporation, the provisions of paragraphs (2) and (3) are not to be construed so as to preclude the cumulative imposition of a disciplinary action against the certified public accountant who is a partner of the audit corporation.
- (7) If a registered limited liability audit corporation is to be punished pursuant to the provisions of paragraph (2) or (3), and a fact that falls under Article 34-10-17, paragraph (2) exists with regard to a specified partner of the relevant audit corporation, the provisions of paragraphs (2) and (3) are not to be construed so as to preclude the cumulative imposition of a disposition set forth in the same paragraph against the relevant specified partner.

(Deletion of Registration)

Article 34-30 The Prime Minister must delete the registration when the registration loses its effect pursuant to the provisions of Article 34-28 or when

the minister has rescinded the registration pursuant to the provisions of paragraph (2) of the preceding Article.

(Details of Registration)

Article 34-31 Beyond what is provided for in this Chapter, the procedure of registration, the deletion of registration, the limited liability audit corporation roster, and other necessary matters concerning registration is specified by Cabinet Office Order.

(Special Provisions on Preparation of Financial Statements)

Article 34-32 (1) A registered limited liability audit corporation must attach to its financial statements an audit report by a certified public accountant or audit corporation in which the relevant registered limited liability audit corporation has no special interest as specified by Cabinet Order, pursuant to the provisions of a Cabinet Office Order; provided, however, that this does not apply to the case where the amount of income of the relevant registered limited liability audit corporation or any other amount of account specified by Cabinet Order in the fiscal year pertaining to the relevant financial statements fails to reach the standard specified by Cabinet Order.

(2) With regard to the audit report set forth in the preceding paragraph, an electronic or magnetic record containing the matters that should be contained in the audit report may be attached in place of attaching the audit report.

(Special Provisions on Deposit)

Article 34-33 (1) A registered limited liability audit corporation must deposit at the deposit office nearest to its principal office the amount of money specified by Cabinet Order as an amount that is necessary and appropriate for securing the performance of its obligations against persons who have the rights to claim damages (hereinafter referred to as the "claims subject to preferential refund" in this Article) that would arise if the registered limited liability audit corporation were to fall under Article 34-21, paragraph (2), item (i) or (ii) (the persons are hereinafter referred to as "obligees subject to preferential refund" in this Article and the following Article).

(2) When the Prime Minister finds it necessary for securing the performance of obligations against obligees subject to preferential refund, the minister may order a registered limited liability audit corporation to deposit an amount of money that is found to be reasonable, beyond the amount specified by Cabinet Order set forth in the preceding paragraph.

(3) A registered limited liability audit corporation, when it has concluded a contract promising that the required deposit money will be deposited for the relevant registered limited liability audit corporation in accordance with an

order by the Prime Minister and has notified the Prime Minister to that effect, may refrain from depositing all or part of the deposit money to be deposited pursuant to the provisions of the preceding two paragraphs with regard to the amount that is promised to be deposited in the relevant contract (hereinafter referred to as the "contracted amount" in this Article) during the period in which the relevant contract remains effective, pursuant to the provisions of a Cabinet Order.

- (4) When the Prime Minister finds it necessary for securing the performance of obligations against the obligees subject to preferential refund, the minister may order the person who has concluded a contract set forth in the preceding paragraph with a registered limited liability audit corporation or order the relevant registered limited liability audit corporation to deposit all or part of an amount corresponding to the contracted amount.
- (5) A registered limited liability audit corporation (excluding one for which a change to the articles of incorporation under the provisions of Article 34-22, paragraph (10) has not taken effect) may not provide its services until after it has made a deposit or concluded a contract set forth in paragraph (3) with regard to the deposit money to be deposited pursuant to the provisions of paragraph (1) (when a deposit of money set forth in paragraph (2) has been ordered pursuant to the same paragraph, including the relevant deposit money) and has notified the Prime Minister to that effect.
- (6) An obligee subject to preferential refund, for their claim subject to preferential refund, may have the right to receive payment prior to other obligees with regard to the deposit money pertaining to the registered limited liability audit corporation.
- (7) The necessary matters concerning execution of the right set forth in the preceding paragraph are specified by Cabinet Order.
- (8) A registered limited liability audit corporation, when the amount of deposit money (including the contracted amount) falls short of the amount specified by Cabinet Order as set forth in paragraph (1) due to execution of the right set forth in paragraph (6) or for any other reason, must make a deposit or conclude a contract set forth in paragraph (3) (simply referred to as a "deposit" in Article 52-4) for the shortfall within a period specified by Cabinet Order from a date specified by Cabinet Office Order, and notify the Prime Minister to that effect without delay.
- (9) National government bond certificates, local government bond certificates and any other securities specified by Cabinet Office Order may be used as the deposit money to be deposited pursuant to the provisions of paragraph (1), paragraph (2) or the preceding paragraph.
- (10) The deposit money that has been deposited pursuant to the provisions of paragraph (1), (2) (4) or (8) may be reclaimed in whole or in part by obtaining

the approval of the Prime Minister in the case of falling under any of the following items:

- (i) when the registered limited liability audit corporation has fallen under any of the items of Article 34-18, paragraph (1);
  - (ii) when the registered limited liability audit corporation has fallen under Article 34-18, paragraph (2);
  - (iii) when the registered limited liability audit corporation has made a change to the articles of incorporation as prescribed in Article 34-22, paragraph (11) and has notified the Prime Minister to that effect pursuant to the provisions of paragraph (12) of the same Article;
  - (iv) when the amount of deposit money has exceeded the amount specified by Cabinet Order as set forth in paragraph (1) due to changes in the status of the services or any other reason.
- (11) The Prime Minister, when granting the approval set forth in the preceding paragraph, may designate the period in which the deposit money may be reclaimed and the amount of deposit money that may be reclaimed to the extent found necessary for securing payment of claims subject to preferential refund.
- (12) Beyond what is provided for in the preceding paragraphs, the necessary matters concerning deposit money is to be specified by Cabinet Office Order or a Ministry of Justice Order.

(Special Provisions on Liability Insurance Contracts of Limited Liability Audit Corporations)

Article 34-34 (1) Pursuant to the provisions of a Cabinet Order, a registered limited liability audit corporation, when it has concluded an insurance contract on liabilities that arise during the course of providing its services (referred to as a "liability insurance contract of a limited liability audit corporation" in the following paragraph and paragraph (3)) and has obtained the approval of the Prime Minister, may refrain from making a deposit or concluding a contract set forth in paragraph (3) for all or part of the deposit money to be deposited pursuant to the provisions of paragraph (2), (3) or (8) of the preceding Article, according to the amount of insurance money of the relevant insurance contract, while the relevant insurance contract remains effective.

- (2) When the Prime Minister finds it necessary for securing the performance of their obligations against the obligees subject to preferential refund, the minister may order a registered limited liability audit corporation that has concluded a liability insurance contract of a limited liability audit corporation to deposit all or part of the amount of deposit money to be deposited pursuant to the provisions of paragraph (1), (2) or (8) of the preceding Article for which the registered limited liability audit corporation was allowed to refrain from

- depositing or concluding a contract set forth in paragraph (3).
- (3) Beyond what is provided for in the preceding two paragraphs, the necessary matters concerning liability insurance contracts of limited liability audit corporations is specified by Cabinet Office Order.

