

FSA Newsletter No. 102 2012

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



Greeting by Minister for Financial Services Shozaburo Jimi (center) at Meeting of Directors-General of Local Finance Bureaus (November 1)



IMF Managing Director Christine Lagarde (left) shakes hands with Minister for Financial Services Shozaburo Jimi (right) (at Minister's Office) (November 11)

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Photo Gallery

Meeting with IMF Managing Director Christine Lagarde

* Minister for Financial Services Shozaburo Jimi met with IMF Managing Director Christine Lagarde at the FSA Minister's Office on November 11.





Meeting of Directors-General of Local Finance Bureaus

* Greetings by Senior Vice Minister Ikko Nakatsuka (lower left photo) and Parliamentary Secretary Hiroshi Ogushi (lower right photo), at the Meeting of Directors-General of Local Finance Bureaus (upper photo) held on November 1.







Topics

Revision Again of Current Action Plan on Fostering People who Passed the CPA Exam and Expanding their Fields of Activity

1. Situation of Initiatives until Now

- (1) With the aim of having people who passed the CPA exam work in a wide variety of fields in the society and economy, opinion sharing meetings have been held since April 2009 by the FSA, Certified Public Accountants and Auditing Oversight Board, Japanese Institute of Certified Public Accountants, Keidanren, and four financial organizations. In July 2009, a midterm report and current action plan were put together regarding response policies needed to resolve issues. Moreover, an opinion sharing meeting was held in November 2010, the action plan was revised, and new policies were added.
- (2) Thereafter, as a result of initiatives advanced by each member, one may think that there is a certain degree of progress in expanding their fields of activities, but one cannot say we have reached the point where people who passed the CPA exam are widely used in society and economy. Therefore, from the viewpoint that related parties need to investigate in more depth, opinion sharing meetings are being held since August 2011 to proceed with investigations on whether there are further feasible response policies, unconstrained by the framework until now.
- (3) In November 2011, policies discussed in opinion sharing meetings were summarized, the current action plan was revised again, and each member agreed to actively work in accordance with the action plan after it was revised again.

2. Main Points of Current Action Plan (Revised Again)

- (1) Development of Framework for Assistance in Audit Work by Fixed Term Employment in Small and Medium Audit Firms
 - Develop a framework for small and medium audit firms to employ for a fixed term people who passed the CPA exam, or sign outsourcing contracts with them, and have them assist in audit work
- (2) Calls for the Business World to Hire More People Who Passed the CPA Exam
 - Obtain the cooperation of business organizations and securities exchanges, and distribute PR leaflets and post
 notices on the home pages of EDINET and various organizations, to inform the business world that people
 can obtain the qualification even if they work on financial analysis in term employment or consulting
 companies, etc. Also call on them to hire more people who passed the CPA exam
 - Obtain the cooperation of securities exchanges, send questionnaires to enterprises, and learn the actual situation of hiring people who passed the CPA exam
- (3) Expansion of Work which Qualifies as Practical Employment
 - The practical employment requirement for obtaining the CPA qualification is expanded to include clerical
 work on financial analysis such as cost calculations and settlement document preparations done in disclosure
 companies and in consolidated subsidiaries (including overseas subsidiaries) of disclosure companies and of
 corporations with at least 500 million yen of capital (investment received), and expanded to include practical
 work (financial analysis) other than inspections in national and local public bodies
 - This clarifies that forms of employment engaged in practical work are not excluded, even if not regular employees
- * For details, please go to the FSA's web site and access <u>"Opinion Sharing Meeting and Revision Again of Current Action Plan on Fostering People who Passed the CPA Exam and Expanding their Fields of Activity" (November 2) at the Press Releases section. (Available in Japanese only)</u>

Results of the public comments on the Draft Government Ordinance and Cabinet Office Ordinance, etc. on the 2011 revision of the Financial Instruments and Exchange Act (Enforced within Six Months)

The FSA published the Draft Government Ordinance and Cabinet Office Ordinances, etc. on the 2011 revision of the Financial Instruments and Exchange Act (Enforced within Six Months), and widely solicited public opinions from August 30 to September 30. The results, etc. were published on November 11, 2011.

