



FSA Newsletter No. 95 2011

<http://www.fsa.go.jp/en/newsletter/index.html>



On the occasion of [granting a banking business license to Daiwa Next Bank, Ltd.](#),
President Tomiki Koide (left) shakes hands with
Minister of State for Financial Services Shozaburo Jimi (right)
(April 12)

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Great East Japan Earthquake - Related Information

We give our deepest condolences for people who died in the 2011 Great East Japan Earthquake, and our heartfelt sympathy for the victims who suffered losses.

The FSA is providing “Great East Japan Earthquake - Related Information” in the following places.

1. Great East Japan Earthquake - Related Information: We are putting all efforts into financial countermeasures

The FSA created a [Great East Japan Earthquake - Related Information](#) section on its web site, providing information for each of the following items.

(1) [For depositors](#)

- Even for people who have lost their bank deposit book or hanko, if the depositors present documents that make it possible to identify them, the depositors will get access to their deposits at their financial institutions.
- Even if one has lost documents which make it possible to identify them, the financial institutions are striving to provide flexible responses: asking the person’s name, address, and other personal information, confirming that these match registered details, then providing access to deposits, etc.
- If family members of deceased or missing immediate relatives provide vital documents, family members can get access to deposits.
- The Japanese Bankers Association provides information on deposits of deceased or missing people on request of their families.
- Even if one has been displaced, one can still get access to deposits at financial institutions other than your own.

(2) [For borrowers](#)

- Financial institutions are working to respond as much as possible when there are requests for grace periods for loan repayments or provisions for stop-gap funds, etc. from borrowers directly and indirectly affected by the disaster.
- Grace periods will be given for non-payment of drafts and cheques which cannot be settled because of the disaster.
- Financial institutions are also working to handle loan applications flexibly and quickly. For example, financial institutions are considering the situation of disaster victims, and will minimize the required documents for submission for loans.

(3) [For insurance policy holders](#)

- Life insurance and non-life insurance companies are working on fast and easy procedures of insurance payouts.
- Even if insurance certificates or documents enabling personal identification are lost, there will be flexible responses to each individual customer’s situation. If one does not know which insurance company one has policies with, ask an insurance association or any insurance company.
- A customer who is a disaster victim can receive a grace period for insurance premium payments, if requested.

2. Great East Japan Earthquake - Related Information: FSA cell phone website

The FSA created cell phone web pages for earthquake disaster related information.

* For details, please go to the FSA web site and access “[FSA cell phone website](#)”, or use the QR code (below).



[FSA cell phone website](#)

3. FSA (Great East Japan Earthquake – Related Information) Twitter

The FSA is providing information on Great East Japan Earthquake related finance in the fastest and most easily understood way possible, via the Twitter internet mini blog service.

- * For details, please go to the FSA web site and access [“FSA \(Great East Japan Earthquake – Related Information\) Twitter”](#) (Available in Japanese only).



[“FSA \(Great East Japan Earthquake – Related Information\) Twitter”](#)

Earthquake Related Topics

Provision of the exception for the amount accumulated as incurred but not reported concerning the business year ended March 31, 2011, based on the stipulations of Order for Enforcement of the Insurance Business Act, Article 73, Paragraph 1, Item 2” (Exceptional FSA Regulatory Notice) published

Due to the Great East Japan Earthquake, the FSA proclaimed and enforced an exceptional regulatory notice on April 28, 2011, so life insurance companies and foreign life insurance companies, etc. (hereinafter, “Life Insurance Companies, etc.”) can consider the earthquake’s effects on accumulated incurred but not reported (IBNR) (Note).

Note: At settlement, insurance companies, etc. accumulate incurred but not reported (IBNR) as reserves against future losses arising from insurance accidents already incurred but still not reported, based on past experience (Order for Enforcement of the Insurance Business Act, Article 73, Paragraph 1, Item 2).

The specific method to calculate IBNR is specified in FSA Regulatory Notice (1998 Ministry of Finance Regulatory Notice No. 234).

Under the current regulatory notice, it is calculated mechanically based on experience over the past three years (Reference).

As a result, using the calculation method specified in the current regulatory notice, considering future payments of insurance payouts etc. related to the current disaster, reserves may be insufficient.

