

Law on Sales of Financial Products

Article 1 (Purpose)

This law has the purpose of promoting the protection of customers and thereby contributing to the sound development of the national economy by prescribing the matters that financial product providers should explain to customers in the sale etc. of financial products, by making financial product providers liable to customers for damages where the customer is harmed by the financial product provider's failure to explain such matters, and establishing measures for ensuring that solicitations made by financial product providers in connection with the sale of financial products are proper.

Article 2 (Definitions)

2.1 In this law, the "sale of a financial product" shall mean the following conduct:

- i. concluding an agreement with a depositor, savings depositor, installment savings depositor or contributor to accept deposits, savings deposits, installment savings or contributions (as all of those terms are defined in Article 2, paragraph 4 of the Banking Law (Law No. 59 of 1981)), however, this subparagraph shall not apply to agreements for postal savings deposits.
- ii. concluding an agreement with a person that he or she will make contributions to a mutual financing association as defined in Article 1 of the Mutual Financing Business Law (Law No. 42 of 1931) (hereinafter referred to as "mutual financing contributions").

- iii. concluding with a trustor a trust agreement involving the entrustment of money which is subject to matters stipulated by cabinet order (for example that the method of the management of the trust assets need not be specified), however, this subparagraph does not apply to a trust agreement in respect of which the beneficial interest is a specified right [in this subparagraph and in subparagraphs (iv)(a), (c) to (e) below, "specified right" shall mean a right noted on a security ("security" shall mean a security as defined in Article 2, paragraph 1 of the Securities Exchange Law (Law No. 25 of 1948) or a right that is deemed to be a security pursuant to the provisions of Article 2, paragraph 2 of the Securities Exchange Law)].
- iv. concluding with a policy holder, or a person stipulated by cabinet order as being similar thereto, an insurance agreement pursuant to which a person engaging in insurance business as defined in Article 2, paragraph 1 of the Insurance Business Law (Law No. 105 of 1995) (hereinafter referred to in this subparagraph as "insurance agreement") becomes an insurer or an agreement relating to insurance or mutual aid that is stipulated by cabinet order as being similar to an insurance agreement.
- v. causing another person to acquire a security ("security" shall mean a security as defined in Article 2, paragraph 1 of the Securities Exchange Law or a right that is deemed to be a security pursuant to the provisions of Article 2, paragraph 2 of the Securities Exchange Law), however, this subparagraph shall not apply to the activities of an agent or an intermediary, nor to securities futures transactions as defined in Article 2, paragraph 17 of the Securities Exchange Law (referred to as "securities futures transactions" in clause x. below), nor to securities forward transactions as defined in Article 2, paragraph 21 of the Securities Exchange Law (referred to as "securities forward transactions" in subparagraph xi. below).
- vi. causing a person to acquire any of the following (except that this subparagraph shall not apply to the activities of an agent or an intermediary):

- (a) a beneficial interest in a trust (excluding a beneficial interest which is a specified right and which is within the ambit of the rights listed in (c) and (d) below);
 - (b) a mortgage instrument as defined in Article 1, paragraph 1 of the Mortgage Instrument Law (Law No. 15 of 1931);
 - (c) a beneficial interest in a commodities investment as defined in Article 2, paragraph 3 of the Law Regarding the Regulation of Businesses Concerning Commodities Investment (Law No. 66 of 1991);
 - (d) small account receivables as defined in Article 2, paragraph 6 of the Law Regarding the Regulation of Businesses Concerning Specified Credits, etc. (Law No. 77 of 1992) but excluding specified rights; or
 - (e) account receivables evidenced by a certificate of deposit but excluding specified rights.
- vii. concluding a commodities investment agreement as defined in Article 2, paragraph 2 of the Law Regarding the Regulation of Businesses Concerning Commodities Investment.
- viii. concluding a specified credit partnership agreement as defined in Article 2, paragraph 6, item 2 of the Law Regarding the Regulation of Businesses Concerning Specified Credits, etc.
- ix. concluding a real property specified joint business agreement as defined in Article 2, paragraph 3 of the Real Property Specified Joint Business Law (Law No. 77 of 1994) where the contributions are made in cash and the distribution of the remaining assets or the redemption of original
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contributions are made in cash or any agreement that is stipulated by cabinet order as having terms similar to the foregoing.