#### **Chapter V-4 Foreign Audit Firm**

(Notification)

- Article 34-35 (1) A person who makes it their practice to audit or attest financial documents for fees at the request of others in a foreign state in compliance with the laws and regulations of the foreign state, when intending to provide services that are found to correspond to the services prescribed in Article 2, paragraph (1) concerning financial documents to be submitted by an issuer of securities listed in Article 2, paragraph (1), item (xvii) of the Financial Instruments and Exchange Act that have the nature of securities listed in item (ix) of the same paragraph or any other securities specified by Cabinet Order or to be submitted by any other person specified by Cabinet Office Order pursuant to the provisions of the same Act (the financial documents is hereinafter referred to as "financial documents of a foreign company, etc."), must notify the Prime Minister in advance pursuant to the provisions of a Cabinet Office Order; provided, however, that this applies to a person who is specified by Cabinet Office Order as one who is deemed to receive appropriate supervision of the administrative agency of the foreign state that supervises persons who provide services that are found to correspond to those set forth in the same paragraph concerning financial documents of the foreign company, etc. or an organization equivalent to the administrative agency.
- (2) The Prime Minister, when a notification under the provisions of the preceding paragraph has been given, may make a public statement to that effect in the official gazette.

(Matters To Be Notified)

- Article 34-36 (1) A person who intends to give a notification under the provisions of paragraph (1) of the preceding Article must submit to the Prime Minister a notification document containing the following matters:
- (i) name;
  - (ii) location of the principal office;
  - (iii) in the case of an artificial person, the names of the board members;
  - (iv) in the case of an artificial person, the amount of stated capital or the total amount of contributions;
  - (v) other matters specified by Cabinet Office Order.
- (2) The notification document under the provisions of the preceding paragraph

must attach the articles of incorporation and any other documents containing matters specified by Cabinet Office Order.

(Changes to the Matters Notified)

Article 34-37 (1) A foreign audit firm, etc., when there has been a change to any of the matters listed in the items of paragraph (1) of the preceding Article, must notify the Prime Minister to that effect within two weeks pursuant to the provisions of a Cabinet Office Order.

(2) The Prime Minister, when there has been a notification under the provisions of the preceding paragraph, must make a public statement to that effect in the official gazette.

(Instructions to Foreign Audit Firms)

Article 34-38 (1) The Prime Minister, when a foreign audit firm, etc. has violated this Act or an order under this Act or when operation of the services that are found to correspond to the services set forth in Article 2, paragraph (1) concerning financial documents of a foreign company, etc. by a foreign audit firm, etc. is found to be grossly inappropriate, and the minister finds it necessary for securing fair operation of the services, may give the necessary instruction to the relevant foreign audit firm, etc.

(2) When the Prime Minister has given an instruction under the provisions of the preceding paragraph and the foreign audit firm, etc. that has received the instruction fails to follow the relevant instruction, the minister may make public the failure and the contents of the relevant instruction.

(3) When the Prime Minister finds that after the publication under the provisions of the preceding paragraph the foreign audit firm, etc. of the same paragraph has made efforts for rectifying the matters pertaining to the instruction set forth in paragraph (1), the minister must make public these findings and any other matters specified by Cabinet Office Order.

(Notification of Abolition of Services)

Article 34-39 (1) A foreign audit firm, etc., when it has fallen under any of the following situations, must notify the Prime Minister to that effect:

(i) when the foreign audit firm, etc. has ceased the services that are found to correspond to those set forth in Article 2, paragraph (1) concerning the financial documents of a foreign company, etc.;

(ii) when the foreign audit firm, etc. has filed the same kind of petition as that for commencement of bankruptcy proceedings, commencement of civil reorganization proceedings or commencement of corporation reorganization proceedings in the state where its principal office is located under the laws and regulations of the relevant state.

- (2) The Prime Minister, when there has been a notification under the provisions of the preceding paragraph, must make a public statement to that effect.

### **Chapter V-5 Hearing Procedure**

(Ruling for Commencement of a Hearing Procedure)

Article 34-40 (1) The Prime Minister, when the minister finds that a fact prescribed in Article 31-2, paragraph (1) exists (excluding the case of not ordering payment of a surcharge pursuant to the provisions of paragraph (2) of the same Article) or when the minister finds that a fact prescribed in Article 34-21-2, paragraph (1) exists (excluding the case of not ordering payment of a surcharge pursuant to the provisions of paragraph (2) of the same Article), must give a ruling for the commencement of a hearing procedure for a case pertaining to the relevant fact.

- (2) When seven years have elapsed from the last day of the accounting period of a company or any other person pertaining to financial documents for which attestation under the provisions of Article 30, paragraph (1) or (2) or Article 34-21, paragraph (2), item (i) or (ii) has been conducted, the Prime Minister may not give a ruling for the commencement of a hearing procedure for a case pertaining to the relevant attestation.

(Written Ruling for Commencement of a Trial Proceedings)

Article 34-41 (1) A ruling for the commencement of a trial proceedings must be given in writing.

- (2) A written ruling pertaining a ruling for the commencement of a hearing procedure (referred to as a "written ruling for the commencement of a hearing procedure" in the following paragraph and Article 34-45) must include statements on the date and place of the hearing, the fact prescribed in Article 31-2, paragraph (1) or Article 34-21-2, paragraph (1) pertaining to a surcharge, the amount of surcharge to be paid and the basis of its calculation.
- (3) A hearing procedure is to commence when a copy of a written ruling for the commencement of a hearing procedure has been served to the person to whom payment of a surcharge is to be ordered (hereinafter referred to as the "respondent" in this Chapter).
- (4) The respondent must be ordered to appear on the hearing date.

(Persons to Carry Out a Hearing Procedure)

Article 34-42 (1) A hearing procedure (excluding the ruling for the commencement of the hearing procedure and a ruling prescribed in Article 34-53, paragraph (7)) is carried out by a panel constituted by three hearing officers; provided, however, that it is carried out by a single hearing officer in

the case of a simple case.

- (2) The Prime Minister must designate the hearing officers to constitute the panel set forth in the main clause of the preceding paragraph or the single hearing officer set forth in the proviso to the same paragraph for each hearing case.
- (3) When the Prime Minister has decided to have a panel carry out a hearing procedure, the minister must designate one of the hearing officers designated pursuant to the provisions of the preceding paragraph as the chief hearing examiner.
- (4) The Prime Minister may not designate a person who has participated in an investigation concerning the case as a hearing officer for the case.

(Agent of the Respondent and Designated Official)

- Article 34-43 (1) A respondent may appoint a lawyer, a legal professional corporation or an appropriate person for whom the approval of the Prime Minister has been gained as their agent.
- (2) The Prime Minister may have a relevant official whom the minister designates (referred to as a "designated official" in the following paragraph) participate in a hearing procedure.
  - (3) A designated official may attend the hearing, offer evidence and carry out other necessary acts.

(Open Hearing)

Article 34-44 A hearing is opened to the public; provided, however, that this does not apply when it is found necessary not to do so in the public interest.

(Submission of a Written Answer by the Respondent)

- Article 34-45 (1) The respondent, when served with the copy of a written ruling for the commencement of a hearing procedure, must submit a written answer thereto to the hearing officer without delay.
- (2) When the respondent has submitted, prior to the hearing date stated in a written ruling for the commencement of a hearing procedure, a written answer to the effect that the respondent recognizes the fact prescribed in Article 31-2, paragraph (1) or Article 34-21-2, paragraph (1) pertaining to the surcharge and the amount of surcharge to be paid, a hearing is not required to be held.

(Statement of Opinion by the Respondent)

- Article 34-46 (1) The respondent may state their opinion by appearing on the hearing date.
- (2) A hearing officer may, when they find it necessary, request the respondent to state opinions.

(Examination of a Witness)

Article 34-47 (1) A hearing officer, on a motion from the respondent or by their own authority, request a witness to appear and examine the witness. In this case, the respondent may also question the witness.

(2) The provisions of Articles 190, 191, 196, 197 and Article 201, paragraphs (1) through (4) of the Administrative Procedure Act (Act No. 109 of 1996) apply mutatis mutandis to the procedure for examining a witness pursuant to the provisions of the preceding paragraph.