Therefore, in addition to the calculation method in the current regulatory notice, this is an exceptional notice to enable calculation by a rational method based on factors such as the number of deaths reported by the police authorities.

Reference: current method for calculating IBNR of Life Insurance Companies, etc. (outline)

- | | |
|---|----------------------------|
| (1) IBNR in previous fiscal year × current fiscal year’s payments / previous fiscal year’s payments | } Average of these 3 years |
| (2) IBNR 2 fiscal years ago × previous fiscal year’s payments / payments 2 fiscal years ago | |
| (3) IBNR 3 fiscal years ago × previous fiscal year’s payments / payments 3 fiscal years ago | |

* For details, please go to the FSA web site and access [“Provision of the exception for the amount accumulated as incurred but not reported concerning the business year ended March 31, 2011, based on the stipulations of Order for Enforcement of the Insurance Business Act, Article 73, Paragraph 1, Item 2” \(Exceptional FSA Regulatory Notice\) published” \(April 28, 2011\)](#) from the Press Releases section. (Available in Japanese only)

“Cabinet Office Ordinance for Partial Revision of the Ordinance for Enforcement of Money Lending Business Act”

When a disaster victim tries to borrow, from a money lending business operator, an amount which does not exceed what the borrower can repay, if a legally determined procedure becomes a problem, for example if a specific document cannot be prepared, then this would cause the trouble of the borrower’s inability to borrow the funds that it could normally borrow. This obstacle must be removed, so the FSA partially revised the Ordinance for Enforcement of Money Lending Business Act.

The main points of this revision are as follows.

(1) More flexible borrowing procedures, etc. for “expenses society generally deems necessary in emergency,” as an exception to total amount regulations

The following exceptions were created for victims who are customers restricted by total amount regulations, and who do exceptional borrowing for “expenses society generally deems necessary in emergency.”

- Submission of receipts, etc. to the money lending business operator was required, but considering cases of use for various expenses such as living costs for a while, this requirement was eliminated.
- The repayment period was required to be “not more than three months,” but considering the situations in which victims are placed, it was changed to “not more than six months.”

(2) More flexible borrowing procedures for sole proprietors, as an exception to total amount regulations

Borrowing by a sole proprietor is an exception to total amount regulations, but the following special exception for victims was created for when a sole proprietor does such borrowing.

- If a money lending business operator lends over one million yen, it was required to judge the customer’s repayment ability based on the sole proprietor’s “business plan, revenue/expense plan and cash flow plan.” However, considering that it is difficult for disaster victims to create and present “plans,” it is now sufficient if judged based on simpler information (current status, etc.) (same treatment as for lending one million yen or less).

(3) More flexible borrowing procedures for calculating annual income by aggregating it with spouse’s annual income, as an exception to total amount regulations

For a customer (husband, wife, etc.) who is restricted by total amount regulations if only counting the customer’s own revenues, and if borrowing based on an amount which is the total of the customer’s own annual income plus the spouse’s annual income (up to 1/3 of total annual income), the following exception was created for disaster victims.

- When such a customer borrows, the customer was required to submit a residence certificate or permanent domicile record to identify the customer and spouse. However, considering that it is difficult for some victims to obtain these, later submission (within six months) was made sufficient.

(4) More flexible borrowing procedures for cashing by the maximum amount method (lending within the total amount regulation limit)

A customer who borrows at least a certain amount by the maximum amount method (cashing) was required to submit to the money lending business operator documents which prove annual income, such as a withholding slip. However, the following exception to this was created for disaster victims.

- If such a customer did not submit a withholding slip, etc. “within two months,” cashing was halted even if there was leeway within the maximum amount. However, considering disaster victims who have difficulty obtaining these, it was changed to submission “within six months.”

