

Section 1. Outline

Based on the results of inspections and investigations of criminal offenses, the SESC may, as necessary, send recommendations to the FRC and the Commissioner of the FSA for disciplinary actions or other appropriate measures (hereinafter referred to as "administrative disciplinary actions") to ensure securities transaction fairness (Article 31 (1) of the FRC Establishment Law (FRCEL)).

For example, the SESC is authorized to make a recommendation for administrative disciplinary actions to be taken against securities companies which violate laws; and a recommendation requesting an order to the SROs that command them to take necessary actions against securities companies which violate laws when the SROs have not taken the necessary measures although violating behavior by securities companies was identified.

The FRC and the Commissioner of the FSA must respect the recommendations made by the SESC (Article 31 (2) of the FRCEL). The SESC may also request that they report on actions taken based on the SESC's recommendations (Article 31 (3) of the FRCEL).

After receiving recommendations for administrative disciplinary actions, based on the results of inspections made by the SESC, the FRC and the Commissioner of the FSA hold hearings with the parties involved and take administrative disciplinary actions, such as revoking the registration and suspending the operations of securities companies when deemed necessary.

Since the JSDA is entrusted with the administrative work relating to the registration of sales representatives (Article 64-7 (1) of the SEL), the JSDA, based on the SESC's inspection results, holds further hearings with the parties concerned and takes such measures as revoking the registration of sales representatives or suspending their operations.

Section 2. Recommendations and actions taken

In the year under review, based upon the results of inspections, the SESC sent 37 recommendations to the FRC and the Commissioner of the FSA for administrative disciplinary actions against securities companies and directors or employees of securities companies.

The number of recommendations calling for administrative disciplinary actions against securities companies was 20. A total of 70 directors and employees were referred to in the SESC recommendations.

Violations of laws referred to in the recommendations are as follows:

1. Violations of laws by companies

- ① Counter-bucketing and bucketing (Violation of Articles 39 and 129 of the SEL, including the application of Article 14 (1) of the LFSF)
 - On February 19, 1997, Banyo Securities Co., Ltd. that had purchased too many stocks of a listed company due to misunderstanding of orders from a customer, with the involvement of an executive director who was also the manager of the sales department, executed other customers' buy orders on its own account instead of acting as a broker.
 - Between January 1999 and December 1999, with regard to orders by many customers, Garban International, Tokyo Branch executed the customers' orders on its own account instead of acting as a broker.
- ② Submission of false reports to customers, or non-submission of transaction reports to customers (Violation of Article 41 of the SEL, including the application of Articles 51-3 and 14 (1) of the LFSF)
 - With the involvement of the branch manager, etc. of the Tokyo branch, Cresvale

deliberately made and submitted false reports which did not express actual contents required by the contract. Such reports were submitted to a customer on the occasion of trading Princeton Notes in and after September 1996.

- On September 11, 1998, with the involvement of the senior manager of the head of operations for Japan, Credit Lyonnais Securities Europe-Switzerland AG, Tokyo Branch (Credit Lyonnais) deliberately submitted false reports on stock trading which resulted from execution of option trading.

- Between November 1998 and October 1999, with regard to some of the orders on securities future trading from its parent corporation, Deutsche Securities Limited, Tokyo Branch (Deutsche) did not submit transaction reports on some of the orders, despite the fact that the orders had been executed on the session.

③ Conclusion of discretionary trading account transaction contracts (Violation of Article 42-1 (5) of the SEL, including application of 14 (1) of the LFSF)

- From January 1992 to March 1999, Century Securities Co., Ltd. (Century), with the involvement of 13 commission sales representatives, received orders from 17 customers and conducted transactions of stocks after concluding contracts that allowed Century to determine whether to buy or sell, the selection of stocks, number of stocks to be bought or sold, and the price without obtaining the customers' consent on each transaction.

- Between December 1999 and February 2000, BNP Paribas Securities (Japan) Limited, Tokyo Branch (BNP Paribas), with the involvement of employees in the Stock Department, received orders from some customers and conducted transactions after concluding contracts that allowed BNP Paribas to determine the price of transactions without obtaining the

customers' consent for each transaction.