(Examination of the Respondent)

Article 34-48 A hearing officer, on a motion from the respondent or by their own authority, may examine the respondent.

(Production of Documentary Evidence)

Article 34-49 (1) The respondent may produce documentary evidence or articles of evidence at a hearing; provided, however, that, when a hearing officer has set a reasonable period of time in which documentary evidence or articles of evidence should be produced, the respondent must produce them within the relevant period.

(2) A hearing officer, on a motion from the respondent or by their own authority, request the possessor of a document or any other objects to produce the objects, and may retain the produced objects.

(Order for a Person with Relevant Knowledge and Experience to Give an Expert Opinion)

Article 34-50 (1) A hearing officer examiner, on a motion from the respondent or by their own authority, may order a person with relevant knowledge and experience to give an expert opinion.

(2) When a hearing officer requests an expert witness to appear and examines the expert witness, the respondent may also question the expert witness.

(3) The provisions of Articles 191, 197, Article 201, paragraph (1) and Article 212 of the Administrative Procedure Act apply mutatis mutandis to the procedure for ordering an expert witness to give an expert opinion pursuant to the provisions of paragraph (1) of this Article.

(On-Site Inspections)

Article 34-51 (1) A hearing officer on a motion from the respondent or by their own authority, may enter the office of a person concerned with the case or other necessary places and inspect books and documents and any other objects.

(2) A hearing officer who intends to conduct an on-site inspection pursuant to the

provisions of the preceding paragraph must carry an identification card and present it when being requested to do so by a person concerned with the case.

(3) The authority for the on-site inspection under the provisions of paragraph (1) must not be construed as that approved for the purpose of criminal investigation.

(Submission of a Draft Decision)

Article 34-52 A hearing officer after carrying out a hearing procedure, must prepare a draft decision on the heard case and submit it to the Prime Minister.

(Decision after Completion of a Hearing Procedure)

Article 34-53 (1) The Prime Minister, when the minister has received the submission of a draft decision under the provisions of the preceding Article, and the minister finds that a fact prescribed in Article 31-2, paragraph (1) or Article 34-21-2, paragraph (1) exists, the minister must render a decision ordering the respondent to pay a surcharge under the provisions of Article 31-2, paragraph (1) or Article 34-21-2, paragraph (1) to the Treasury.

(2) When the Prime Minister must render a decision set forth in the preceding paragraph (limited to that pertaining to the provisions of Article 31-2, paragraph (1); hereinafter the same applies in this paragraph) for two or more attestations of financial documents pertaining to the same accounting period of a company or any other person, the minister must render a decision ordering the respondent to pay to the Treasury, in lieu of the amount under the provisions of paragraph (1) of the same Article, a surcharge of an amount corresponding to the amount obtained by dividing proportionately the highest of the amounts calculated pursuant to the provisions of the same paragraph for the facts pertaining to the respective decisions (hereinafter referred to as the "amounts calculated for the individual decisions" in this paragraph and the following paragraph) in accordance with the relevant amounts calculated for the individual decisions, pursuant to the provisions of a Cabinet Office Order.

(3) When the Prime Minister must render a decision set forth in paragraph (1) (limited to that pertaining to the provisions of Article 31-2, paragraph (1); hereinafter the same applies in this paragraph) or a decision set forth in the preceding paragraph, and the minister must render one or more decisions on the attestation of financial documents of a company or any other person (hereinafter referred to as the "new decision" in this paragraph) pertaining to the same accounting period as the attestation of financial documents of the relevant company or any other person concerning one or more decisions that have already been rendered pursuant to paragraph (1) or the preceding paragraph (hereinafter referred to as an "existing decision" in this paragraph), the Prime Minister must render, as the new decision, a decision ordering the

respondent to pay to the Treasury, in lieu of the amount under the provisions of paragraph (1) of the same Article or the preceding paragraph, a surcharge of an amount corresponding to the amount obtained by dividing proportionately the amount resulting from deducting the amount set forth in item (ii) from the amount set forth in item (i) in accordance with the amounts calculated for the individual decisions on the facts pertaining to the respective new decisions, pursuant to the provisions of a Cabinet Office Order; provided, however, that the Prime Minister may not order payment of a surcharge under the provisions of paragraph (1) of the same Article or the preceding paragraph when the amount set forth in item (i) does not exceed the amount set forth in item (ii):

(i) the highest of the amounts calculated for the individual decisions pertaining to the new decisions;

(ii) the total of the amount of surcharge under the provisions of Article 31-2, paragraph (1) or the preceding paragraph pertaining to the existing decisions.

(4) The Prime Minister, when the minister must render a decision set forth in paragraph (1) (limited to that pertaining to the provisions of Article 34-21-2, paragraph (1); hereinafter the same applies in this paragraph) on two or more attestations of financial documents pertaining to the same accounting period of a company or any other person, render a decision ordering the respondent to pay to the Treasury, in lieu of the amount under the provisions of paragraph (1) of the same Article, a surcharge of an amount corresponding to the amount obtained by dividing proportionately the highest of the amounts calculated pursuant to the provisions of the same paragraph for the facts pertaining to the respective decisions (hereinafter referred to as the "amounts calculated for the individual decisions" in this paragraph and the following paragraph) in accordance with the relevant amounts calculated for the individual decisions, pursuant to the provisions of a Cabinet Office Order.

(5) When the Prime Minister must render a decision set forth in paragraph (1) (limited to that pertaining to the provisions of Article 34-21-2, paragraph (1); hereinafter the same applies in this paragraph) or a decision set forth in the preceding paragraph, and the minister must render one or more decisions on the attestation of financial documents of a company or any other person (hereinafter referred to as the "new decision" in this paragraph) pertaining to the same accounting period as the attestation of financial documents of the relevant company or any other person concerning one or more decisions that have already been rendered pursuant to paragraph (1) or the preceding paragraph (hereinafter referred to as an "existing decision" in this paragraph), the Prime Minister must render, as the new decision, a decision ordering the respondent to pay to the Treasury, in lieu of the amount under the provisions of paragraph (1) of the same Article or the preceding paragraph, a surcharge of an amount corresponding to the amount obtained by dividing proportionately

- the amount resulting from deducting the amount set forth in item (ii) from the amount set forth in item (i) in accordance with the amounts calculated for the individual decisions on the facts pertaining to the respective new decisions, pursuant to the provisions of a Cabinet Office Order; provided, however, that the Prime Minister may not order payment of a surcharge under the provisions of paragraph (1) of the same Article or the preceding paragraph when the amount set forth in item (i) does not exceed the amount set forth in item (ii):
- (i) the highest of the amounts calculated for the individual decisions pertaining to the new decisions;
  - (ii) the total of the amount of surcharge under the provisions of Article 34-21-2, paragraph (1) or the preceding paragraph pertaining to the existing decisions.
- (6) If the Prime Minister has received the submission of a draft decision under the provisions of the preceding Article and finds that a fact prescribed in Article 31-2, paragraph (1) or Article 34-21-2, paragraph (1) does not exist, the minister must render a decision clarifying to that effect.
- (7) The decisions set forth in the preceding paragraphs must be rendered in writing based on the draft decision that has been submitted by a hearing officer pursuant to the provisions of the preceding Article.
- (8) A written decision pertaining to the decision prescribed in the preceding paragraph must contain statements on the fact found by the Prime Minister and the application of laws and regulations to the fact (including the basis of calculation of the surcharge and the due date for payment in the case of any of the decisions set forth in paragraphs (1) through (5)).
- (9) The due date for payment set forth in the preceding paragraph is to be the day on which two months have elapsed from the date of issuance of the copy of the written decision (limited to that pertaining to any of the decisions set forth in paragraphs (1) through (5)) prescribed in the same paragraph.
- (10) The decision prescribed in paragraph (7) takes effect when the copy of the written decision pertaining to the relevant decision is served to the respondent.