Each of the above are time-limited measures (until October 31) for victims of the recent disaster. It has been enforced since the proclamation date (April 28, 2011). (However, revisions concerning (4) above have been applied since January 1, 2011)

* For details, please go to the FSA web site and access [“Cabinet Office Ordinance for Partial Revision of the Ordinance for Enforcement of Money Lending Business Act” \(April 28, 2011\)](#) from the Press Releases section. (Available in Japanese only)

Other Topics

FSA Vice Commissioner for International Affairs appointed Chairman of IOSCO's Technical Committee

International Organization of Securities Commissions (IOSCO) held its Annual Conference during April 17-21, 2011, in Cape Town, South Africa, and Masamichi Kono, Vice Commissioner for International Affairs of the Financial Services Agency of Japan (FSA), assumed the role of Chairman of the Technical Committee of IOSCO succeeding Mr. Hans Hoogervorst, Chairman of the Netherlands Authority for the Financial Markets, who stepped down from the Technical Committee chairmanship at the close of the conference. Mr. Kono's term will run until the next Annual Conference planned in May 2012 in Beijing. Mr. Fernando Restoy, Vice-Chairman of Comisión Nacional del Mercado de Valores of Spain, has replaced Mr. Kono as Vice-Chairman of the Technical Committee.

The FSA has been strengthening cooperation with foreign authorities since its establishment. As financial regulatory reform progresses after the global financial crisis, close cooperation between financial and market authorities becomes increasingly important. We will contribute further to enhance the integrity and efficiency of international financial markets through active contribution to the work of international organizations.

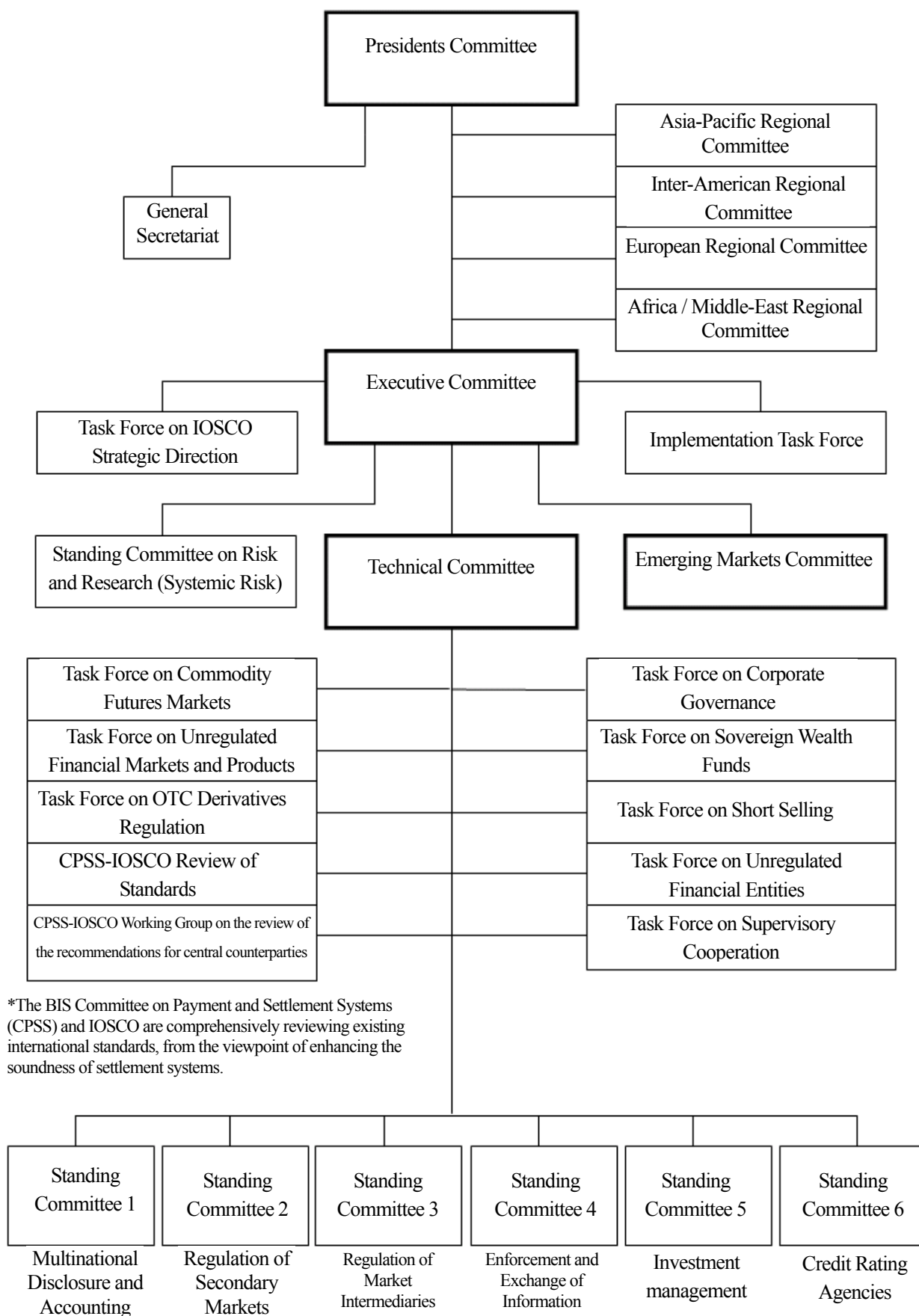
(Note)

