



Press conference with Former Commissioner Mr. Sato and Commissioner Mr. Mikuniya



Meeting of Director-Generals of Local Finance Bureaus.

## *Table of Contents*

### **【Topics】**

- Publication of the “Collection of Administrative Monetary Penalty Cases” ..... 11
- Publication of the “Collection of Examples of Issues Pointed out in Financial Inspections” ..... 12
- Publication of the “Q&A on Stock Tender Offers” ..... 13

**【Notices】** .....20

**【Main press releases in July/August】** .....24

\*Please note that not all items, including regulations and articles posted on the website, have been translated into English. Therefore some of the items that are mentioned in the following articles may not be translated fully into English.

## Publication of the “Collection of Administrative Monetary Penalty Cases”

On June 30, 2009, the Securities and Exchange Surveillance Commission (SESC) published “The Casebook on the Administrative Monetary Penalties under the Financial Instruments and Exchange Act” (hereinafter, referred to as the “Casebook”).

The “Plan for Strengthening the Competitiveness of Japan’s Financial and Capital Markets,” which was published by the Financial Services Agency on December 21, 2007, states, “In order to enhance the transparency of market surveillance and promote self-discipline by market participants, the SESC will put together a collection of case examples related to administrative monetary penalties by the end of June 2008 and update it every year thereafter.” In June 2008, the SESC put together its first collection of case examples and published the Casebook.

The recently published Collection of Administrative Monetary Penalty Cases updates the Casebook that was published last year. The new Casebook consists 57 case examples (74 recommendations for administrative monetary penalties), of which 33 case examples (50 recommendations for administrative monetary penalties) are related to insider trading, 1 case example (1 recommendations for administrative monetary penalties) to market manipulation, and 23 case examples (23 recommendations for administrative monetary penalties) to false statements in disclosure documents. Furthermore, based on views and opinions received on the structure and contents of the Casebook, improvements have been made to its contents. For instance, with regard to cases relating to insider trading, as much information on the communication of material facts and so forth as possible has been included according to the characteristics of each case, and similarly, with regard to cases relating to false statements in disclosure documents, information on the circumstances of the false statements has been included.

The SESC hopes that, by utilizing the Casebook, the transparency of market surveillance will be enhanced and self-discipline by market participants will be promoted, thereby contributing to the deterrence of violations.

\* For details on the Casebook, please refer to the [Collection of Administrative Monetary Penalty Cases](#) (Available in Japanese only) on the SESC website.

## Publication of the “Collection of Examples of Issues Pointed out in Financial Inspections”

On July 3, 2009, the Financial Services Agency published the “Collection of Examples of Issues Pointed out in Financial Inspections (Program Year 2008)” and the “Collection of Examples of Opinions Submitted (Case Examples of Submissions up to Program Year 2008).”

### 1. Collection of Examples of Issues Pointed out in Financial Inspections

The Collection of Examples of Issues Pointed out in Financial Inspections has been compiled and published since Program Year (PY) 2005 from the perspective of both further improving the transparency and predictability of financial administration and encouraging financial institutions to strengthen their internal control systems based on the principle of self-responsibility. This year’s collection is the fifth publication.

This collection of examples has been compiled based on examples where inspections were completed (inspection results notified) during PY2008 (July 2008 – June 2009).

Continuing on from the previous collection, from the perspective of improving the quality of financial regulation (Better Regulation) and motivating financial institutions to make voluntary and sustained efforts toward improving their management, as well as presenting examples of “A grade” institutions, the current Collection of Examples of Issues Pointed out in Financial Inspections also presents “B grade” institutions divided into three categories: “B that is close to A,” “average B” and “B that is close to C,” so that a comparison of levels can be made.

Also, examples have been presented as a separate category with regard to “ensuring smooth financing to small

and medium-sized enterprises and support for regional industries,” which was made an inspection priority in the “Basic Policy for Financial Inspections in Program Year 2008.”

Furthermore, in order to maintain the “enhancement of dialogue with financial institutions and the dissemination of information,” which was raised in the “Measures to Promote the Better Regulation Initiative in Inspections (Action Plan II),” the number of examples presented have been increased (see Note).

Note: The number of examples presented has been increased from the previous collection to 69 examples of grading and 364 examples of issues pointed out (compared to 65 and 341 examples respectively in the previous collection).

## 2. Collection of Examples of Opinions Submitted

The “Collection of Examples of Opinions Submitted” selects cases of opinions, which have been submitted since the introduction of the Opinion Submission System (January 2000), that are instructive for business management, and presents an outline of those examples. It has been compiled and published since 2005. Each program year, the examples are added to and revised. In the current “Collection of Examples of Opinions Submitted,” three examples have been added from among the opinions submitted for recent inspections, bringing the total number of examples presented to 27.