④ Giving false information related to securities and other trading (Violation of a Ministerial Ordinance, Article 42 (1) (ix) of the SEL, including application of Article 14 (1) of the LFSF)

- In and after August 1995, Cresvale, with the involvement of the branch manager and other directors and employees of the company, gave customers false information by handing over the untrue summary of corporate bonds and wrong certificates of balances. Such information was given on the occasion of soliciting the customers to purchase Princeton Notes.

And, in and after October 1995, Cresvale, with the involvement of the head of the Stock Market Department and employees, gave customers false information such as material for solicitation which was not true. Such information was given on the occasion of soliciting the customers to purchase Princeton Notes.

⑤ Solicitation with promises of special profits (Violation of a Ministerial Ordinance, Article 42 (1) (ix) of the SEL, including application of Article 14 (1) of the LFSF)

- Cresvale, with the involvement of the branch manager and other directors and employees of the company, solicited the purchase of Princeton Notes, based on promises that the company would pay money to the persons in corporations who were in charge of the purchase. Such solicitations were made to customers in and after September 1994.

With the involvement of the branch manager and others in the company, Cresvale solicited the purchase of Princeton Notes, based on a promise that the company would intermediate between a customer and a financial institution in order for the customer to be financed on its settling day. Such solicitation was made to the customer in August 1995.

With the involvement of the branch manager and others in the company, Cresvale solicited the purchase of Princeton Notes, based on a promise to a customer that the company would shift funds between the customer's account and its subsidiary's account, and would

intermediate between the customer and a financial institution in order for the customer to be financed. Such solicitation was made to the customer in around August 1996.

● On January 16, 1998, with the involvement of the executive senior manager of the Japanese equities sales division, Credit Lyonnais solicited a customer for securities index futures trading, with a promise to the customer that the company would switch the trading which would produce gains on its own account to the customer's account.

● In September 1997 and in March 1998, with the involvement of the managing director of the integrated product group, etc., Deutsche solicited three corporate customers with promises to avoid realizing a redemption loss of a note which the customers had purchased before, by the scheme in which customers would purchase another note mainly to defer realizing the redemption loss of the note. The value of the note that was just before redemption was almost nothing.

● Between September 1997 and July 1998, with the involvement of the managing director of the derivative marketing group, BNP Paribas solicited several corporate customers with promises to avoid realizing a redemption loss of a note which the customers had purchased before, by the scheme in which the note would be amended mainly to defer realizing its redemption loss. The value of the note that was just before redemption was almost nothing.

And, between April 1994 and January 1996, with the involvement of the manager of the Tokyo branch, BNP Paribas solicited a customer with a promise to give a rebate for orders from the customer.

⑥ A series of securities transactions to realize market prices that do not reflect real factors; A series of acceptance of securities transaction orders knowing that such actions could have a

manipulative effect on the market (Violation of a Ministerial Ordinance, Article 42 (1) (ix) of the SEL)

● When the Nomura Securities Co., Ltd. (Nomura) tried to execute a counter transaction of a so-called "Ekidashi" cross transaction (round transaction conducted between a customer and a securities company to turn book value to market value), it realized that the stock price had been higher. Therefore, between 9:32 a.m. and 9:35 a.m. on March 9, 1995, Nomura with the involvement of employees of the equity division, conducted a series of sales at limit price lower than the latest prices on its own account with the intention of making a market price down to the price by which the counter transaction was able to be executed at the same price.

When Nomura tried to execute a counter transaction of a so-called "Ekidashi" cross transaction, it realized that the stock price had been lower. Therefore, between 10:56 a.m. and 11:00 a.m. on March 17, 1995, Nomura, with the involvement of the deputy director of the division, conducted a series of market orders or limit orders higher than the latest prices on its own account with the intention of making a market price up to the price which was able to execute the counter transaction at the same price.

When Nomura tried to execute a counter transaction of a so-called "Ekidashi" cross transaction of seven stocks, it realized that the price of six out of them had been lower. Therefore, between 9:35 a.m. and 10:30 a.m. on March 24, 1995, Nomura, with the involvement of the director and employees of the division, had requested buy orders of three of the stocks to the customer beforehand and then accepted the buy orders from the customer and conducted a series of these purchases at higher limit price on the customer's account to decrease Nomura's loss which would have seemed to be generated by the cross transaction.