(Served Documents)

Article 34-54 Beyond what is provided for in this Act, the documents that should be served are specified by Cabinet Office Order.

(Application Mutatis Mutandis of the Administrative Procedure Act)

Article 34-55 The provisions of Article 99, Articles 101 through 103, Article 105, Article 106, Article 107, paragraph (1) (excluding items (ii) and (iii)) and, paragraph (3), Articles 108 and 109 of the Administrative Procedure Act apply mutatis mutandis to the service of documents. In this case, the term "court enforcement officer" in Article 99, paragraph (1) of the same Act and the term "court clerk" in Article 107, paragraph (1) of the same Act is deemed to be

replaced with "official of the Financial Services Agency," the term "presiding judge" in Article 108 of the same Act is deemed to be replaced with "Prime Minister or the chief hearing examiner (the hearing officer in the case of the proviso to Article 34-42, paragraph (1) of the Certified Public Accountants Act)" and the term "court" in Article 109 of the same Act is deemed to be replaced with "Prime Minister or a hearing officer."

(Service by Publication)

Article 34-56 (1) The Prime Minister or a hearing officer may make service by publication in the following cases:

- (i) when the domicile or residence of the person to be served or any other place to which the service should be made is unknown;
  - (ii) when the service is unable to be made pursuant to the provisions of Article 107 , paragraph (1) (excluding items (ii) and (iii)) of the Administrative Procedure Act as applied mutatis mutandis pursuant to the preceding Article;
  - (iii) when the method prescribed in Article 108 of the Administrative Procedure Act as applied mutatis mutandis pursuant to the preceding Article is unable to be used for the service to be effected in a foreign state or when it is found that that service is unable to be made even when the relevant method has been used;
  - (iv) when, after six months have elapsed from the commissioning of the service to the competent government agency of a foreign state pursuant to the provisions of Article 108 of the Administrative Procedure Act as applied mutatis mutandis pursuant to the preceding Article, a document proving the relevant service has still not arrived.
- (2) Service by publication is made by way of a posting on the notice board of the Financial Services Agency to the effect that the documents to be served are delivered at any time to the person to be served.
- (3) Service by publication is to take effect when two weeks have elapsed from the day on which the posting under the provisions of the preceding paragraph was commenced.
- (4) The period set forth in the preceding paragraph is to be six weeks for service by publication concerning service to be effected in a foreign state.

(Use of an Electronic Data Processing System Pertaining to a Notice of Disposition)

Article 34-57 (1) A notice of disposition, etc. prescribed in Article 2, item (vii) of the Act on Use of Information and Communications Technology in Administrative Procedures (Act No. 151 of 2002) that is to be given by serving documents pursuant to the provisions of this Chapter or Cabinet Office Order

may not be given by using an electronic data processing system unless the recipient of the relevant notice of disposition, etc. indicates by a method specified by Cabinet Office Order to the effect that the recipient will receive the service, notwithstanding the provisions of Article 4, paragraph (1) of the same Act.

- (2) When the recipient prescribed in the preceding paragraph has made an indication set forth in the same paragraph, and an official of the Financial Services Agency has given the notice of disposition, etc. set forth in the same paragraph by using an electronic data processing system, the official, notwithstanding the provisions of Article 109 of the Administrative Procedure Act as applied mutatis mutandis pursuant to Article 34-55, may record, by using an electronic data processing system, the contents of the relevant notice of disposition, etc. into a file stored in a computer (including the input-output devices) used by the Financial Services Agency in lieu of the preparation and submission of the document prescribed in the same Article.

(Inspection of Case Records)

Article 34-58 An interested person, after a ruling for the commencement of a hearing procedure, may request the Prime Minister for an inspection or a copy of the case records or the delivery of a copy or an extract of the written decision pertaining to the decision prescribed in Article 34-53, paragraph (7).

(Demand for Payment)

Article 34-59 (1) The Prime Minister, when a person has failed to pay a surcharge by the due date for payment, must designate a due date and demand the payment by issuing a demand note.

- (2) When the Prime Minister has made a demand under the provisions of the preceding paragraph, the minister may collect a delinquent charge that has been calculated based on the number of days from the day following the due date for payment until the payment date at an annual rate of fourteen point five percent for the amount of surcharge set forth in the same paragraph; provided, however, that this does not apply when the amount of the delinquent charge is less than one thousand yen.

- (3) When the amount of delinquent charge calculated pursuant to the provisions of the preceding paragraph includes an odd amount of less than one hundred yen, such odd amount is omitted.

(Execution of an Order for Payment of Surcharge)

Article 34-60 (1) When a person who has received a demand pursuant to the provisions of paragraph (1) of the preceding Article fails to pay the amount to be paid by the designated due date, the decision set forth in Article 34-53,

paragraphs (1) through (5) (hereinafter referred to as the "order for payment of a surcharge" in this Article and the following Article) is executed by an order of the Prime Minister. This order has the same effect as an executable title of obligation.

(2) An order for payment of a surcharge is not to be executed in accordance with the provisions of the Civil Execution Act (Act No. 4 of 1979) and other laws and regulations concerning the procedure of execution.

(3) When the Prime Minister finds it necessary with regard to execution of an order for payment of a surcharge, the minister may make inquiries of a public office or a public or private organization and make a request for a report on necessary matters.

(Claim for a Surcharge)

Article 34-61 With regard to the application of the provisions of the Bankruptcy Act and the Civil Rehabilitation Act (Act No. 225 of 1999), a claim for a surcharge pertaining to an order for payment of a surcharge and a claim for a delinquent charge under the provisions of Article 34-59, paragraph (2) is deemed to be a claim for a non-penal fine.

(Delegation to Cabinet Office Order)

Article 34-62 Beyond what is provided for in this Chapter, the necessary matters concerning the hearing procedure are specified by Cabinet Office Order.

(Action for Rescission)

Article 34-63 (1) An action for the rescission of a decision set forth in Article 34-53, paragraph (1) through (5) must be filed within thirty days from the day on which the decision took effect.

(2) The period set forth in the preceding paragraph is unextendable.

(Request for Traveling Expenses of a Witness)

Article 34-64 A witness or an expert witness who has been ordered to appear or to give an expert opinion pursuant to the provisions of Article 34-47, paragraph (1) or Article 34-50, paragraph (1) may request traveling expenses or an allowance pursuant to the provisions of a Cabinet Order.

(Exclusion from Application of the Administrative Procedure Act)

Article 34-65 The provisions of Chapter II and Chapter III of the Administrative Procedure Act do not apply to a decision or any other disposition given by the Prime Minister pursuant to any of the provisions of Article 31-2, Article 34-21-2 and Articles 34-40 through 34-62 (including a disposition given by a hearing officer pursuant to any of these provisions); provided, however, that this does

not apply to the application of the provisions of Article 12 of the Administrative Procedure Act pertaining to the provisions of Articles 31-2 and 34-21-2 of this Act.

(Request for Investigation)

Article 34-66 No request for administrative review may be made against a decision or any other disposition given by the Prime Minister pursuant to any of the provisions of Article 31-2, Article 34-21-2 and Articles 34-40 through 34-62 (including a disposition given by a hearing officer pursuant to any of these provisions) or inaction thereof.

## **Chapter VI Certified Public Accountants and Auditing Oversight Board**

(Establishment)

Article 35 (1) The Certified Public Accountants and Auditing Oversight Board (hereinafter referred to as the "board") is established within the Financial Services Agency.

