

## Summary of the Proposed Cabinet Office Ordinance on the “English-Language Disclosure System”

The Securities and Exchange Act (currently the Financial Instruments and Exchange Act (hereafter referred to as “FIEA”) was amended in 2005 to allow foreign issuers with an obligation to submit continuous disclosure documents in accordance with FIEA Art.24 para.1, etc. to provide continuous disclosure in the form of an English-language Foreign Company Report (*Gaikokugaisha-houkokusho*)<sup>1</sup> instead of continuous disclosure documents such as the Annual Securities Report (this new framework being hereafter referred to as the “English-Language Disclosure System”).<sup>2</sup> The English-Language Disclosure System was brought into force on December 1, 2005 exclusively for issuers of foreign exchange traded funds (hereafter referred to as “foreign ETFs”), with the effective date for the other foreign issuers to be set by March 31, 2009 by way of a Cabinet Order.

The English-Language Disclosure System is to be applicable if the following conditions are satisfied; (i) the Financial Services Agency (FSA) finds that the provision of continuous disclosure within the English-Language Disclosure System does not harm public interest and any requests for investor protection specific to the case in question, and (ii) the foreign issuer filing by way of the English-Language Disclosure System has provided notification in their most recent disclosure document that they would submit a Foreign Company Report by way of the English-Language Disclosure System<sup>3</sup>.

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<sup>1</sup> Disclosure document in English filed in a foreign jurisdiction pursuant to laws or regulations of the foreign jurisdiction.

<sup>2</sup> FIEA Art.24 para.8~13

<sup>3</sup> FIEA Art.24para.8, Cabinet Office Ordinance Concerning Disclosure of Substances, etc. of Specific Securities (Ordinance of the Ministry of Finance No.22 of 1993, hereafter referred to as “Specific Securities Disclosure Ordinance”) Art.27-2 para.1

The Specific Securities (*tokutei-yuukashouken*) are the securities defined in FIEA Art.5 para.1, backed up by the value of pool assets concerning the

In cases where the English-Language Disclosure System is applicable, the issuer must submit (i) a Japanese-language summary of a part of the Foreign Company Report which is equivalent to particular items of the applicable form<sup>4</sup>, (ii) a complete Japanese translation of a part of the Foreign Company Report<sup>5</sup>, and (iii) a Japanese-language document which contains particular items of the applicable form, if those items are not included in the Foreign Company Report<sup>6</sup>.

On March 12, 2008, the FSA recently published a draft Cabinet Office Ordinance for the purpose of revising the current Cabinet Office Ordinances on the English-Language Disclosure System. The proposed revisions to the Cabinet Office Ordinances aim to relax the requirements for the application of the English-Language Disclosure System<sup>7</sup> and reduce the requirements on foreign issuers for documents<sup>8</sup> in Japanese in the interests of promoting the utilization of the English-Language Disclosure System.

The effective date of the English-Language Disclosure System for the other foreign issuers other than issuers of foreign ETFs will be specified by a Cabinet Order once the Cabinet Office Ordinance is finalized, and the revised rules will be applicable for Foreign Company Reports submitted on and after the same date.

The summary of the revisions is provided below.

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securities, such as asset-backed securities.

<sup>4</sup> FIEA Art.24 para.9, Specific Securities Disclosure Ordinance Art.27-3 para.2

The obligation to submit a Japanese summary of the Foreign Company Report is prescribed in FIEA, and cannot be revised by Cabinet Orders or Cabinet Office Ordinances.

<sup>5</sup> FIEA Art.24 para.9, Specific Securities Disclosure Ordinance Art.27-3 para.4

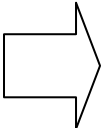
<sup>6</sup> FIEA Art.24 para.9, Specific Securities Disclosure Ordinance Art.27-3 para.3

<sup>7</sup> Revised Specific Securities Disclosure Ordinance Art.27-2 para.1, Revised Cabinet Office Ordinance Concerning Disclosure of Corporate Affairs, etc. (Ordinance of the Ministry of Finance Department No.5 of 1973, hereafter referred to as “Disclosure Ordinance”) Art.17-2 para.1

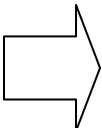
<sup>8</sup> Revised Specific Securities Disclosure Ordinance Art.27-3, Revised Disclosure Ordinance Art.17-3

a : **Expansion of the scope of the application of the English-Language Disclosure System**

● **Applicable Securities**

Current rules		After enforcement of the Cabinet Order
Foreign ETFs		All securities issued by foreign issuers

● **Applicable Documents**

Current rules		Revised rules
(i) Annual Securities Reports (ii) Semiannual Securities Reports		Most continuous disclosure documents filed by foreign issuers (except for Current Reports) such as: (i) Annual Securities Reports (ii) Semiannual Securities Reports (iii) Quarterly Securities Reports (iv) Confirmation by management ( <i>kakuninsho</i> ) (v) Internal Control Reports (vi) Reports from Parent Companies

