

Consideration to Companies in Relation to the Payment of Rent (Request)

We understand that due to decreased business activities caused by the spread of the COVID-19 infection, real estate related businesses, such as owners of hotels, leisure facilities, public lodging houses, vacation rental facilities, or buildings for rent, are facing funding difficulties.

On March 31, the Ministry of Land, Infrastructure, Transport and Tourism issued a request, via real estate related associations, to companies leasing real estate to tenants, including owners of buildings for rent, to consider taking flexible measures such as granting tenants moratoriums on payments of rent in consideration of their current circumstances. Against such a background, as necessary incentives to strengthen and maintain cooperative relationships between owners and tenants, support measures on tax and financial aspects with regard to the reduction or exemption of rent were publicized on April 9 and 17. The measures include inclusion of relevant cost in deductible expenses and flexible responses by financial institutions.

Investment management business operators entrusted with asset management by investment corporations, etc. owe a duty of loyalty and duty of due care of a prudent manager against relevant investment corporations, etc. and their investors under the Financial Instruments and Exchange Act. However, these duties do not require investment management business operators to merely seek the maximization of short-term profits for investors. Rather, they should determine what the best interest is for investors on a case-by-case basis.

For example, under the current situation where the impact of the COVID-19 infection is still spreading, if it is considered reasonable to take flexible measures from a long-term perspective, such as granting reduction or exemption of or moratoriums on payments of rent, while taking into account the circumstances of tenants who are counterparties to lease contracts with relevant investment corporations, etc., the FSA will not question such cases in its inspection and supervision.

The FSA requests the following to investment management business operators entrusted with asset management by investment corporations, etc. from the perspective of encouraging them to give consideration to tenants within a scope not compromising investor protection. Please properly inform the members of your association.

For tenants who are counterparties to lease contracts with relevant investment corporations, etc. and are facing difficulties in paying rent, consider flexible measures, such as granting reduction or exception of or moratoriums on payments of rent, while fulfilling accountability to investors as necessary.

The FSA issued the following request dated May 8, 2020, to deposit-taking financial institutions: For real estate related businesses, such as owners of hotels, leisure facilities, public lodging houses, vacation rental facilities, or buildings for rent (including investment corporations, etc.), promptly and flexibly provide new loans or bridge loans using the substantially no-interest and unsecured loan system or other programs introduced on May 1, or alter conditions for existing loans such as granting reduction or exemption of or moratoriums on payments including principal and interest (deferral of principal payments, extension of repayment terms, etc.). Investment management business operators are requested to consult with deposit-taking financial institutions as necessary when responding to this request for consideration to companies in relation to the payment of rent.