

Outline of the Law on Sales of Financial Products

As part of the efforts to develop an infrastructure for financial services fit for the 21st century, this law will introduce measures to protect users of financial services, such as (a) requiring financial service providers to provide customers with certain important information, and (b) liability of financial service providers for any damages caused by their failure to follow such requirements, as a special case of the civil law.

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I. Clarification of information provision requirements of financial service providers and liability for damages caused by violation thereof

1. Clarification of information provision requirements of financial service providers

(1) A broad range of financial products including deposits and savings, trusts, insurance products and securities will be covered. New products to be covered will be designated by government ordinance.

(2) Financial service providers will be required to provide information on the following important matters, including those concerning risks of financial products:

Risk (if any) of loss of principal, and the following potential causes of loss

- Fluctuations in interest rates, value of currencies, prices on securities markets, and other indices
- Changes in the conditions of business and assets of the financial service providers, etc.

Limitation on the period for exercising rights and the period for rescission

- (3) The entities required to provide the information include those acting as agencies, intermediaries and proxies.
- (4) Financial service providers are not required to provide the information to the customer, (a) when the customer is a financial service provider, or (b) when the customer has expressed that he/she does not need provision of such information.

2. Liability for damages caused by violation of information provision requirements

In the event that a financial service provider fails to provide a customer with information on the important matters, the provider will be liable for damages, which will be presumed to be equal to the amount of loss of principal.

Note 1: Under the current law, a person may seek compensation for damages caused by an action in tort, under Article 709 of the Civil Code. In such cases, however, the burden of proof is on the plaintiff, who must prove that the service provider was required to provide necessary information and that there existed a causal relationship between the failure to provide information and the damage, which tend to prolong court cases.

Ref: Article 709 of the Civil Code (liability for tort damages)

A person who by intent or negligence infringes the rights of another shall be liable to provide compensation for damages arising therefrom.

Note 2: Under this law, if the plaintiff proves that the provider failed to provide the necessary information, it is presumed that there exists a causal relationship between the failure to provide information and the damage. This will reduce the burden of proof on the plaintiff. (The plaintiff may also claim damages under Article 709 of the Civil Code.)

II. Ensuring appropriate solicitation by financial service providers

1. The law provides that financial service providers must endeavor to solicit for customers in an appropriate manner.
2. Financial service providers will have to draw up and publicize a solicitation policy, which includes the following;
 - (1) Matters that require consideration according to the knowledge, experience and asset condition of the customers.
 - (2) Matters that require consideration for customers, regarding the method and hours of solicitation.
 - (3) Other matters necessary to ensure appropriate soliciting.
3. Financial service providers that violate the above section 2. will be subject to administrative fines.

This law shall be enforced from April 1, 2001.