The cabinet order was decided by cabinet resolution on November 11, 2011, and was promulgated on November 16, 2011, together with a related cabinet office ordinance. The cabinet order and cabinet office ordinance will come into force on November 24, 2011.

An outline of this cabinet order and cabinet office ordinance is as follows.

1. Change to notification system for representing the businesses or carrying out services on behalf of other insurance companies within insurance group companies

The scope of an insurance group company is stipulated to be subsidiary companies, a major shareholder who holds over 50% of voting rights, fellow subsidiaries and so on of that company.

- 2. More flexible regulations on asset securitization schemes
 - (1) To simplify procedures for changing an asset securitization plan, this stipulates what are "minor changes" of an asset securitization plan which do not require notification.
 - (2) To relax regulations on asset acquisition, this stipulates what are "Accessory Specified Assets" which do not require the obligation to set up a trust, etc. when acquiring assets.
 - (3) To simplify fundraising procedures, the requirements for bridge financing (borrowings other than specific borrowings) are relaxed.
- Response to trading of unlisted shares by unregistered business operators
 The order stipulated that the securities subject to the transaction invalidation rule are corporate bonds, stocks, share options, etc.
- * For details, please refer to <u>"Results of the Public Comments on the Draft Government Ordinance and Cabinet Office Ordinance etc. on the 2011 revision of the Financial Instruments and Exchange Act (Enforced within Six Months)." (November 11, 2011) in the "Press Releases" of the FSA website. (Available in Japanese only)</u>

Draft Partial Revision of Public Notices on Capital Adequacy Ratios of Financial Instruments Business Operators, etc. – Results of Public Comments, etc.

The FSA widely solicited opinions on the "Draft Partial Revisions of Public Notices on Capital Adequacy Ratios of Financial Instruments Business Operators, etc." from July 5 to August 5, 2011. It published the results of public comments on November 22, 2011, and partially revised public notices, etc.

Below is an outline of the revisions.

- 1. Background of Partial Revisions of "Public Notices on Capital Adequacy Ratios of Financial Instruments Business Operators, etc."
 - (1) With the revision of Financial Instruments and Exchange Act in 2010, group basis supervisory regulations for securities companies (consolidated capital adequacy ratios, etc.) were introduced in April 2011. Three capital regulations are now imposed on securities companies: non-consolidated, downstream consolidated and upstream consolidated.
 - (2) The "Final Package of Measures to Enhance Three Pillars of Basel II" (called "Basel 2.5") was announced in July 2009. This was mainly an agreement on enhanced treatment of securitized products and market risks. Given that its international implementation is sought by this December, upstream consolidated regulations were revised this May 27 (this revision was similar to the public notice on bank's consolidated capital adequacy regulations).
 - (3) Regarding public notices of non-consolidated and downstream consolidated regulations, calculation of market risks which are a major factor has basically been using the same calculation method as in Basel II, with consideration of the securities company's business model, while giving conservative treatment to low liquidity assets.
 - (4) This time, market risk related sections in public notices on non-consolidated and downstream regulations were also revised, similar to revisions of public notices on upstream consolidated regulations.

2. Main Contents

- (1) Raise the risk weights of securitized products and re-securitized products
- (2) Introduce monitoring requirements concerning external ratings use
- (3) Capture trading account related stress VaR, additional risks (credit risks), etc.
- (4) Introduce expected exposure method
- (5) Others (Clarification of scope of government bonds. Consistency with public notices of upstream consolidated regulations regarding requirements of internal control model method)

3. Implementation Dates

This revised public notice shall apply starting on March 31, 2012 (however, financial instruments business operators which are subsidiaries of bank holding companies, banks, designated parent companies, etc. can choose to apply it starting on December 31, 2011).