● In February and August 1997 and February 1998, Ace Securities Co., Ltd., with the

involvement of the deputy manager of the Tokyo corporate department, accepted and executed a series of buy orders for listed stocks from a customer, knowing that the customer was trying to raise the prices of the stocks by consecutively placing buy market orders or buy limit orders higher than the latest prices in order to reduce unrealized losses on them.

- From September 1, 1998 to February 19, 1999, Yamamaru Securities Co., Ltd., with the involvement of members of the dealing department, made a series of buy market orders or buy limit orders higher than the latest prices for listed stocks the company held on its own account with the aim of raising their prices and thus getting capital gains.
 - On July 30, 1998, NCS Securities Ltd. (NCS), with the involvement of the director, the deputy manager of the sales department at the head office and employees at the Tokyo sales office, had customers place a series of buy limit orders higher than the latest prices consecutively for OTC stocks and accepted the series of buy orders and executed them with the aim of raising the OTC stock prices to a predetermined level so that sell and buy orders among other customers could be matched.
- ⑦ Provision of property benefits to compensate for losses, or having a third party provide such gains (Violation of Article 42-2 (1) (iii) of the SEL)
- NCS, with the involvement of the president, directors, advisors, the manager of the sales department, the head of the central market sales office, and employees of the sales office, provided property benefits by paying customers 2 million yen from the president's own fund on October 20, 1997 in order to partially compensate for the customers' losses on securities.
 - Daiman Securities Co., Ltd., with the involvement of the president, directors and others, provided property benefits by remitting about 3.41 million yen to a customer's account with

the company's fund on April 1, 1999 in order to partially compensate for the customer's losses on securities.

And on March 31, 1999, the company provided a customer with property benefits in the amount of about 2.27 million yen by making other customers appropriate the proceeds on sales of stocks held by them in order to partially compensate for the customer's losses on securities.

- Futanami Securities Co., Ltd., with the involvement of the chairman and the director, in response to requests from a customer to compensate for the losses incurred in his investment trusts, to whom sales representatives of the company promised in writing to guarantee the principle, provided property benefits by paying about 150,000 yen from the chairman's fund on November 4, 1997 in order to compensate for the customer's losses in their entirety.
- ⑧ Provision of property benefits to give customers additional profit (Violation of Article 42-2 (1) (iii) of the SEL, including the application of Article 14 (1) of the LFSF)
- On February 1, 2000, in response to complaints from a customer about the execution of order, Credit Lyonnais, with the involvement of the senior manager of the Japanese equities sales division, provided approximately 640,000 yen property benefits for the purpose of adding to a customer's profit concerning a stock's sales. After switching the customer's stocks' sales in the session to its own account, the company (buyer) executed the trading of these stocks with the customer (seller) at the price out of the session higher than the price in the session.
- ⑨ Insufficient internal control on securities transactions from the standpoint of preventing unfair trading on information concerning corporations which a securities company has obtained

(Violation of a Ministerial Ordinance, Article 43 (2) of the SEL)

● The control on securities transactions by directors at Cosmo Securities Co., Ltd. was found to be insufficient from the standpoint of preventing unfair trading on information concerning corporations, as the company approved stock transactions by directors without confirming whether or not the directors had information concerning the corporations whose stock the directors traded.

⑩ Transactions with parent companies, etc. on terms and conditions significantly different from normal transaction terms and conditions (Violation of a Ministerial Ordinance, Article 45 (3) of the SEL, including the application of Article 14 (1) of the LFSF)

● ABN AMRO Securities (Japan) Limited, Tokyo Branch (ABN AMRO) had been borrowing approximately 7 billion yen with no interest from its parent bank between September 1997 and June 1998, which was a remarkably favorable loan condition as compared with the usual ones.

● Between November 1998 and October 1999, Deutsche accepted orders on securities future trading from its parent corporation. With regard to some of the orders, Deutsche paid the commission fee and trading margin that should have been paid by its parent corporation.