\* For further details, please refer to the [Publication of the "Collection of Examples of Issues Pointed out in Financial Inspections" \(July 3, 2009\)](#) in the “Press Releases” section of the FSA website.

Past collections can also be viewed from the Press Releases section: Program Year 2004 ([July 27, 2005](#)), Program Year 2005 ([July 5, 2006](#)), Program Year 2006 ([July 5, 2007](#)), and Program Year 2007 ([July 4, 2008](#)).

## Publication of the “Q&A on Stock Tender Offers”

### 1. Background

In recent years, the number of TOBs and M&As has increased dramatically (see Note), and it is assumed that situations are also growing rapidly where the regulations on TOBs are to be checked in relation to the purchase of stocks.

Amid such a situation, the inquiries to the authority make it apparent that some uncertainty of interpretation by the authority does not necessarily bring favorable results to investors by, for example, obstructing the implementation of the takeover or bearing excess administrative and financial costs.

Note: Number of TOBs in recent years

1992	1998	2003	2004	2005	2006	2007	2008
3	14	34	39	50	68	102	78

Furthermore, due to the fact that fake statements made in tender offer notifications and failing to submit statements are now subject to administrative monetary penalties, clarifying the interpretation of authorities has become more necessary than ever before.

Given these circumstances, the aim of these Q&A are to clarify the authority’s interpretation of laws and regulations. They are regarded as an integral part of “Better Regulation”, which aims to increase the transparency and predictability of regulatory actions for the purpose of improving convenience for users.

### 2. Content of the Q&A

Of the questions and inquires frequently asked to the authorities, the following 6 items are selected for the clarification of interpretation as there is a possibility of impending business practice by their uncertainty. (For further details, please refer to [http://www.fsa.go.jp/policy/m\\_con/20090703.html](http://www.fsa.go.jp/policy/m_con/20090703.html).)

① Are tender offers required to be made for a company that is exempt from submitting annual securities reports?

→Since a company exempting from submitting annual securities reports does not fall into “the issuer who is required to submit annual securities reports” who is subject to the tender offer regulation, a tender offer is not required for it.

If the target company or the person making the tender offer has submitted a quarterly securities report or the

- like, are they required to submit an amendment of tender offer notification?
- If a material fact has arisen relating to matters that should be stated in the tender offer notification, then an amendment must be submitted; but just because the person has submitted a quarterly securities report or the like is submitted does not necessarily mean that they are required to submit an amendment.
  - ③ Do sub-subsidiaries and sub-sub-subsidiaries fall into the category of “a party in special relationship”?
  - According to the provision, a sub-subsidiary does literally fall into this category, but a sub-sub-subsidiary does not.
  - ④ If shares are sold after the reference date for a shareholders’ meeting, and the voting rights attached to those shares of the shareholders at that shareholders’ meeting are transferred by proxy, does the seller fall into the category of “a party in special relationship”?
  - Normally, by reason of the said proxy alone, the seller would not be regarded as falling under the category of “a party in special relationship” based on the substantial criteria.
  - ⑤ Which transactions are to be counted in the 5% and 10%, being the requirements of the so-called “rapid buy-ups, etc.” regulation?
  - Off-market (excluding tender offers) or after-hours acquisitions shall count toward the 5%, while purchases, of stocks in general or acquisitions and new issues shall count toward the 10%.
  - ⑥ When selling shares for the purpose of disposing odd-lots of shares arisen as part of a “squeeze-out” process, does the buyer need to make a tender offer?
  - Normally, the buyer would not be required to make a tender offer.

### ○ **Subscribing to the Email Information Service (Japanese/English)**

The Financial Services Agency provides an **Email Information Service (Japanese and English)** through its website. If you register your email address on the Japanese subscription page, we will email you with the latest information, such as the monthly publication, “Access FSA,” and daily press releases.

If you register on the English subscription page, we will email you once a day with the latest information, such as the “What’s New” information on the English website as well as the “FSA Newsletter.”

To register in Japanese, please access [新着情報メール配信サービス](#), and to register in English, please access [Subscribing to E-mail Information Service](#).

### ○ **Subscribing to the SESC Email Information Service**

The Securities and Exchange Surveillance Commission (SESC) provides an **Email Information Service (Japanese/English)** through its website. If you register your email address, we will email you with the latest information on the SESC website, such as recommendations relating to administrative action against financial instruments business operators and those relating to orders for the payment of administrative monetary penalties.