* For details, please go to the FSA's web site and access "<u>Draft Partial Revisions of Public Notices on Capital Adequacy Ratios of Financial Instruments Business Operators</u>, etc. — <u>Results of public comments</u>, etc." (<u>November 22</u>) at the Press Releases section. (Available in Japanese only)

Notices

• Great East Japan Earthquake - Related Information

The FSA continues to provide "Great East Japan Earthquake - Related Information" via these contact points:

FSA website

Great East Japan Earthquake - Related Information

(URL: http://www.fsa.go.jp/en/ordinary/earthquake201103.html)

Contact points of financial institutions

(URL:http://www.fsa.go.jp/ordinary/earthquake201103/20110325-1.html) (Available in Japanese only)

FSA cell phone website

Great East Japan Earthquake - Related Information (URL: http://www.fsa.go.jp/en/m/quake/jishin.html)



FSA Twitter - Information related to the FSA (URL: http://twitter.com/#!/fsa_JAPAN) (Available in Japanese only)

• One Year at the FSA (Program Year 2010)

"One Year at the FSA" was published. It summarizes various initiatives of the FSA in the 2010 Program Year, with sections on system planning, inspections and supervision.

In the 2010 Program Year (July 2010 to June 2011), the FSA (1) continued to actively participate in international financial regulatory reform to prevent a reoccurrence of the global financial crisis, and (2) took actions in financial aspects to contribute to strengthening the growth of the Japanese economy. The FSA also (3) took actions to maintain complete financial functions following the Great East Japan Earthquake, which struck in March 2011.

We hope this booklet will help deepen citizens' understanding of the FSA and financial administration.

* For details, please go to the FSA's website and access <u>"One Year at the FSA (Program Year 2010)" (November 15)</u> in the Press Releases section. (Available in Japanese only)

• Use of "Prime Minister NODA's BLOG"

The Prime Minister's Office official blog "Prime Minister NODA's BLOG" was set up by the Cabinet Public Relations Office on September 12. This aims to provide easily understood communication to the people, about the Prime Minister's thoughts and the status of initiatives, regarding the priority policies advanced by the Noda Cabinet.

The FSA also arranges to have the banner shown below posted on the web sites of the FSA, Financial Research Center, Securities and Exchange Surveillance Commission, and the Certified Public Accountants and Auditing Oversight Board.



• Prime Minister NODA's BLOG URL: http://nodasblog.kantei.go.jp/

• 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 <u>e-Gov Electronic Application System</u> 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 <u>Search by List of Laws & Ordinances</u>, on the page <u>Procedure Instructions for Applications & Notices, etc.</u>

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 <u>Electronic Applications</u> on the <u>e-Gov home</u> 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.
 - → <u>As solicitation for such investments may be an illegal act, investors should take care never to be involved in such transactions.</u>

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 <u>Securities and Exchange Surveillance Commission (SESC)</u> 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.

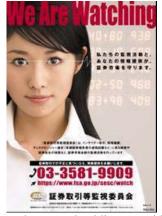
- Wrongful acts by securities companies, foreign exchange margin (FX) traders, management firms, investment advisories/agencies, etc. (inadequate explanation of risks, system-related problems, etc.)
- Problems related to business management systems or financial conditions (risk management, customer asset 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 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 <u>「新着情報メール配信サービス」</u>, 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 <u>「新着情報メール配信サービス」</u>, 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 <u>「新着情報メール配信サービス」</u>, and to register in English, please access <u>Subscribing to E-mail Information Service</u> on the CPAAOB website.

[Minister in His Own Words]

This section provides information regarding the hot topics of the moment, selected from questions and answers given at the Minister's press conferences, etc.

If you wish to find out more, we invite you to visit the "Press Conferences" section of the FSA website.