- x. a securities futures transaction, a securities index futures transaction (as defined in Article 2, paragraph 18 of the Securities Exchange Law), a securities option transaction (as defined in Article 2, paragraph 19 of the Securities Exchange Law), a foreign market securities futures transaction (as defined in Article 2, paragraph 20 of the Securities Exchange Law), a financial futures transaction, etc. (as defined in Article 2, paragraph 9 of the Financial Futures and Exchange Law (Law No. 77 of 1988)) including where an agent enters into any of the above transactions.

- xi. a securities forward transaction, an over-the-counter securities index forward transaction (as defined in Article 2, paragraph 22 of the Securities Exchange Law), an over-the-counter securities option transaction (as defined in Article 2, paragraph 23 of the Securities Exchange Law), an over-the-counter securities index swap transaction (as defined in Article 2, paragraph 24 of the Securities Exchange Law), an over-the-counter financial futures transaction, etc. (as defined in Article 2, paragraph 5 of the Financial Futures Exchange Law) including where an agent enters into any of the above transactions.

- xii. a transaction that promises the delivery and receipt of a sum of money the calculation of which is based on the difference between a numerical value that is derived from an index (such as an interest rate or the value of a currency) which the parties have agreed in advance and the actual numerical value of the relevant index at a specified future date, and any other transactions stipulated by cabinet order and any of the foregoing transactions that are entered into by an agent, however, this subparagraph shall not apply to agreements that come within the ambit of those listed in items x. and xi. above.

xiii. conduct stipulated by cabinet order as being similar to any of the conduct listed in the above subparagraphs.

2.2 In this law, the "sale of financial product, etc." shall mean the sale of a financial product or any proxy or intermediation therefor (including proxy or intermediation conducted on behalf of a customer).

2.3 In this law, "financial product provider, etc." shall mean a person who conducts the sale of financial products, etc. as a business.

2.4 In this law, in relation to the sale of a financial product "customer" shall mean the party other than the financial product provider.

Article 3 (Duty of financial product provider, etc. to explain)

3.1 When a financial product provider, etc. conducts the sale of financial products, etc. as a business, he must explain the following matters (hereinafter referred to as "important matters") to the customer prior to the sale of a financial product:

i. If, in relation to the sale of a financial product, there is a risk of loss of principal as a result of fluctuations in interest rates, currency values, securities' prices or any other index, the financial product provider, etc. must provide an explanation of that risk and of the relevant index;

ii. If, in relation to the sale of a financial product, there is a risk of loss of principal as a result of a change in the business or financial condition of the person conducting the sale of the financial product or any other person, the financial product provider, etc. must provide an explanation of that risk and also information about that person;

iii. In addition to the matters set forth in the subparagraphs i. and ii. above, if there is a risk of loss of principal due to a factor that is stipulated by cabinet

order as being important and which could have an influence on the customer's decision to buy the financial product, the financial product provider, etc. must provide an explanation of that risk and of that factor; and

- iv. If there is a limitation on the period during which the right that is the subject of the sale of the financial product can be exercised or if there is a period during which the agreement relating to the sale of the financial product may be terminated, the financial product provider, etc. must provide an explanation of those matters.

3.2 As used in subparagraphs i to iii of paragraph 3.1, "risk of loss of principal" shall mean that there is a risk that the total amount of money that the customer is required to pay upon the conclusion of the sale of a financial product (in a case where there is a thing or right other than money that is stipulated by cabinet order as being equivalent to money [hereinafter referred to in this paragraph and in Article 5, paragraph 2 as "money equivalent"], and a customer is required to transfer such money equivalent upon the conclusion of the sale of a financial product, the amount that results from adding to said total amount paid, the total amount of the market price of said money equivalent [if there is no market price, the estimated disposal price]) exceeds the total amount of money that the customer (including a third person in the case where the customer instructs that a third person is to acquire the money, thing or right other than money from the sale of a financial product; hereinafter referred to in this paragraph as "customer, etc.") is to receive from the sale of a financial product (in a case where there is a thing or right other than money that the customer, etc. is to receive from the sale of a financial product, the amount that results from adding to said total amount received, the total amount of the market price of said thing or right other than money [if there is no market price, the estimated disposal price]).

3.3 In the case where, pursuant to the provisions of paragraph 3.1, two or more financial product providers are required to explain important matters to a customer in relation to the sale of a financial product, then notwithstanding 3.1 above,

provided that one financial product provider provides the requisite explanation, the other financial product providers are not required to do so; however, this paragraph shall not apply to a financial product provider that are required by cabinet order to provide such explanation.