\* For further details and to register in Japanese, please access [新着情報メール配信サービス](#), and to register in English, please access [Subscribing to E-mail Information Service](#) on the Securities and Exchange Surveillance Commission (SESC) website.

### ○ **Subscribing to the CPAAOB Email Information Service**

The Certified Public Accountants and Auditing Oversight Board (CPAAOB) provides an **Email Information Service (Japanese/English)** through its website. If you register your email address, we will email you with the latest information from the CPAAOB website.

\* For further details and to register in Japanese, please access [新着情報メール配信サービス](#), and to register in English, please access [Subscribing to E-mail Information Service](#) on the Certified Public Accountants and Auditing Oversight Board (CPAAOB) website.



## [Main press releases in July/August]

July 3	<a href="#">Access</a>	Publication of the “Q&A on Stock Tender Offers”
	<a href="#">Access</a>	Publication of the “Collection of Examples of Issues Pointed out in Financial Inspections”
July 7	<a href="#">Access</a>	Results of public comments on the “Partial Revision of the Comprehensive Guidelines for Supervision of Financial Instruments Business operators, etc.”
	<a href="#">Access</a>	Partial revision of supervision guidelines following enforcement of the Act on Special Measures for Industrial Revitalization and Innovation of Industrial Activities
	<a href="#">Access</a>	Results of public comments on the “Draft Cabinet Ordinance for Partial Amendment of the Cabinet Ordinances related to Financial Instruments Business Operators, etc.”
	<a href="#">Access</a>	Regarding the “Cabinet Order for Partial Amendment of the Cabinet Ordinance for Laws Relating to Restrictions, etc. on the Holding of Shares and so forth by Banks, etc.” and the “Order for the Partial Amendment of Orders Relating to the Banks’ Shareholdings Purchase Corporation”
	<a href="#">Access</a>	Submission of internal control reports relating to companies with fiscal year ending March 31, 2009
	<a href="#">Access</a>	Publication of the Draft Partial Revision of the Inspection Manual for Insurance Companies
July 8	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against insider trading by a recipient of information from an employee of Calpis Co., Ltd.
	<a href="#">Access</a>	Administrative action against TONK Co., Ltd.
	<a href="#">Access</a>	Action against an audit firm and certified public accountants
July 10	<a href="#">Access</a>	“Relationship Banking Initiatives in FY2008”
	<a href="#">Access</a>	Results of public comments on the “Draft Cabinet Order for Partial Amendment of the Regulations, etc. for Terminology, Forms and Preparation of Quarterly Financial Statements, etc.”
	<a href="#">Access</a>	Publication of the report on the “Implementation of the Program to Remedy the Multiple Debt Problem”
	<a href="#">Access</a>	Administrative action against Japan Private Securities Co., Ltd.
	<a href="#">Access</a>	Administrative action against JPS Asset Management Co., Ltd.
July 13	<a href="#">Access</a>	Update of the “Collection of Cases in which Administrative Action Has Been Taken”
	<a href="#">Access</a>	Publication of the draft amendment of the “Guidelines for Personal Information Protection in the Financial Field”
	<a href="#">Access</a>	Publication of the “Third Progress Report on Better Regulation”
	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against false statements made in the annual securities reports, etc. relating to Japan Digital Contents Trust Inc.
July 14	<a href="#">Access</a>	Publication of the “Results of Offsite Monitoring of Inspection”
	<a href="#">Access</a>	FSA, MOJ and MOF revise “Order on Transfer Account Management Institution” regarding Foreign Transfer Account Management Institution
July 16	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against a recipient of information from an officer of GF Ltd. for insider trading.
	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against an employee of the Itochu Corporation for insider trading.
July 24	<a href="#">Access</a>	Publication of the draft partial revisions of the Comprehensive Guidelines for Supervision of Major Banks, etc., the Comprehensive Guidelines for Supervision of Small- and Medium-Sized and Regional Financial Institutions, and the Comprehensive Guidelines for Supervision of Insurance Companies
	<a href="#">Access</a>	Publication of the “Draft Cabinet Order for Partial Amendment of the Cabinet Office Order to Definitions Prescribed in Article 2 of the Financial Instruments and Exchange Act”
	<a href="#">Access</a>	