- Q1: Regarding banks' financial results, all megabanks and other major banks have announced their first-half results. The results apparently confirmed that the banks depend heavily on income from government bond trading. Could you tell me what you think of the banks' business models in light of the latest financial results?
- A1. According to the financial results announced by the major banks (seven banking groups) by today, November 15, while the results vary from bank to bank, generally speaking, credit-related expenses declined and government bond-related income remained steady. On the other hand, gross financial margins and stock-related income decreased. Consequently, I understand that each group's net profit in the first half to the end of September exceeded its forecast.

The FSA will continue to carefully monitor the status of banks' management.

[Extract from the press conference following the Cabinet meeting on November 15, 2011]

- **Q2:** The number of failed companies is rising even among companies that have applied for the use of the Act on Temporary Measures to Facilitate Financing for Small and Medium-Sized Enterprises, etc. (SME Financing Facilitation Act), according to statistics compiled by a credit research company. What do you think of this situation?
- A2. At least from the information I have received, the number of corporate failures has been declining because of the SME Financing Facilitation Act. Nevertheless, the global economic situation is very unfavorable, as indicated by the yen's recent strength, the European sovereign debt problem, and downside risk for the U.S. economy. In the case of Japan, the rising number of failures that you mentioned may be related to the yen's strength. In my electoral district, too, there are many export-dependent SMEs. Exchange market intervention has been conducted, and measures to deal with the yen's strength will be included in the third supplementary budget.

As I mentioned previously, the SME Facilitation Financing Act has been extended with unanimous support. Visiting various regions across Japan, I explained the SME Finance Facilitation Act to financial institutions and organizations representing SMEs and obtained political parties' understanding on the need to extend it. Needless to say, financial discipline is important. As the minister in charge of overseeing private financial institutions, I believe that the business principle of banks is that they take deposits from ordinary people, use the deposits as a fund source for loans and pay back the deposits with interest, as I frequently mention in the Diet. We enacted the Act on Special Measures for Strengthening Financial Functions and added special provisions for measures to deal with the damage done by the earthquake disaster. That was a natural thing to do. I will pause and reflect on what to do while taking account of various factors.

[Extract from the press conference following the Cabinet meeting on November 15, 2011]

- **Q3:** Four Shinkin banks in the disaster areas applied for the use of the amended Act on Special Measures for Strengthening Financial Functions. How do you feel about that as well as the spreading use of this act?
- A3. As for how we feel about the application by four Shinkin banks in the disaster areas for the use of the Act on Special Measures for Strengthening Financial Functions, which was enacted on June 22 this year

with the unanimous support of all parties as you know, the Financial Services Agency (FSA) highly appreciates this move since it is expected to contribute to the smooth exercise of the financial intermediary function through the future toward post-earthquake reconstruction in each area.

In the future, we will actively and positively respond to requests for consultation from Shinkin banks about the use of this act in cooperation with Shinkin Central Bank, the central bank of Shinkin Banks, and the Tohoku Finance Bureau.

When the application has been filed, we will make efforts to examine it quickly in accordance with laws and regulations.

I visited the three disaster-stricken prefectures and met with the presidents of three of the four Shinkin Banks - Miyako Shinkin Bank, Ishinomaki Shinkin Bank and Abukuma Shinkin bank - and I have vivid memories of the painful situation of the disaster areas that they related to me. I hope that these Shinkin Banks will smoothly exercise their financial intermediary function as soon as possible. These financial institutions extend loans to small and medium-size enterprises and also provide housing loans as local financial institutions. For now, some moratorium has been granted for loan repayment. Yesterday, I am glad to say that a supplementary budget totaling around 12 trillion yen was passed. As it is said that a once-in-a-millennium tsunami occurred, I hope that financial institutions will smoothly exercise their financial intermediary function in their regions in times like this and in the future.