⑪ Underwriter's extension of credits in sales of securities (Violation of Article 46 of the SEL, including the application of Article 14 (1) of the LFSF)

● With the involvement of the manager of the Tokyo branch, in April 1998, Cresvale lent a customer purchase money for the security which the company had underwritten, when the company sold the security to the customer.

⑫ Use of a deceptive device in offering securities (Violation of Article 158 of the SEL)

● Minami Securities Co., Ltd., with the involvement of the president and others, used deceptive devices in and after November 23, 1999 in inviting subscription to "Minami High-yield Bond," a bond issued by its group companies, by preparing and providing solicitation materials that failed to reveal the realities of the issuing companies and led many customers to misunderstanding as to the contents of the bond.

⑬ Short selling in violation of cabinet ordinance (Violation of Article 162 (1) (i) of the SEL)

● From July to September 1998, Ark Securities Co., Ltd. conducted the short selling of stocks many times on its own account on the securities market without revealing that the trading was short selling.

During the same period, the company also conducted short selling of stocks on the securities market on its own account many times at prices lower than the latest prices.

● From November 2 to November 19, 1998, Yutaka Securities Co., Ltd. conducted short selling of stocks on its own account on the securities market many times without revealing to the securities market that the trading was short selling.

During the same period, the company also conducted short selling of stocks on the securities market on its own account many times at prices lower than the latest prices announced by the securities market.

● From December 1, 1998 to March 1, 2000, Kaneyosi Securities Co., Ltd. conducted short selling of stocks on its own account on the securities market many times without revealing to the securities market that the trading was short selling.

During the same period, the company also conducted short selling of stocks on the securities market on its own account many times at prices lower than the latest prices announced by the securities market.

⑭ Submission of false reports in response to submission order (Violation of Article 198 (5) (vii) of the SEL)

● On August 3, 1999, the Fukui branch of Wako Securities Co., Ltd. (Wako) was ordered by the Director-General of the Hokuriku Regional Finance Bureau to submit a report, concerning a transaction about which a customer of this branch had complained to the Fukui Regional Finance Office, in view of violations of law. However, on August 6, 1999, the Fukui branch of Wako, with the involvement of the manager of the branch and the chief of the general affairs section, submitted to the Fukui Regional Finance Office a falsified report in which the branch stated that there was no violation by the commission sales representative, despite realizing that the representative had violated laws.

2. Violations of laws by directors and employees

In the year under review, the SESC made recommendations against directors and employees (those registered as sales representatives) of securities companies concerning the following violations of laws:

① Conclusion of discretionary trading account transaction contracts (Violation of Article 42 (1) (v) of the SEL, including the application of Article 14 (1) of the LFSF)

At the request of customers or in order to increase sales performance, sales representatives concluded contracts that gave themselves discretionary power to make decisions concerning all or some items in stock and other transactions, namely whether to buy or sell, the selection of stocks, the number of stocks to be bought or sold, and the price, without consent from customers on each transaction, and actually received orders and conducted transactions. (Recommendations made against 16 companies and 34 individuals)

② Securities transactions for speculative profit by directors or employees (Violation of a

Ministerial Ordinance, Article 42 (1) (ix) of the SEL)

Sales representatives, in order to increase sales performance and pursue their own profits, conducted trading in stocks on their own judgment on many occasions by using customers' accounts. (Recommendations made against four companies and five individuals)

③ Provision of property benefits to compensate for losses (Violation of Article 42-2 (1) (iii) of the SEL)

Sales representatives paid in cash to compensate partially for the losses on stock trading with their own funds, thus providing property benefits. (Recommendations made against four companies and eight individuals)

④ Insider trading by a director (Violation of Article 166 (1) (i) of the SEL)

The representative director of a securities company, knowing the material information that the company at a meeting of board of directors had decided to purchase stocks of a subsidiary that would involve a personnel reshuffle, purchased the stocks of the company prior to the announcement of the information. (Recommendations made against one company and one individual)

Other violations uncovered include the misleading expression of important items concerning securities transactions and other trading (recommendations made against one company and one individual) and inappropriate acts as sales representatives (recommendations made against two companies and three individuals).