July 27	<a href="#">Access</a>	Authorization of banking license
	<a href="#">Access</a>	Implementation of the 2009 Campaign for enhanced Consultation for Multiple Debtors
July 28	<a href="#">Access</a>	Administrative action against The Gifu Bank Ltd.
	<a href="#">Access</a>	Administrative action against Higashi-Nippon Bank Ltd.
	<a href="#">Access</a>	Administrative actions on Aozora Bank, Ltd. (1)
	<a href="#">Access</a>	Administrative actions on Aozora Bank, Ltd. (2)
	<a href="#">Access</a>	Administrative action against The Chiba Kogyo Bank Ltd.
	<a href="#">Access</a>	Administrative actions on Shinsei Bank, Ltd.
	<a href="#">Access</a>	Administrative actions on Chuo Mitsui Trust Holdings, Inc.
	<a href="#">Access</a>	Report on the Implementation Status of Business Revitalization Plans
	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against false statements made in the annual securities reports, etc. relating to Futaba Industrial Co., Ltd.
July 30	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty for false statements made in an annual securities report relating to Daisui Co., Ltd.
	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty for false statements made in the annual securities reports, etc. relating to BicCamera Inc.
July 31	<a href="#">Access</a>	Administrative action against kabu.com Securities Co., Ltd.
	<a href="#">Access</a>	Order for submission of an amendment of tender offer notification relating to Nippon RAD Inc.
	<a href="#">Access</a>	Consultations received at the “Counseling Office for Financial Services Users” (April 1 – June 30, 2009)
	<a href="#">Access</a>	Provision of information regarding the fraudulent use of deposit accounts
	<a href="#">Access</a>	Be wary of solicitations by unregistered dealers located overseas
	<a href="#">Access</a>	Results of public comments on the “Draft Cabinet Ordinance for Partial Amendment of the Cabinet Ordinances related to Financial Instruments Business Operators”
	<a href="#">Access</a>	Promulgation of Cabinet Ordinances and FSA Regulatory Notices concerning the extension of temporary measures regarding restrictions on short selling and purchase of own stocks by listed companies
August 4	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against market manipulation relating to GaiaX Co., Ltd. share certificates
August 5	<a href="#">Access</a>	Approval of the management enhancement plans of Kiyō Holdings, Inc., The Kiyō Bank, Ltd. and The Howa Bank, Ltd.
	<a href="#">Access</a>	Implementation status of the management enhancement plans of Kiyō Holdings, Inc., The Kiyō Bank, Ltd. and The Howa Bank, Ltd.
August 6	<a href="#">Access</a>	Implementation status of the management enhancement plans of three regional banks
	<a href="#">Access</a>	FY2008 onsite inspections of special juridical persons under the civil law, overseen by the FSA
August 7	<a href="#">Access</a>	Administrative action against Marvelous Capital Investment Inc.
	<a href="#">Access</a>	Approval for establishment of a bank holding company
	<a href="#">Access</a>	The Basic Policy and Plan for Financial Inspections in Program Year 2009
August 18	<a href="#">Access</a>	Administrative action against Shibata Shinkin Bank
	<a href="#">Access</a>	FSA publishes the status of banks’ non-performing loans as of end-March 2009
	<a href="#">Access</a>	Annual Supervisory Policies for Major Banks for Program Year 2009
	<a href="#">Access</a>	Annual Supervisory Policies for Small- and Medium-Sized Enterprises and Regional Financial Institutions for Program Year 2009
	<a href="#">Access</a>	Annual Supervisory Policies for Insurance Companies, etc. for Program Year 2009

	<a href="#">Access</a>	Annual Supervisory Policies for Financial Instruments Business Operators, etc. for Program Year 2009
	<a href="#">Access</a>	Partial Revision of the Inspection Manual for Insurance Companies
August 20	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against the recipient of information from a contractor to General Co., Ltd. for insider trading.
August 27	<a href="#">Access</a>	Authorization of a life insurance business license
	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against market manipulation relating to Sowa Jisho Co. Ltd stocks.
	<a href="#">Access</a>	Decision to order payment of an administrative monetary penalty against insider trading by an officer of Nissan Diesel Motor Co.Ltd.
August 28	<a href="#">Access</a>	Draft revised framework for the review of solvency margin ratios
	<a href="#">Access</a>	Financial Services Agency: A Year in Review (Program Year 2008)
August 31	<a href="#">Access</a>	Update of the Collection of Statistics on the Money Lending Business
	<a href="#">Access</a>	Multiple Debt Consultations Provided at Local Finance Bureaus and Local Governments (Second Half of FY2008)
	<a href="#">Access</a>	FY2010 Structure, Personnel and Budget Requests
	<a href="#">Access</a>	FY2010 Request for Tax Revisions
	<a href="#">Access</a>	Agenda of the 2nd Round of Talks on Fundamental Problems by the Sectional Committee on Financial System of the Financial System Council
	<a href="#">Access</a>	Publication of the “FY2008 Performance Evaluation Report” and the “FY2009 Program Evaluation Report”; and the “Main Points” of each

Details of any items with an [Access](#) symbol, can be viewed by clicking on the [Access](#) symbol.