(2) The board is to administer the following matters:

- (i) examining and deliberating matters concerning disciplinary actions against certified public accountants and foreign certified public accountants and actions against audit firms (excluding an order under the provisions of Article 34-21-2, paragraph (1) against an audit corporation);
- (ii) making recommendations to the Prime Minister concerning administrative actions or any other measures to be taken in order to assure proper operations of the services set forth in Article 2, paragraph (1) provided by certified public accountants, foreign certified public accountants or audit corporations, the services that are found to correspond to those set forth in the same paragraph provided by foreign audit firms, etc., or the affairs of the Japanese Institute of Certified Public Accountants;
- (iii) conducting the certified public accountant examination;
- (iv) beyond what is listed in the preceding three items, processing matters that have been placed under its authority pursuant to the provisions of this Act.

(Exercise of Authority)

Article 35-2 The chairperson and commissioners of the board are to exercise their authority independently.

(Organization)

Article 36 (1) The board is to be organized by a chairperson and not more than nine commissioners.

(2) The commissioners are part-time positions; provided, however, that one of

them may be a full-time position.

(Chairperson)

Article 37 (1) The chairperson is to preside over the affairs of the board and represent the board.

(2) When the chairperson is unable to attend to their duties, a commissioner designated in advance is to perform the duties of the chairperson on their behalf.

(Appointment of the Chairperson and Commissioners)

Article 37-2 (1) The chairperson and commissioners are to be appointed by the Prime Minister, by obtaining the consent of both Houses, from among those who have an understanding of and insight on matters concerning certified public accountants.

(2) When the term of office of the chairperson or a commissioner has expired or where a vacancy has occurred, and the Prime Minister is unable to obtain the consent of both Houses because the Diet is closed or the House of Representatives has dissolved, the Prime Minister, notwithstanding the provisions of the preceding paragraph, may appoint a chairperson or commissioner from among those who are qualified as prescribed in the preceding paragraph.

(3) In the case referred to in the preceding paragraph, the Prime Minister is to obtain the ex post facto consent of both Houses at the first Diet session after the appointment. In this case, if the ex post facto consent of both Houses cannot be obtained, the Prime Minister must immediately dismiss the relevant chairperson or commissioner.

(Term of Office of the Chairperson and Commissioners)

Article 37-3 (1) The term of office of the chairperson and commissioners are three years; provided, however, that the term of office of a chairperson or commissioner who is appointed to fill a vacancy is the remaining term of their predecessor.

(2) The chairperson and commissioners may be reappointed.

(3) When the term of office of the chairperson or a commissioner has expired, the relevant chairperson or commissioner is to continue to perform their duty until a successor is appointed.

(Guarantee of Status of the Chairperson and Commissioners)

Article 37-4 The chairperson or a commissioner may not be dismissed against their will, while holding office, except when they have been found by the board to be unable to perform their duties due to mental or physical disorder or when

they have been found by the board to have violated an obligation in the course of their duties or committed a misconduct unbecoming for a chairperson or commissioner.

(Dismissal of the Chairperson or a Commissioner)

Article 37-5 The Prime Minister, when the chairperson or a commissioner falls under the preceding Article, may dismiss the relevant chairperson or commissioner.

(Service Principles of the Chairperson and Commissioners)

Article 37-6 (1) The chairperson and commissioners must not divulge any secret that they learned during the course of their duties. The same applies after they have resigned from office.

(2) The chairperson or a commissioner may not become an officer of a political party or any other political organization or actively carry out a political campaign, while holding office.

(3) The chairperson and the full-time commissioner must not engage in any other duty for fees or operate a profit-making business or provide other services for the purpose of gaining monetary profit while holding office, except when permission has been gained from the Prime Minister.

(Remuneration for the Chairperson and Commissioners)

Article 37-7 The remuneration for the chairperson and commissioners are specified separately by an Act.

(Examiners)

Article 38 (1) The board must establish examiners for the purpose of having them prepare questions and grade the results for the certified public accountant examination.

(2) Examiners are appointed by the Prime Minister based on the recommendation of the board from among persons with the necessary knowledge and experience for conducting the examination set forth in the preceding paragraph, every time the examination is conducted, and are to leave the office when the examination has ended.

(3) An examiner is a part-time position.

Article 39 Deleted.

(Method of Decision and Resolution)

Article 40 (1) The board may not hold a meeting unless a majority of its commissioners are present.

- (2) The business of the board is to be resolved by a majority of the commissioners present.
- (3) A commissioner may not participate in a resolution on a business related to themselves.

(Secretariat)

Article 41 (1) The board is to establish a secretariat for the purpose of having it process the affairs of the board.

- (2) The secretariat is to establish a secretary-general and the employees required.
- (3) The secretary-general is to administer the secretariat affairs under the direction of the chairperson.

(Recommendations)

Article 41-2 The board, when it has exercised its authority under the provisions of Article 46-12, paragraph (1), Article 49-3, paragraph (1) or (2) or Article 49-3-2, paragraph (1) or (2) based on the provisions of Article 49-4, paragraph (2) or (3) and finds it necessary, may make recommendations to the Prime Minister concerning an administrative disposition or any other measure to be taken in order to assure proper operations of the services set forth in Article 2, paragraph (1) provided by a certified public accountant, foreign certified public accountant or audit corporation, the services that are found to correspond to those set forth in the same paragraph provided by a foreign audit firm, etc., or the affairs of the Japanese Institute of Certified Public Accountants, based on the result of the exercise of authority.

(Delegation to Cabinet Order)

Article 42 Beyond what is provided for in Article 35 to the preceding Article, the affairs under the jurisdiction of the board, matters concerning the commissioners and any other employees of the board, and other necessary matters concerning the board are specified by Cabinet Order.

## **Chapter VI-2 Japanese Institute of Certified Public Accountants**

(Establishment, Purpose and Legal Personality)

Article 43 (1) A certified public accountant, pursuant to the provisions of this Act, must establish the Japanese Institute of Certified Public Accountants (hereinafter referred to as the "institute") as the sole organization of the nature throughout the nation.

- (2) The purpose of the institute is to maintain the professional attitude of certified public accountants, to process affairs concerning the guidance of, liaison with, and supervision of its members in order to achieve the

improvement and progress of the services set forth in Article 2, paragraph (1), and to process affairs concerning the registration of certified public accountants and specified partners.

(3) The institute is a corporation.

(Constitution)

Article 44 (1) The institute must stipulate a constitution containing the following matters:

(i) name and location of office;

(ii) provisions on admission and secession;

(iii) provisions on the classification of members and the rights and obligations thereof;

(iv) provisions on officers;

(v) provisions on meetings;

(vi) provisions on chapters;

(vii) provisions on the registration of certified public accountants and specified partners;

(viii) provisions on the Qualification Screening Board;

(ix) provisions on the maintenance of the professional attitude of members;

(x) provisions on the training of members;

(xi) provisions on the professional accountancy education program for those who have passed the certified public accountant examination;

(xii) provisions on the review of the status of the operation of services set forth in Article 2, paragraph (1);

(xiii) provisions on the conciliation of dissensions concerning the services of members;

(xiv) provisions on membership fees;

(xv) provisions on accounting and assets;

(xvi) provisions on the secretariat.

(2) A change to the constitution is not take effect unless the approval of the Prime Minister has been obtained.

(Chapters)

Article 45 The institute, when it is necessary for it to accomplish its purpose, may establish chapters.

(Registration)

Article 46 (1) The institute must register in accordance with the provisions of a Cabinet Order.

(2) The matters that must be registered pursuant to the provisions of the preceding paragraph may not be duly asserted against a third party until after

the registration.