**b : Relaxation of the requirements for the English-Language Disclosure System**

Current rules	Revised rules
(i) The authority finds that the provision of continuous disclosure by foreign issuers within the English-Language Disclosure System does not harm public interests or requests for investor protection in specific cases.	(i) Same as on the left
(ii) The foreign issuer filing within the English-Language Disclosure System has provided notification in their most recent continuous disclosure document or securities registration statement that they intend to submit a Foreign Company Report within the English-Language Disclosure System.	(ii) Abolished

Regarding the requirement (i) above, the foreign issuer who intends to submit a Foreign Company Report within the English-Language Disclosure System must consult with the FSA in advance.

**c : Reduction of the requirements of Japanese-language Documents**

**(i) Japanese-language summary of the Foreign Company Report**

Current rules	Revised rules	
Foreign ETFs	Specific Securities	Corporate and Government Securities
(a) Form 7-2 <ul style="list-style-type: none"> <li>✓ Structure of Fund</li> <li>✓ Fees</li> <li>✓ Taxes</li> </ul>	(a) Form 7-2, Form 9-6 <ul style="list-style-type: none"> <li>✓ Structure of fund etc.</li> <li>✓ Investment policy</li> <li>✓ Investment risk</li> <li>✓ Fees etc. and taxes</li> <li>✓ Performance</li> <li>✓ B/S, P/L</li> </ul> (b) Form 8 <ul style="list-style-type: none"> <li>✓ Structure of fund etc.</li> <li>✓ Investment policy</li> <li>✓ Investment risk</li> <li>✓ Fees, etc. and taxes</li> <li>✓ Performance</li> <li>✓ B/S, P/L</li> <li>✓ Cash flow statement</li> </ul>	(a) Form 8, Form 9 <ul style="list-style-type: none"> <li>✓ Business risk</li> <li>✓ Analysis of financial condition and results of operation</li> <li>✓ Financial statements</li> </ul>

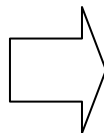
	<p>(c) Form 8-3</p> <ul style="list-style-type: none"> <li>✓ Fundamental structure of securitization, etc.</li> <li>✓ Brief description of assets</li> <li>✓ Management fees, etc.</li> <li>✓ Tax treatment</li> <li>✓ Asset position</li> <li>✓ Investment risk</li> <li>✓ Significant assets</li> <li>✓ Significant profits and losses</li> <li>✓ Disposition of profits or losses</li> </ul> <p>(d) Form 8-5</p> <ul style="list-style-type: none"> <li>✓ Brief description of assets</li> <li>✓ Asset position</li> <li>✓ Investment risk</li> <li>✓ B/S, P/L</li> <li>✓ Disposition of profits or losses</li> <li>✓ Tax treatment</li> </ul> <p>(e) Form 9-2</p> <ul style="list-style-type: none"> <li>✓ Brief description of assets</li> <li>✓ Fundamental structure of trust</li> <li>✓ Asset position</li> <li>✓ Investment risk</li> <li>✓ Results of trust fund accounting</li> </ul>
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	<ul style="list-style-type: none"> <li>✓ Tax treatment</li> </ul> <p>(f) Form 9-4</p> <ul style="list-style-type: none"> <li>✓ Brief description of underlying loans</li> <li>✓ Tax treatment</li> <li>✓ Brief description of subject matter pertaining to mortgage securities (mortgage deed)</li> <li>✓ Risk information</li> <li>✓ Accounting results of issuer</li> <li>✓ Summary of accounting results of debtors of loans</li> </ul>
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In addition, the FSA has issued draft Guidelines for the English-Language Disclosure System for public consultation. The proposed Guidelines provide instructions for creating a Japanese-language summary of the Foreign Company Report.

**(ii) Japanese-language Document**

Current rules
Foreign ETFs
A Japanese document that contains the items covered by the applicable Form 7-2, if said items are not included in the Foreign Company Report.

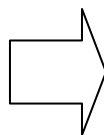


Revised rules	
Specific Securities	Corporate and Government Securities
A Japanese document that contains the items listed in “(i) Japanese-language summary of the Foreign Company Report” above, if said items are not included in the issuer’s Foreign Company Report.	



**(iii) Table of Comparison**

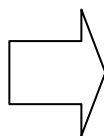
Current rules
Foreign ETFs
Table of comparisons between the contents of Form 7-2 and those of the Foreign Company Report.



Revised rules	
Specific Securities	Corporate and Government Securities
Same as on the left.	

**(iv) Document in English or Japanese**

Current rules
Foreign ETFs



Revised rules	
Specific Securities	Corporate and Government Securities
A document that contains the items covered in the applicable form (other than those included in the document (ii) above), if said items are not included in the issuer's Foreign Company Report.	