IOSCO is recognized as the leading international policy forum for securities regulators. The organization's membership regulates more than 95% of the world's securities markets in around 110 countries/regions and its membership is steadily growing.

The Technical Committee, a specialized working group established by IOSCO's Executive Committee, is made up of 18 agencies that regulate some of the world's larger, more developed and internationalized markets. Its objective is to review major regulatory issues related to international securities and futures transactions and to coordinate practical responses to these concerns. The members of the Technical Committee are the securities regulatory authorities of Australia, Brazil, China, France, Germany, Hong Kong, India, Italy, Japan, Mexico, the Netherlands, Ontario, Quebec, Spain, Switzerland, United Kingdom and the United States.

For the IOSCO press release on his appointment as Chairman, see the IOSCO web site ( <http://www.iosco.org/news/pdf/IOSCONEWS206.pdf> ).

* For details, please go to the FSA web site and access "[FSA Vice Commissioner for International Affairs appointed Chairman of IOSCO's Technical Committee](#)" (April 22, 2011) from the Press Releases section.



*The BIS Committee on Payment and Settlement Systems (CPSS) and IOSCO are comprehensively reviewing existing international standards, from the viewpoint of enhancing the soundness of settlement systems.

Partial revisions of “Comprehensive Guidelines for the Supervision of Major Banks, etc.” and “Comprehensive Guidelines for the Supervision of Small- and Medium-Sized Enterprises and Regional Financial Institutions”

From December 28, 2010 to February 3, 2011, opinions were widely solicited regarding partial revisions of “Comprehensive Guidelines for the Supervision of Major Banks, etc.” and “Comprehensive Guidelines for the Supervision of Small- and Medium-Sized Enterprises and Regional Financial Institutions.” On April 15, 2011, results of public comments were published and supervisory guidelines were partially revised.

An outline of the revisions is as follows.

(1) Overview

- a. Is the financial institution striving to enhance the convenience of financial transactions for disabled people, etc.?
- b. Does the financial institution check the policies of the nation etc. concerning support for disabled people, and as necessary, use these for its own services, etc.?
- c. If the financial institution receives opinions from disabled people, etc., does it strive to work based on those opinions? Also, if it cannot completely achieve a policy, does it study a substitute policy, etc.?

(2) Operations management system, etc.

- a. For disabled people who have difficulty writing, is a system developed for the financial institution’s employees to write instead, and do they provide sufficient responses?
- b. For people with visual disabilities, is a system developed to read for them?
- c. If handicapped person’s passbooks are used to identify them, is a system developed to protect personal information?
- d. Are there appropriate efforts to deliver information about initiatives in consideration of disabled people, etc.?
- e. Are employees trained etc., to ensure the effectiveness of systems developed for initiatives in consideration of disabled people, etc.?

(3) Retail offices, facilities, etc.

- a. Is attention paid to designing the financial institution’s retail offices and facilities so they are easy to use?
- b. Are there also efforts to enhance the convenience of financial transactions for disabled people at each office, as needed?
- c. In particular, to serve disabled people, are there efforts to install visually disabled friendly ATMs, needed guidance blocks, voice guidance systems, etc.?

Each revised supervisory guideline has been applied since April 15, 2011.

* For details, please go to the FSA web site and access [“Partial revisions \(drafts\) of ‘Comprehensive Guidelines for the Supervision of Major Banks, etc.’ and ‘Comprehensive Guidelines for the Supervision of Small- and Medium-Sized Enterprises and Regional Financial Institutions’” \(April 15, 2011\)](#) from the Press Releases section. (Available in Japanese only)

Notices

● Use of KAN's BLOG

In November 2010, as part of information delivery by the Prime Minister's Office, the KAN's Blog was created, with a section written by Prime Minister Kan and transmission of videos of the Prime Minister's speeches. This blog provides a wide variety of information.