(Admission and Secession)

Article 46-2 A certified public accountant or an audit corporation automatically becomes a member of the institute, and automatically secedes from the institute when the registration of the certified public accountant has been deleted or the audit corporation has been dissolved.

(Obligation to Observe the Constitution)

Article 46-3 A member must observe the constitution of the institute.

(Officers)

Article 46-4 (1) The institute is to establish a chairperson and president, deputy presidents and other officers specified by the constitution.

(2) The chairperson and president are to represent the institute and preside over the affairs of the institute.

(3) A deputy president, in accordance with the instructions of the chairperson and president, assists the chairperson and president, performs the duties of the chairperson and president on their behalf when they are unable to attend to their duties, and performs the duties of the chairperson and president in the event that their post has been vacated.

(General Assembly Meeting)

Article 46-5 (1) The institute must hold an ordinary general assembly meeting every year.

(2) The institute, when it finds it necessary, may hold a special assembly meeting.

(Matters Requiring Resolutions of the General Assembly Meeting)

Article 46-6 Any changes to the constitution of the institute, the budget and the settlement of account must require resolutions of the general assembly meeting.

(Report on Resolutions of the General Assembly Meeting)

Article 46-7 The institute must report to the Prime Minister the resolutions of general assembly meetings, and appointments and retirements of officers.

(Conciliation of Dissensions)

Article 46-8 The institute may conciliate a dissension concerning the services of one of its members at the request of the member, a party concerned or another interested person.

(Proposals and Reports)

Article 46-9 The institute, with regard to the services or the system pertaining to certified public accountants, may make proposals to a public agency or make reports on questions raised by a public agency.

(Investigation of Audit or Attestation Services)

Article 46-9-2 (1) The institute is to review the status of the operation of services set forth in Article 2, paragraph (1) provided by one of its members (limited to matters listed in Article 34-13, paragraph (2), items (i) and (ii) in the case where the relevant member is a certified public accountant; the same applies in Article 49-4, paragraph (2), item (ii)).

(2) The institute, periodically or as needed, is to report to the Prime Minister the results of the investigation set forth in the preceding paragraph.

(Reporting on Facts Falling under Disciplinary Provisions)

Article 46-10 (1) The institute, when it finds a fact that falls under the provisions of Article 30, Article 31, Article 31-2, paragraph (1), Article 34-21, paragraph (2) or (3), Article 34-21-2, paragraph (1) or Article 34-29, paragraph (2) or (3) exists for one of its members, is to report the fact to the Prime Minister.

(2) The provisions of Article 32, paragraph (2) apply mutatis mutandis to the case where there has been a report set forth in the preceding paragraph.

(Qualification Screening Board)

Article 46-11 (1) The institute is to establish a qualification screening board.

(2) The qualification screening board is to make any necessary examinations at the request of the institute with regard to the refusal of registration under the provisions of Article 19, paragraph (3) and Article 34-10-11, paragraph (2), the deletion of registration under the provisions of Article 21, paragraph (1), item (iv) and the deletion of registration as prescribed in Article 34-10-14, paragraph (2) under the provisions of Article 34-10-14, paragraph (1), item (iii).

(3) The qualification screening board is organized by one chairperson and four members.

(4) The chairperson and president of the institute is the chairperson of the committee.

(5) The chairperson appoints the members of the committee, by obtaining the approval of the Prime Minister, from among certified public accountants, officials of the Financial Services Agency engaged in administrative affairs pertaining to certified public accountants, and any other persons with relevant knowledge and experience.

(6) The term of office of the members is two years; provided, however, that the term of office of a member who is appointed to fill a vacancy in the case where

a vacancy has occurred is the remaining term of their predecessor.

(7) Beyond what is provided for in the preceding paragraphs, any necessary matters concerning the organization and operation of the qualification screening board is specified by Cabinet Order.

(Balance Sheet)

Article 46-11-2 The institute, without delay, must give a public notice of the balance sheet and income and expenditure statements in the official gazette every business year after the resolution of the general assembly meeting as prescribed in Article 46-6, as well as keep the balance sheet, income and expenditure statements, annexed detailed statement, business report and written opinions of an auditor at the office and make them available for public inspection for a period specified by Cabinet Office Order.

(Reports and Inspections)

Article 46-12 (1) When the Prime Minister finds it necessary for securing the fair operation of the institute, the minister may request the institute to submit reports or materials, or have relevant officials enter the office of the institute and inspect the books and documents and any other objects.

(2) An official who intends to conduct an on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card and present it when being requested to do so by the person concerned.

(3) The authority for the on-site inspection under the provisions of paragraph (1) must not be construed as that approved for the purpose of criminal investigation.

(Regulatory Orders)

Article 46-12-2 When the institute has violated any laws or regulations, a disposition by an administrative agency based on laws or regulations, the constitution of the institute or any other rules (hereinafter referred to as the "laws or regulations, etc." in this Article) or when the institute has, despite a member having committed an act in violation of laws or regulations, etc., failed to exercise the authority recognized by this Act, an order based on this Act, the relevant constitution or any other rules in order to have the relevant member observe the laws or regulations, etc. or has failed to take other necessary measures, the Prime Minister, if the minister finds it necessary for securing the fair operation of the institute, may order the institute to change its method of processing affairs or to take the necessary measures as specified by the constitution or any other rules.

(Rescission of a Resolution of the General Assembly Meeting)

Article 46-13 The Prime Minister, when a resolution of the general assembly meeting of the institute violates laws or regulations or the constitution of the institute or otherwise harms the public interest, may order the rescission of such a resolution.

(Application Mutatis Mutandis of the Civil Code)

Article 46-14 The provisions of Article 44, Articles 50 and 55 of the Civil Code apply mutatis mutandis to the institute.

## **Chapter VII Miscellaneous Provisions**

(Prohibition of False Publications as Having Been Audited or Attested)

Article 47 No person must make public, the fact that all or part of their financial documents have been audited or attested by a certified public accountant, a foreign certified public accountant or an audit corporation, except when they have been audited or attested by a certified public accountant, a foreign certified public accountant or an audit corporation.

(Restriction on Services by a Person Who Is Not a Certified Public Accountant or an Audit Corporation)

Article 47-2 No person other than a certified public accountant or an audit corporation must operate the services set forth in Article 2, paragraph (1) for fees at the request of others, except in the cases prescribed by Acts.

(Restriction on the Use of Titles)

Article 48 (1) No person other than a certified public accountant must use the title of "公認会計士"(pronounced "kounin-kaikeishi" and with the literal meaning "certified public accountant") or a title which may be mistaken for the title of certified public accountant.

(2) The provisions of the preceding paragraph do not preclude a person from using a title specified under the provisions of an Act or preclude a foreign certified public accountant from using an appropriate title indicating their qualifications.

Article 48-2 (1) No person other than an audit corporation must use, in their name, the word "監査法人"(pronounced "kansa-houjin" and with the literal meaning "audit corporation") or any other word which may be mistaken for an audit corporation.

(2) An unlimited liability audit corporation must not use, in its name, the word "有限責任監査法人"(pronounced "yugen-sekinin kansahoujin" and with the literal meaning "limited liability audit corporation") or any other word which may be

mistaken for a limited liability audit corporation.

- (3) No person other than the institute must use the title of "協会"(pronounced "kyoukai" and with the literal meaning "the institute") or a title which may be mistaken for the institute.

(Documents Prepared in the Conduct of Service by a Certified Public Accountant or an Audit Corporation)

Article 49 Materials and other documents prepared by a certified public accountant or by an audit corporation when carrying out an audit or attestation at the request of others, except as otherwise provided by special provisions, belong to the certified public accountant or the audit corporation.