[Extract from the press conference following the Cabinet meeting on November 22, 2011]



Press Releases in November

November 1	Access	Administrative Actions on MF Global FXA Securities, Ltd.
November 2	Access	Opinion Sharing Meeting and Revision Again of Current Action Plan on Fostering People who Passed the CPA Exam and Expanding their Fields of Activity
November 4	Access	Draft Government Ordinance and Cabinet Order etc. concerning the 2011 Financial Instruments and Exchange Act Revision (Enforced within One Year) published
	<u>Access</u>	Working Group on How to Regulate Group Management of Insurance Companies (6th) – program
November 7	Access	Financial System Council "Working Group on Insider Trading Regulations" (4th) – program
November 8	Access	"Basic Guidelines on Accounting of Small and Medium Enterprises (Draft)" published
November 10	Access	General Meeting of the Business Accounting Council and the Planning Coordination Subcommittee – program
November 11	Access	Results of the public comments on the Draft Government Ordinance and Cabinet Office Ordinance, etc. on the 2011 revision of the Financial Instruments and Exchange Act (Enforced within Six Months)
November 14	Access	Decision on penalty payment order for insider trading by a contractor with JustSystems Corporation
November 15	Access	One Year at the FSA (Program Year 2010)
November 17	Access	Administrative action against 121 Securities Co., Ltd.
	Access	42nd Financial Service Dispute Resolution Liaison Group held
	Access	Working Group on How to Regulate Group Management of Insurance Companies (7th) – program
November 21	Access	Financial System Council "Working Group on Medium and Long Term Approach of Japan's Financial Industry" – program

November 22	Access	Draft partial revision of "Comprehensive Guidelines for Supervision of Financial Instruments Business Operators, etc." published
	Access	Draft partial revision of "Comprehensive Guidelines for Supervision of Insurance Companies" – Results of public comments, etc.
	Access	Draft Partial Revisions of Public Notices on Capital Adequacy Ratios of Financial Instruments Business operators, etc. – Results of public comments, etc.
	Access	Active Use of "Capital Type Borrowing"
November 24	Access	Draft partial revision of Administrative Guidelines (Volume 3: Finance Company Related) – Results of public comments, etc.
November 25	Access	Appointment and Dismissal of Financial System Council Members
November 28	Access	Working Group on How to Regulate Group Management of Insurance Companies (8th) – program
	Access	"Cabinet Office Ordinance for Partial Revision of the Cabinet Office Ordinance Specifying the Form of Identification Card, etc. that Needs to be Carried by the Official of Financial Services Agency, etc. Conducting Inspection" and "Order on Special Measure for Operations of the Deposit Insurance Corporation of Japan stipulated in the Act on the Great East Japan Earthquake Business Revitalization Support Corporation, Chapter 8" published
November 29	Access	"Draft Supervisory Guidelines and draft Financial Inspection Manual" - Results of public comments
November 30	<u>Access</u>	Update of the "Administrative Actions Casebook"
	Access	Administrative action (extension) against MF Global FXA Securities, Ltd.
	Access	Money lending business related documents updated
	Access	Number of debtors who halted contracted repayments since the Great East Japan Earthquake, and amount of such debts (as of the end of August)
	Access	is a link to the publication web page.

Web Pages Most Accessed in November

This section shows the November 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
- List of licensed (registered) financial institutions
- <u>Draft Government Ordinance and Cabinet Order etc.</u> concerning the 2011 Financial Instruments and Exchange Act Revision (Enforced within One Year)
- Financial Facilitation Measures for Small and Medium-sized Enterprises
- Opinion Sharing Meeting and Revision Again of Current Action Plan on Fostering People who Passed the CPA Exam and Expanding their Fields of Activity
- Names of unregistered financial instruments business operators
- Results of the public comments on the Draft Government Ordinance and Cabinet Office Ordinance, etc. on the 2011 revision of the Financial Instruments and Exchange Act (Enforced within Six Months)
- Personal identification in financial institutions
- Deposit insurance system
- Active Use of "Capital Type Borrowing"