3.4 The provisions of paragraph 3.1 shall not apply in the following cases:

- i. where the customer is a person stipulated by cabinet order as being someone who possesses specialized knowledge and experience in relation to the sale of financial products (referred to in Article 8, paragraph 1 as "specified customer"); and
- ii. where the customer has stated that he does not require an explanation of important matters.

Article 4 (Liability of financial product providers for damages)

If pursuant to Article 3 a financial product provider is required to explain an important matter to a customer and fails to do so, then the provider shall be liable to compensate the customer for any damage that the customer incurs as a result of that failure.

Article 5 (Presumed amount of damages)

5.1 Where a customer demands compensation from a financial product provider, etc. pursuant to Article 4, the amount of the compensation payable shall be presumed to be the amount of the loss of principal that the customer has incurred as a result of the failure of the financial product provider, etc. to explain an important matter.

5.2 As used in paragraph 5.1, "amount of the loss of principal" shall mean the amount that results from adding [a] the total amount of money that the customer (including a third person in the case where the customer instructs that a third person is to receive the money or a thing or right other than money from the sale of a financial

product; hereinafter referred to in this paragraph as "customer, etc.") received or is to receive in the sale of the financial product (in a case where there is a thing or right other than money that the customer, etc. received or is to receive from the sale of a financial product, the amount that results from adding to said total amount received, the total amount of the market prices of said things or rights other than money [if there is no market price, the estimated disposal price]) and [b] the total disposal price of the things or rights other than money that the customer, etc. acquired in the sale of the financial product and which the customer, etc. sold or otherwise disposed of, and then subtracting [c] the total amount of money that the customer paid or is to pay upon the conclusion of the sale of a financial product (in a case where the customer transferred or is to transfer a money equivalent upon the conclusion of the sale of a financial product, the amount that results from adding to said total amount paid, the total amount of the market prices of said money equivalents [if there is no market price, the estimated disposal prices]).

Article 6 (Application of the Civil Code)

In addition to being governed by the provisions of this Law, the liability of a financial product provider, etc. for damages arising out of its failure to explain important matters shall also be governed by the provisions of the Civil Code (Law No. 89 of 1896).

Article 7 (Ensuring the propriety of solicitations)

A financial product provider, etc. must endeavor to ensure the appropriateness of its solicitations made in connection with its business of selling financial products, etc.

Article 8 (Formulation, etc. of solicitation policy)

8.1 A financial product provider, etc. must state its policy on solicitations (hereinafter referred to as "solicitation policy") before engaging in any solicitation connected with its business of selling financial products; however, the foregoing shall not

apply where the financial product provider, etc. is the central government, a local municipal entity or any other person stipulated by cabinet order as not presenting any risk of making improper solicitations nor shall it apply where a financial product provider's customers are only specified customers.

8.2 A solicitation policy must stipulate the following:

- i. matters that should be considered in light of the knowledge, experience and financial condition of the customer to be solicited;
- ii. matters that should be considered with regard to the methods and hours of solicitation of customers; and
- iii. matters which aim to ensure the appropriateness of solicitations other than those listed in the above two subparagraphs.

8.3 When a financial product provider has stipulated a solicitation policy pursuant to the provisions of paragraph 8.1, the provider shall promptly publish its policy in a manner stipulated by cabinet order. The above procedure shall also apply to any amendment of said policy.

Article 9 (Administrative fine)

A financial product provider, etc. that violates the provisions of paragraph 8.1 by failing to stipulate a solicitation policy or the provisions of paragraph 8.3 by failing to publish its policy shall be subject to a maximum administrative penalty of 500,000 yen.

Supplemental provisions

1 (Date of enforcement, etc.)

This Law shall be enforced from April 1, 2001 and shall apply from that date to all

sales of financial products, etc. made by a financial product provider in its business of selling financial products.

2 (Interim measure concerning explanation of important matters)

A financial product provider, etc. shall be deemed to have explained important matters relating to the sale of a financial product made in the course of its business after the enforcement of this Law if, prior to the enforcement of this Law, the provider explained to the customer matters equivalent to the important matters prior to the sale of the financial product.

3 (Authorization of cabinet orders)

Any necessary interim measures relating to the enforcement of this Law that are in addition to those that stipulated in paragraph 2 above shall be stipulated by cabinet order.