(Obligation of Employees of a Certified Public Accountant to Observe Secrecy)

Article 49-2 A person who is or was an employee or any other worker of a certified public accountant, foreign certified public accountant or audit corporation must not, without justifiable grounds, divulge to others or misappropriate a secret that the person has learned through assisting in the services set forth in Article 2, paragraph (1) or (2).

(Collection of Reports from and On-Site Inspections of a Certified Public Accountant, Foreign Certified Public Accountant or Audit Corporation)

Article 49-3 (1) When the Prime Minister finds it necessary and appropriate for the public interest or investor protection, may request a certified public accountant, foreign certified public accountant or audit corporation to submit reports or materials concerning the services set forth in Article 2, paragraph (1) or (2).

(2) When the Prime Minister finds it necessary and appropriate for the public interest or investor protection, with regard to the services set forth in Article 2, paragraph (1), the minister may have relevant officials enter the office of a certified public accountant, foreign certified public accountant or audit corporation or other places related to the services thereof and inspect the books and documents and any other objects related to the services thereof.

(3) An official who intends to conduct an on-site inspection pursuant to the provisions of the preceding paragraph must carry an identification card and present it when being requested to do so by the person concerned.

(4) The authority for the on-site inspection under the provisions of paragraph (2) must not be construed as being approved for the purpose of a criminal investigation.

(Collection of Reports from and On-Site Inspections of Foreign Audit Firms)

Article 49-3-2 (1) When the Prime Minister finds it necessary and appropriate in

light of public interest or investor protection, the minister may request a foreign audit firm, etc. to report to, or submit relevant documents on the services that are found to correspond to the services set forth in Article 2, paragraph (1) concerning financial documents of foreign companies, etc. provided by the foreign audit firm, etc.

- (2) When the Prime Minister finds it necessary and appropriate in light of public interest or investor protection, the minister may have relevant officials enter the offices of the foreign audit firm, etc. or other places related to the services thereof and inspect books and documents and any other objects related to the services that are found to correspond to the services set forth in Article 2, paragraph (1) concerning financial documents of foreign companies, etc. provided by a foreign audit firm, etc.
- (3) The provisions of paragraph (3) and paragraph (4) of the preceding Article apply mutatis mutandis to on-site inspections under the provisions of the preceding paragraph.

(Delegation of Authority)

Article 49-4 (1) The Prime Minister delegates their authority under this Act (excluding those specified by Cabinet Order) to the Commissioner of the Financial Services Agency.

- (2) The Commissioner of the Financial Services Agency, from the authority delegated pursuant to the provisions of the preceding paragraph, may delegate the authority related to affairs concerning the receipt of reports under the provisions of Article 46-9-2, paragraph (2) and the authority under the provisions of Article 46-12 (1) and Article 49-3, paragraphs (1) and (2) (limited to the following authority) to the board:
  - (i) the authority exercised in relation to the report set forth in Article 46-9-2, paragraph (2)
  - (ii) when a certified public accountant, a foreign certified public accountant or an audit corporation (hereinafter referred to as a "certified public accountant, etc.") has not undergone the investigation set forth in Article 46-9-2, paragraph (1), has refused to cooperate in the investigation set forth in the same paragraph, or due to any other reason specified by Cabinet Office Order, the Japanese Institute of Certified Public Accountants has not made the report set forth in paragraph (2) of the same Article pertaining to the relevant certified public accountant, etc., the authority exercised in relation to the state of operation of services of the relevant certified public accountant, etc.;
- (3) The Commissioner of the Financial Services Agency may, from the authority delegated under the provisions of paragraph (1), delegate the authority under the provisions of paragraphs (1) and (2) of the preceding Article to the board,

pursuant to the provisions of a Cabinet Order.

(4) The Commissioner of the Financial Services Agency may delegate a part of the authority delegated pursuant to the provisions of paragraph (1) (excluding that delegated to the board pursuant to the provisions of the preceding two paragraphs) to the director general of local finance bureaus or the director general of local finance branch bureaus, pursuant to the provisions of a Cabinet Order.

(5) The board may delegate a part of its affairs concerning the implementation of the certified public accountant examination to the director general of local finance bureaus and the director general of local finance branch bureaus, pursuant to the provisions of a Cabinet Order.

(Request for Administrative Review to Board)

Article 49-4-2 A request for administrative review in relation to an order to submit reports or materials made by the board pursuant to the provisions of paragraph (2) or (3) of the preceding Article or a disposition or inaction relating to the implementation of the certified public accountant examination (including a disposition or inaction relating to the services delegated to the director general of local finance bureaus and the director general of local finance branch bureaus pursuant to the provisions of paragraph (5) of the same Article) may only be submitted to the board.

(Delegation to Cabinet Office Order)

Article 49-5 Beyond what is provided for in this Act, the necessary matters concerning the enforcement of this Act are specified by Cabinet Office Order.

(Transitional Measures)

Article 49-6 In the case of establishing, revising or abolishing an order based on the provisions of this Act, the required transitional measures (including transitional measures concerning penal provisions) may be specified by the order to the extent determined to be reasonably necessary in line with the establishment, revision or abolition.

## **Chapter VIII Penal Provisions**

Article 50 A person who has violated the provisions of Article 47 or a person who is not qualified to become a certified public accountant or a foreign certified public accountant (including a person who is qualified to become a certified public accountant or a foreign certified public accountant but who falls under any of the items of Article 4) and who has violated the provisions of Article 47-2 is punished by imprisonment for not more than two years or a fine of not

more than two million yen.

Article 51 A person who has obtained registration as a certified public accountant, foreign certified public accountant or specified partner by deception or other wrongful means is punished by imprisonment for not more than six months or a fine of not more than one million yen.

Article 52 (1) A person who has violated the provisions of Article 27 (including in the case where it is applied mutatis mutandis pursuant to Article 16-2, paragraph (6)), Article 34-10-16 or Article 49-2 is punished by imprisonment for not more than two years or a fine of not more than one million yen.  
(2) Prosecution for an offense set forth in the preceding paragraph may not be instituted without a complaint.

Article 52-2 A person who falls under any of the following items is punished by imprisonment for not more than one year or a fine of not more than one million yen:

- (i) a person who has, in violation of the provisions of Article 28-4, paragraph (1) or Article 34-16-3, paragraph (1), failed to make the documents prescribed in these provisions available for public inspection or, in violation of the provisions of Article 28-4, paragraph (3) or Article 34-16-3, paragraph (3), failed to take a measure categorized by Cabinet Office Order as one for making information recorded in the electronic or magnetic records prescribed in Article 28-4, paragraph (2) or Article 34-16-3, paragraph (2) available for many and unspecified persons by electronic or magnetic means or, in violation of these provisions, made these documents available for public inspection without stating the matters to be stated therein or by stating false matters or who has taken a measure for making information recorded in the electronic or magnetic records available for many and unspecified persons by electronic or magnetic means without recording the matters to be recorded therein or by recording false matters;
- (ii) a person who has obtained the registration set forth in Article 34-24 by wrongful means;
- (iii) a person who has provided services in violation of the provisions of Article 34-24 or Article 34-33, paragraph (5).

Article 52-3 (1) When a witness or an expert witness who has taken an oath pursuant to the provisions of Article 201, paragraph (1) of the Administrative Procedure Act as applied mutatis mutandis pursuant to Article 34-47, paragraph (2) or Article 34-50, paragraph (3) has given a false statement or expert opinion, the witness or expert witness is punished by imprisonment for

not less than three months and not more than ten years.

- (2) When a person who has committed the offense set forth in the preceding paragraph has confessed prior to the completion of the hearing procedure and prior to the discovery of the offense, the punishment for such person may be reduced or waived.

Article 52-4 A person who, in violation of the provisions of Article 34-33, paragraph (8), has failed to deposit the shortfall as set forth in the same paragraph is punished by imprisonment for not more than six months or a fine of not more than five hundred thousand yen.