The FSA also received a request from the Cabinet Public Relations Office to cooperate in utilizing the KAN's Blog. Its banner is shown on the FSA web site and the web sites of the Financial Research Center, SESC and the Certified Public Accountants and Auditing Oversight Board. (See below)



To get update information of the KAN's Blog in "the KAN's Blog" emails delivered (update notice email delivery registration), go to the URL below.

- KAN's Blog
<http://kansblog.kantei.go.jp/>
- Reader registration (Update notice email delivery registration)
<http://www.mmz.kantei.go.jp/foreign/blog/index.html>

● e-Gov Electronic Application System use (Available in Japanese only)

As an initiative to improve convenience and service for the people, for applications and notices of the Financial Services Agency, you can use the [e-Gov Electronic Application System](#) to send electronic applications and notices, etc. Please take advantage of it.

To see which applications and notices etc. can be processed in this system, please check [Search by List of Laws & Ordinances](#), on the page [Procedure Instructions for Applications & Notices, etc.](#)

To use this system, you must agree with the [e-Gov Electronic Application System Usage Agreement](#)

● Advantages of using the e-Gov Electronic Application System

Anytime

- You can do procedures 24 hours without time restrictions, even at night or on holidays.
Note: When this system requires maintenance, there can be times when the system stops working.

Anywhere

- You can do procedures via Internet at home, work, and even far away.
Note: For attached documents, when you must submit originals such as public institution certificates, you may have to send them separately by post, etc.

* For details on how to use the e-Gov Electronic Application System, see [Electronic Applications](#) on the [e-Gov home page](#).

● Is That Money-Making Scheme Safe?

Beware of fraudulent investment solicitation!

There have been frequent cases of fraudulent investment solicitation related to unlisted stocks and investment funds. Please watch out for such fraudulent investment solicitation.

Warning about transactions related to “unlisted stocks” and “privately placed bonds”

- Generally speaking, it is inconceivable that a broad range of investors will be solicited to make transactions related to unlisted stocks and privately placed bonds.
 - As solicitation for such investments may be an illegal act, investors should take care never to be involved in such transactions.

Warning about “investment funds”

- Under law, only business operators registered with the FSA (or a Local Finance Bureau) are permitted to solicit a broad range of investors to invest in investment funds.
 - As solicitation made by an unregistered business operator may be an illegal act, investors should take care never to be involved in such cases.

It is important to make a decision as to whether or not to actually make an investment based on an adequate understanding of the contents of the transaction. If there are any suspicious points, we advise you to act cautiously, such as by refraining from making the transaction.

- On the FSA web site, you can obtain more detailed information and check whether the business operator soliciting you is registered with the FSA (or a Local Finance Bureau).
- Please note that even if business operators are registered with the FSA (or a Local Finance Bureau):
 - their creditworthiness is not assured; and
 - they are prohibited from making solicitation by suggesting the principal is guaranteed or the transaction is sure to bring profits, for example.

When you have detected suspicious solicitation activity, be sure to contact the FSA’s Counseling Office for Financial Services Users.

- Counseling Office for Financial Services Users (Phone calls are accepted from 10 a.m. to 4 p.m. on weekdays.
Phone No. (Navi Dial Service number): 0570-016811
*Phone calls from an IP phone or a PHS phone are to be made to 03-5251-6811.
FAX: 03-3506-6699

- * For further details, please refer to the following FSA websites (available only in Japanese)
- [Watch Out for Suspicious Investment Solicitation, etc.](#)
- [List of licensed \(registered\) Financial Institutions](#)

● Protecting the markets with information received from the public!

The mission of the [Securities and Exchange Surveillance Commission \(SESC\)](https://www.fsa.go.jp/sesc/) is to ensure the fairness and transparency of Japan's markets and to protect investors, through exerting its authority of market surveillance, inspections of securities companies, administrative monetary penalties investigations, disclosure documents inspections and investigations of criminal cases.

The SESC receives a wide range of information from the general public via phone, mail, fax and the internet, relating to suspected misconducts in the market such as those below. Information received is effectively used as reference material in its investigations, inspections and other activities. During business year 2009, the SESC received 7,118 items of information.

Information on specific stocks

- Market manipulation (through “misegyoku” (false orders), short selling, etc.)
- Insider trading (selling off of stocks by a corporate insider prior to publication of material facts, etc.)
- Spreading of rumors (false rumors through posts to online bulletin boards or email magazines, etc.)
- Suspicious disclosure (annual securities reports, timely disclosure, etc.)
- Suspicious financing (fictitious capital increases, suspicious allottees, etc.)
- Problems of internal control for listed companies etc.

Information on financial instruments business operators, etc.

- Wrongful acts by securities companies, foreign exchange margin (FX) traders, management firms, investment advisories/agencies, etc. (inadequate explanation of risks, system-related problems, etc.)
- Problems related to business management systems or financial conditions (risk management, customer asset segregation, calculation of capital adequacy ratio, etc.) etc.

Other information

- Information on suspicious financial instruments, suspicious funds (fraudulent fund-raising schemes, etc.) or on unregistered business operators
- Information on market participants who are likely to impair the fairness of markets (so-called speculator groups, etc.) etc.

If you have any information like that described above, please be sure to submit it to the SESC. In addition to information on shares, the SESC also accepts a wide range of information on derivatives, bonds and other financial instruments. (Please note that the SESC does not accept individual requests for dispute resolution and inspections.)

To submit information via the internet, please access [the Securities Watch & Report Portal](https://www.fsa.go.jp/sesc/watch/) on the SESC website. (Available in Japanese only)



Poster calling on the general public to provide information

◆ SESC Securities Watch & Report Portal

Central Government Office Building No.7, 3-2-1 Kasumigaseki, Chiyoda-ku, Tokyo, JAPAN 100-8922

Direct line: +81 (3) 3581-9909

Fax: +81 (3) 5251-2136

<https://www.fsa.go.jp/sesc/watch/>

● 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 once a day 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 from the SESC website, such as recommendations relating to administrative action against financial instruments business operators and recommendations 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 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.

* 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 CPAAOB website.



Press Releases in April

April 1	Access	Partial revision of “Determination of Company Accounting Standards designated by the FSA Commissioner as stipulated in Regulations, for Terminology, Forms and Preparation of Consolidated Financial Statements”, etc.
	Access	Administrative action against Rights Trust Inc.
	Access	Revised SME Finance Facilitation Act enacted, enforced, etc.
	Access	Statement by Shozaburo Jimi, Minister for Financial Services
April 4	Access	“Guidelines on Financial Supervision based on the Act Concerning Temporary Measures to Facilitate Financing for SMEs, etc. (Specific roles which financial institutions should play in wielding their consulting functions)” published
April 6	Access	“Draft Cabinet Order for Partial Revision of the Order for Enforcement of the Financial Instruments and Exchange Act”, “Draft Cabinet Ordinance for Partial Revision of the Cabinet Ordinance Relating to Definitions Prescribed in Article 2 of the Financial Instruments and Exchange Act” and partial revision (draft) of ‘Determination of Company Accounting Standards designated by the FSA Commissioner as stipulated in Regulations, etc. for Terminology, Forms and Preparation of Consolidated Financial Statements’” – Results of public comments, etc.
	Access	Addition of “Q&A on Tender Offers for Shares, etc.”
April 7	Access	Administrative action against Emerging Asset Management, Inc.

Web Pages Most Accessed in April

This section shows the April Press Releases web pages which were accessed the most.

To see the web pages most accessed in the past, go to the FSA web site's [Web pages most accessed \(past data, etc.\)](#)

(Available in Japanese only)

- [Financial institutions being inspected by FSA](#)
- [Situation of responses to recent disaster by FSA, Local Finance Bureaus and financial institutions](#)
- [Financial Facilitation Measures for Small and Medium-sized Enterprises](#)
- [List of licensed \(registered\) financial institutions](#)
- [Inspection, supervision and regulation responses in consideration of damage from the 2011 Tohoku-Pacific Ocean Earthquake](#)
- [Financial Institutions Consultation Contact Points List](#)
- [“Opinion paper on the revision of the Standards and Practice Standards for Management Assessment and Audit concerning Internal Control Over Financial Reporting” published](#)
- [For borrowers](#)
- [“Q&A on Internal Controls Reporting System” revised](#)
- [Internal Controls Reporting System Casebook](#)