Article 53 (1) A person who falls under any of the following items is punished by a fine of not more than one million yen:

- (i) a person who has submitted a written application for registration set forth in Article 34-25, paragraph (1) or a document set forth in paragraph (2) of the same Article by stating false matters;
- (ii) a person who has failed to submit reports or materials under the provisions of Article 46-12, paragraph (1) or Article 49-3, paragraph (1) or who has submitted false reports or materials;
- (iii) a person who has refused, obstructed or avoided an on-site inspection under the provisions of Article 34-51, paragraph (1), Article 46-12, paragraph (1) or Article 49-3, paragraph (2);
- (iv) a person who has violated the provisions of Article 48, paragraph (1);
- (v) a person who has violated any of the provisions of Article 48-2, paragraphs (1) through (3).

- (2) The provisions of item (iv) of the preceding paragraph does not apply to a person who falls under Article 54, paragraph (iii).

Article 53-2 A person who has, in violation of the provisions of Article 955, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 34-20, paragraph (6) or Article 34-23, paragraph (4), failed to state or record in the investigation registry, etc. prescribed in the same paragraph the matters specified by a Ministry of Justice Order concerning the electronic public notice investigation prescribed in the same paragraph, or who has stated or recorded false matters therein, or who has failed to preserve the relevant investigation registry, etc. is punished by a fine of not more than three hundred thousand yen.

Article 53-3 A person who falls under any of the following items is punished by a fine of not more than two hundred thousand yen:

- (i) a person who has failed to appear, failed to give a statement or given a false

statement in violation of a disposition against a witness under the provisions of Article 34-47, paragraph (1);

- (ii) a person who has failed to take an oath in violation of an order against a witness or expert witness under the provisions of Article 201, paragraph (1) of the Administrative Procedure Act as applied mutatis mutandis pursuant to Article 34-47, paragraph (2) or Article 34-50, paragraph (3);
- (iii) a person who has failed to submit an object in violation of a disposition against the possessor of an object under the provisions of Article 34-49, paragraph (2);
- (iv) a person who has failed to give an expert opinion or has given a false expert opinion in violation of a disposition against an expert witness under the provisions of Article 34-50, paragraph (1).

Article 53-4 If a person of a corporation, or an agent, employee or other worker of a corporation or individual has committed an act in violation of the provisions of Article 50, Article 52-2, Article 52-4, Article 53 paragraph (1), items (i) through (iii) or item (v), or Article 53-2 in connection with the business of the relevant corporation or individual, in addition to the offender being subject to punishment, the relevant corporation or individual is subject to the fine referred to in the relevant Articles.

Article 54 A person who falls under any of the following items is punished by a non-penal fine of not more than one million yen:

- (i) a person who has violated the provisions of Article 28-2 or Article 34-14-2;
- (ii) a person who is qualified to become a certified public accountant or a foreign certified public accountant (excluding a person who falls under any of the items of Article 4; the same applies in the following item) who has violated the provisions of Article 47-2;
- (iii) a person who is qualified to become a certified public accountant or a foreign certified public accountant who has violated the provisions of Article 48, paragraph (1);

Article 55 A person who falls under any of the following items are punished by a non-penal fine of not more than three hundred thousand yen:

- (i) a person who has failed to appear, failed to give a statement, given a false statement, failed to make a report or made a false report in violation of a disposition against a person concerned with the case or a witness under the provisions of Article 33, paragraph (1), item (i) (including the case where it is applied mutatis mutandis pursuant to Article 16-2, paragraph (6), Article 34-10-17, paragraph (3), Article 34-21, paragraph (4), Article 34-21-2, paragraph (7) and Article 34-29, paragraph (4));

- (ii) a person who has failed to appear, failed to give an expert opinion or given a false expert opinion in violation of a disposition against an expert witness under the provisions of Article 33, paragraph (1), item (ii) (including the case where it is applied mutatis mutandis pursuant to Article 16-2, paragraph (6), Article 34-10-17 , paragraph (3), Article 34-21, paragraph (4), Article 34-21-2, paragraph (7) and Article 34-29, paragraph (4));
- (iii) a person who has failed to submit an object in violation of a disposition against the possessor of an object under the provisions of Article 33, paragraph (1), item (iii) (including when it is applied mutatis mutandis pursuant to Article 16-2, paragraph (6), Article 34-10-17, paragraph (3), Article 34-21, paragraph (4), Article 34-21-2, paragraph (7) and Article 34-29, paragraph (4));
- (iv) a person who has refused, obstructed or challenged an on-site inspection under the provisions of Article 33, paragraph (1), item (iv) (including the case where it is applied mutatis mutandis pursuant to Article 16-2, paragraph (6), Article 34-10-17, paragraph (3), Article 34-21, paragraph (4), Article 34-21-2, paragraph (7) and Article 34-29, paragraph (4)).

Article 55-2 A person who falls under any of the following items is punished by a non-penal fine of not more than one million yen:

- (i) a person who has failed to make a report or made a false report in violation of the provisions of Article 946, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 34-20, paragraph (6) or Article 34-23, paragraph (4);
- (ii) a person who has, without justifiable grounds, refused any of the requests set forth in the items of Article 951, paragraph (2) or items of Article 955, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 34-20, paragraph (6) or Article 34-23, paragraph (4).

Article 55-3 In the case falling under any of the following items, the partners of the audit corporation, the person who has concluded a contract set forth in Article 34-33, paragraph (3) with the audit corporation, or the inspector is punished by a non-penal fine of not more than one million yen:

- (i) when having given a false statement or having concealed the truth from a court with regard to the report under the provisions of Article 207, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to Article 34-23, paragraph (1) or the provisions of Article 33 of the Companies Act as applied mutatis mutandis pursuant to Article 34-23, paragraph (2);
- (ii) when having violated an order under the provisions of Article 34-33, paragraph (4).

Article 55-4 In the case of falling under any of the following provisions, the partners or the liquidator of the audit corporation or the officers of the institute are punished by a non-penal fine of not more than three hundred thousand yen:

- (i) when having failed to register in violation of the provisions of a Cabinet Order based on this Act;
- (ii) when having failed to state or record the matters to be stated or recorded in the articles of incorporation or the accounting books set forth in Article 34-15-3, paragraph (1) or the balance sheet set forth in Article 34-16, paragraph (1) or having stated or recorded false matters;
- (iii) when having failed to submit the documents or electronic or magnetic records in violation of the provisions of Article 34-16, paragraph (2) or (3) or having submitted them by stating or recording false matters therein;
- (iv) when having carried out a merger in violation of the provisions of Article 34-20, paragraph (2) or (5);
- (v) when having failed to request an investigation set forth in Article 941 of the Companies Act in violation of the same Article of the Companies Act as applied mutatis mutandis pursuant to Article 34-20, paragraph (6) or Article 34-23, paragraph (4);
- (vi) when having failed to file a petition for the commencement of bankruptcy proceedings in violation of the provisions of Article 656, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 34-22 , paragraph (2);
- (vii) when having distributed assets in violation of the provisions of Article 664 of the Companies Act as applied mutatis mutandis pursuant to Article 34-22, paragraph (2);
- (viii) when having disposed of assets, reduced the amount of stated capital, refunded equity interest or performed obligations in violation of the provisions of Article 670, paragraph (2) or (5) of the Companies Act as applied mutatis mutandis pursuant to Article 34-22, paragraph (3) or the provisions of Article 627, paragraph (2) or (5), Article 635, paragraph (2) or (5) or Article 661, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 34-23, paragraph (1);
- (ix) when having failed to file an application under the provisions of Article 34-28, paragraph (1) or having filed a false application.